

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.405/91

DATE OF DECISION: 21.6.93

M.V.Chandran .. Applicant
Mr.M.C.Cherian .. Advocate for the Applicant

vs.

1. Union of India,
represented by the Secretary
Ministry of Agriculture & Irrigation,
Department of Agriculture,
Krishi Bhavan,
New Delhi.
2. The Director,
CIFNET,
Dewan's Road,
Kochi-16.
3. Deputy Director,
CIFNET Unit,
Royapuram,
Madras -13.
4. V.R.Adinarayanan
5. V.P.Kammath .. Respondents

Mr.Kodoth Sreedharan, ACGSC .. Advocate for the Respondents

CORAM:

THE HON'BLE MR.JUSTICE C.SANKARAN NAIR, VICE CHAIRMAN

THE HON'BLE MR.R.RANGARAJAN, ADMINISTRATIVE MEMBER

JUDGMENT

C.SANKARAN NAIR(J),VICE CHAIRMAN:

Applicant seeks to quash Annexure-X seniority list, and prays for a declaration that he is senior to respondent-5.

2. He commenced service in the 'CIFNET' sometime on 15.7.62. As it generally happens to Government employees, he too drifted forward till 1.9.83. On that date, by Annexure-VIII order, the 5th respondent was appointed as 'Superintendent' in the scale of pay Rs.550-20-650-25-750. According to applicant, he being senior to 5th respondent he should have been appointed in preference to

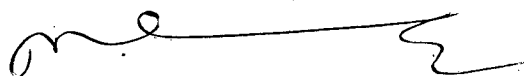
5th respondent. Later, by Annexure-IX dated 3.10.85 applicant also was appointed as Superintendent, in the same scale. For all we know, for as long as three years, applicant made no grievance of the appointment of the 5th respondent. After Annexure-X seniority list was published, applicant made Annexure-XI representation to the Government of India. Incidentally, this was seven years after the promotion of 5th respondent on 1.9.83 and four years after the regularisation of his services. The services of applicant were regularised only on 18.9.90. Applicant has raised two contentions. The first is that the post in question is a post reserved for members of the SC and that he should have been appointed thereto, as a member of that community. Learned counsel for Applicant was unable to support his contention on facts or with reference to any order. It is true that the post of Senior Superintendent was a post reserved for a member of the SC. But as the records show, for want of suitable candidates in the open line and reserved category, adhoc appointments were made in the lower category. Rules of reservations governing a higher post do not descend on the lower post. Hence the argument based on violation of the principles of reservation must fail.

3. It was then argued that by reason of seniority, applicant should have been preferred to 5th respondent. It is admitted that the post in question, is a selection post. We called for the proceedings of the DPC and we find that the 5th respondent who was also eligible and who comes in the zone of consideration, obtained a higher rating than the applicant. In a selection post, the more meritorious rank over the less meritorious. That is not the end of the matter. Annexures R10 to 23 illustrate that the applicant had a very chequered career, functionally. At least

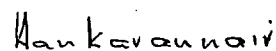
for the year 1986 and 1987 adverse entries were made in his service records. On several occasions he was warned for dereliction of duty and for serious lapses. However, we do not want to cloud our view, with these trappings which attach themselves to the career of the applicant.

4. In a selection post, 5th respondent who was admittedly in the zone of consideration was ranked higher to the applicant. That was a good reason to choose him. That apart, the initial appointment (ad hoc) was challenged for the first time seven years later. Regularisation of 5th respondent which occurred in 1986 was challenged only in 1990. Applicant submits that a seniority list was prepared only in 1990. But he knew of the regularisation of 5th respondent and he must have known that 5th respondent had stolen a march over him. He was content to remain quiet, or quiescent, for long four years. Law does not lend its arms to those who are not vigilant of their own rights. Applicant was not unaware of what was happening in the office because, Annexure-XI shows that he knew of the contents of letters which the Head of the Department was writing to the Government of India.

5. The contention that applicant's seniority was overlooked is without merit, because he was considered along with others eligible for consideration, and others were found superior in rank. The application is bereft of merit and we dismiss the same. However, in the circumstances, parties will suffer their costs.



R. RANGARAJAN
ADMINISTRATIVE MEMBER



C. SANKARAN NAIR(J)
VICE CHAIRMAN

Dated the 21st June, 1993.