

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.379/93

Friday, this the fourth day of February, 1994.

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

Pabitra Mehan Pattanayak,  
S/o Dwarika Nath Pattanayak,  
Aged 45, T-I-3(Senior Laboratory Assistant)  
Burla Research Centre of CIFT, Burla,  
Sambalpur District, ORISSA. - Applicant

By Advocate Mr PV Mohanan

Vs.

1. The Director,  
Central Institute of Fisheries  
Technology, Matsyapuri.P.O.  
Kochi-682 029.
2. The Director General,  
Indian Council of Agricultural  
Research, Krishi Bhavan,  
Dr.Rajendra Prasad Road,  
New Delhi-110 001. - Respondents

By Advocate Mr Jacob Varghese

O\_R\_D\_E\_R

N DHARMADAN, MEMBER(J)

Applicant is at present working as the Senior  
Laboratory Assistant in Grade T-I-3. He is aggrieved by  
Annexure-XIII order dated 11.2.1993 rejecting his request to  
get the benefit of Grade-T-II-3 with retrospective effect from  
the date from which the same has been given to his juniors.

2. The applicant also produced two judgments of Cuttack  
and Hyderabad Bench of the Central Administrative Tribunal in  
support of his case.

3. According to the applicant, after the amendment of the Technical Service Rules on the basis of Annexure-R2 with effect from 27.1.1979, the applicant becomes eligible for getting the grade of T-II-3 in category-II since he was fully qualified for with the fiction that the getting such grade in the light of the amendment/deemed to have come into force with effect from the date of the commencement of the Technical Service Rule, 1975. Such an interpretation has been given by this Tribunal in TAK-593/87 which was followed in OA-189/91. The benefit of these judgements were given to one Shri M Kuttykrishnan Nair as per Annexure-IX order dated 17.9.1992. According to the applicant, Shri Kuttykrishnan Nair is junior to the applicant and hence the applicant is also entitled to the similar treatment and grant of benefit on the basis of these judgements. He has filed Annexure-X to XII representations before the Director raising all these issues. The representations have been referred to in the impugned order Annexure-XIII and stated that the applicant's case was considered by the DPC constituted for his appointment in Grade T-II-3, but since the applicant's case was not recommended by the DPC, he was not promoted to the Grade T-II-3 with effect from 29.11.1979.

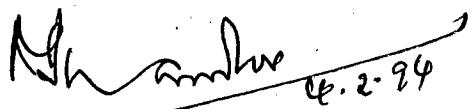
4. The applicant asserted that his case was not properly and placed before the DPC for consideration/for promotion to the Grade of T-II-3. He also placed reliance on two judgements passed by the Cuttack Bench and Hyderabad Bench as Annexure-XIV and XV. The effect of these judgements and the application of the principles in the judgements to the applicant have not been

examined by the Director before passing the impugned order. In this view of the matter, we are satisfied that a fresh consideration of the applicant's grievance in the light of the contentions raised in this application bearing in mind the decisions of the Cuttack and Hyderabad Bench, Annexures-XIV & XV is necessary in the interest of justice.

5. Accordingly having regard to the facts and circumstances of the case, we are satisfied that the application can be disposed of with a direction to the the first respondent to consider afresh the representations at Annexures-X to XII bearing in mind the aforesaid contentions and the principles in Annexures-XIV & XV judgements and the judgement of this Tribunal in TAK-593/87 which was relied on by the authority for passing Annexure-IX order. A decision in this behalf shall be taken by the first respondent uninfluenced by the findings and conclusions in Annexure-XIII order and the statement in the reply.

6. The OA is disposed of as above. No costs.

  
(S. KASIPANDIAN)  
MEMBER(A)

  
(N. DHARMADAN)  
MEMBER(J)

TRS