

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No. 335/93

Thursday, this the 20th day of January, 1994

SHRI N. DHARMADAN, MEMBER (J)
SHRI S.KASIPANDIAN, MEMBER(A)

T.T.Annamma,
Technical officer,
Central Institute of Fisheries
Technology, Matsyapuri PO,
Cochin - 29.

.. Applicant

By Advocate Shri P.V.Mohanam

V/s

1. The Director General,
Indian Council of Agricultural
Research, Krishi Bhavan,
New Delhi - 1.

2. The Director,
Central Institute of Fisheries
Technology, Matsyapuri PO,
Cochin-29.

.. Respondents

By Advocate Shri Jacob Varghese.

ORDER

N. DHARMADAN

Applicant is a Technical Officer in T-5 Grade now working in the Central Institute of Fisheries Technology (CIFT for short), Cochin under the Indian Council of Agricultural Research (ICAR for short). She filed this application challenging the amendment of the Technical Service Rules as per Annexure-III, dated 27.1.79, and Annexure-V, dated 12.9.79, mainly for removing the anomaly and getting promotion to T-6 grade under Category-III. The main prayer of the applicant is to declare that she is eligible and qualified for promotion to T-6 grade.

2. Applicant entered service as Research Assistant on 29.4.64. She was promoted as Senior Research Assistant on 11.12.75. After introduction of Technical Service Rules (TRS for short) w.e.f. 1.10.75, applicant was inducted in T-II-3 grade. Thereafter she got two further promotions to T-4 and T-5 w.e.f. 11.12.75 and 1.7.81 respectively. When the rules were introduced on 1.7.77 with retrospective effect from 1.10.75, according to the applicant, she was wrongly included in "Group-IV (Library/Information/Documentation Staff)". Considering the nature of the work and her experience, the applicant contended that she ought to have been included in "Group-I - Field/Farm Technicians". By Annexure-I order dated 26.3.82 the applicant was inducted in Group-IV retrospectively from 1.10.75. Applicant did not challenge Annexure-I order at that time because the applicant was not due for promotion to the next grade of T-6 and she would not be benefitted in any manner at that time. According to the applicant, the vacancy of T-6 to which she can stake her claim arose only in 1993. The adverse effect of the amendment of the Rules, Annexure-III, operated against her at the time when the vacancy in T-6 arose. At the time of introduction of TSR there was no specific quota provided for promotion to T-6 grade. By subsequent amendment "20% of the vacancies in Grade T-6 may be filled up by promotion of persons in Grade T-5 in category-II possessing qualification prescribed for category-III". The ICAR thus amended TSR by deleting "Other Staff" in category-III qualification in Group-IV as per the impugned proceedings. Hence, according to the applicant, the amendment leading to deletion of the "other staff" virtually denies all avenues and opportunities of the applicant for further promotions. There would be stagnation for her till her retirement. This is illegal. With these

contentions the applicant filed Annexure-VI representation before the Director General on 6.1.93. Annexure-VII is a further representation forwarded to the Director. These representations were not considered. They did not give any favourable relief to the applicant. Hence, she filed this application challenging the amendment, Annexures-III and V.

3. The learned counsel for respondents raised the plea of limitation and contended that the orders challenged in this case were issued in the year 1979. Hence, there is a long delay and the claim of the applicant is belated. Accordingly, the original application is to be dismissed as barred by limitation.

4. We have admitted the application on 26.2.93 after hearing the learned counsel for respondents. He did not raise any plea of limitation at the time of admission of the O.A. Even though there is some delay, if the cause of action is reckoned from the date of Annexures-III and V, the amendment orders/became effective and actually operated against the applicant, and she became fully qualified and eligible for promotion to the next grade and a vacancy actually arose. The applicant filed the representations, Annexures-VI and VII at the appropriate time; but they were not considered and disposed of. Under these circumstances, having considered the matter in detail, we are satisfied that the plea of limitation raised by the respondents cannot be accepted at this stage. We reject the contentions of the respondents.

5. Having regard to the facts and circumstances of this case, we are satisfied that the applicant has a genuine grievance on account of deletion of 'other staff' in the category-III of Group-IV as per the impugned amendments. Applicant submitted that she would not get any promotion till her retirement in view of the deletion of 'other staff' from Category-III of Group-IV. It is an

admitted fact and the consequence of the same has been highlighted by the applicant in the representations and the representations are pending consideration before the competent authority. In these circumstances, we are not going into the merits of the contentions at this stage.

6. The applicant has also submitted that in view of para 4.2 of TSR the applicant's claim for further adjustment regarding change of category can also be considered by the ICAR. But the learned counsel for respondents submitted that the request is belated for other persons, who got earlier promotion would be affected if such adjustments are made under para 4.2 of TSR.

7. After careful consideration of the issue, we are of the opinion that whether the change of category as requested by the applicant if allowed would affect others or not, when the applicant has made out a genuine case and real grievance for consideration, it is for the ICAR to consider the case of the applicant sympathetically after giving notice to all affected parties, if such a course becomes necessary for redressing the grievance of the applicant and do justice to her.

8. In this view of the matter, it is only fit and proper to dispose of the application with direction to respondents. Accordingly, we direct the first respondent to consider and dispose of Annexures-VI and VII representations in accordance with law taking into consideration the grievance of the applicant in the light of the above observations. This shall be done within a period of four months from the date of receipt of a copy of this judgment.

9. In the result, the application is disposed of as above. There will be no order as to costs.


(S. KASIPANDIAN)
MEMBER(A)

v/-


20.1.94
(N. DHARMADAN)
MEMBER(J)