

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.326/02

Friday this the 23rd day of July 2004

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN  
HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER

C.Johnson,  
S/o.late C.Christopher,  
Rtd. Junior Clerk,  
Central Marine Fisheries Research Institute,  
Residing at : Kacheri Vila, Nellikakuzhi,  
Kanjirangulam P.O., Trivandrum. Applicant

(By Advocate Mr.P.Ramakrishnan)

Versus

1. Indian Council of Agricultural Research  
represented by the Director General,  
New Delhi.
2. The Director,  
Central Marine Fisheries Research Institute,  
P.B.No.1603, Kochi - 14. Respondents

(By Advocate Mr.P.Jacob Varghese)


This application having been heard 23rd July 2004 the  
Tribunal on the same day delivered the following :

O R D E R

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

The applicant commenced service as Peon in the Central Marine Fisheries Research Institute (CMFRI for short) on 13.2.1962 while it was an Institute under the Government of India. He was appointed as Junior Clerk by Annexure A-1 order dated 17.2.1971. Satisfactory completion of probation was declared by order dated 2.4.1973. While so, he became eligible for being considered for promotion as Senior Clerk. However, in the meanwhile in the year 1967 the Institute had become a part of the Indian Council of Agricultural Research (ICAR for short). The applicant exercised his option to remain as a Central


Government employee rather than getting absorbed under the ICAR. He found that many persons who were juniors to him as Junior Clerk in the CMFRI were promoted as Senior Clerk but he was not so promoted on the technical ground that he did not opt for service under the Council. The applicant therefore submitted Annexure A-7 letter requesting that his option for ICAR services with effect from 1.10.1967 be accepted. The applicant submitted this letter on 26.12.1985. According to the applicant he did not get any reply. Thereafter the applicant again submitted an option and Annexure A-8 order was issued in acceptance of the option and appointing him as Junior Clerk in the scale Rs.950-1500 in the service of ICAR with effect from 28.8.1990. The applicant on 24.9.1996 submitted representation requesting that he be given promotion to higher grades considering his service as Junior Clerk in CMFRI with effect from 17.2.1971 treating that he was an employee of ICAR with effect from 28.1.1971. Thereafter the applicant retired on superannuation on 31.10.1996. His representation was finally turned down by the impugned order Annexure A-12 dated 20.4.2001 informing the applicant that since the applicant had opted for coming over to the service of ICAR only with effect from 27.8.1990 and has been appointed in ICAR as Junior Clerk from that date he was not entitled to have any seniority over others who were in the service of the ICAR for promotion on par with them. Aggrieved by that the applicant has filed this application seeking to set aside Annexure A-12 order, for a declaration that the applicant is entitled to be treated as an employee of the ICAR with effect from 28.1.1971 and to give consequential benefits including



promotion and for a direction to the respondents to grant the applicant's service from 28.1.1971 as service in the ICAR and grant him all consequential benefits.

2. Respondents in their reply statement have explained how the applicant is not entitled to be treated as an employee of the ICAR with effect from 28.1.1971 for the purpose of seniority, since he inspite of the repeated instructions in that behalf did not opt for service in the ICAR till 27.8.1990 and that too only after he was informed by Annexure R-15 letter dated 30.7.1990 that in case he did not exercise option to come under the ICAR service his services are liable to be rendered surplus.

3. On a careful scrutiny of the pleading and the documents on record and on hearing the learned counsel we do not find that the applicant has any legitimate or subsisting grievance which deserves redressel. The applicant for reasons better known to himself had chosen to opt to continue as a Central Government employee rather than coming over to the services of the ICAR. Ultimately only when he was told that if he did not opt for ICAR services there was a likelihood of he being rendered surplus he submitted Annexure R-16 dated 28.8.1990 expressing his willingness to accept employment under the ICAR from the Government of India. Since the applicant has become an employee under the ICAR only with effect from 28.8.1990 his claim for seniority counting his service under the Government of India has no support of any law or rule.



4. In the light of what is stated above the application which is devoid of merits is dismissed leaving the parties to bear the costs..

(Dated the 23rd day of July 2004)

*H.P.D.*

H.P.DAS  
ADMINISTRATIVE MEMBER

asp



A.V.HARIDASAN  
VICE CHAIRMAN