

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 407 of 2001

Monday, this the 7th day of October, 2002

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. Dr. Sant Lal,
S/o Jokhan Lal,
Deputy Director (Marketing),
Directorate of Cashewnut and Cocoa
Development, Kera Bhavan, Kochi-682011
residing at H.No.38/295,
Raman Colony, Karshaka Road,
Cochin-16Applicant

[By Advocate Mr. M.R. Rajendran Nair]

Versus

1. The Director of Cashewnut and Cocoa
Development, Kera Bhavan, Kochi-11
2. Union of India represented by the
Government of India,
Ministry of Agriculture, New Delhi.Respondents

[By Advocate Mr. C. Rajendran, SCGSC]

The application having been heard on 7-10-2002, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant who is the Deputy Director (Marketing),
Directorate of Cashewnut and Cocoa Development has filed this
Original Application challenging Annexure A6 order dated
22-9-2000 of the 1st respondent denying him the benefit of
Assured Career Progression Scheme (ACP Scheme for short) on the
ground that the post of Deputy Director (Marketing) is not an
isolated post and also Annexure A1 order of the 2nd respondent
rejecting his representation claiming placement in the higher

scale of pay by ACP Scheme on the ground that the post of Deputy Director (Marketing) is not an isolated post as it is a feeder post for promotion as Director.

2. The undisputed facts of the case are as follows. The applicant was directly recruited as Deputy Director (Marketing) on 30-6-1986 and that he has not so far been granted any promotion. The claim of the applicant for grant of ACP is denied on the ground that the post of Deputy Director (Marketing) is not an isolated post as it is a feeder post for promotion as Director.

3. We have heard the learned counsel on either side and have also perused the materials placed on record.

4. Annexure A8 is the copy of the Kaju Vikas Nideshalaya (Directorate of Cashewnut Development) (Group A and B) Recruitment Rules, 1997. In Annexure A8, regarding recruitment to the post of Director, against Col.No.5 as to "Whether Selection or non-selection post", it is shown as "Not applicable". In Col.No.11 against "Method of recruitment whether by direct recruitment or by promotion or by deputation/transfer and %age of the vacancy to be filled by various methods", it is stated as "Promotion/transfer on deputation including short-term contract". In Col.No.12 regarding the grades from which promotion/deputation/transfer to be made, it is stated as follows:-

"Promotion/Transfer on Deputation (including short term contract):

Officers under Central/State Governments/ICAR/ Agricultural Universities/Public Sector Undertakings/ Recognised Research Institutions or Councils/Semi-Government/Autonomous or Statutory Organisations:-

(a) (i) Holding analogous posts or on regular basis; or

- (ii) with four years' regular service in posts in the scale of pay of Rs.3000-5000 or equivalent; or
 - (iii) five years' regular service in posts in the scale of pay of Rs.3000-4500 or equivalent; and
- (b) Possessing the educational qualifications and experience as under:-
- (i) Master's degree in Horticulture/ Agriculture of a recognised University or equivalent.
 - (ii) Ten years' experience in the field of horticultural or agricultural Development/ Extension/ Planning/ Marketin/ Research with particular reference to cashewnut and/or other plantation Deputy Director Crops.
 - (iii) Deputy Director (Development)/Deputy Director (Marketing) with 5 years regular service in the respective grade will also be considered along with deputationists and in case he is selected for appointment to the post, the same shall be deemed to have been filled by promotion.

(Period of deputation including period of deputation in another Ex-Cadre post held immediately preceding this appointment in the same or some other Organisation/ Department of the Central Government shall ordinarily not exceed 4 (four) years. The maximum age limit for appointment by transfer deputation (including short term contract) shall be not exceeding 56 years as on the closing date of the receipt of applications."

5. Against Col.No.13 regarding "If a Department Promotion Committee exists what is its composition", it is stated as "Not applicable".

6. It is evident from what is stated above that the Deputy Director (Marketing) specifically is not given as a feeder grade for promotion to the post of Director, although a person holding the post of Deputy Director (Marketing) may also be eligible for being considered for appointment along with others similarly situated in other Departments/Offices. A comparison of the similar entries in Clause Nos.5, 11 to 13 of the Recruitment Rules for the post of Deputy Director (Marketing)

✓

also would show that the post of Deputy Director (Marketing) is not filled by promotion from a lower grade in the Department and the DPC mentioned is only for confirmation. It is profitable to extract the entries against Col.Nos. 5, 11 to 13 in the Recruitment Rules for the post of Deputy Director (Marketing) also.

Col.No.5:-

Whether Selection or non-selection post-

--- "Not applicable"

Col.No.11:-

Method of recruitment whether by direct recruitment or by promotion or by deputation/transfer and %age of the vacancy to be filled by various methods-

--- "Promotion/Transfer on Deputation including short term contract failing which by direct recruitment."

Col.No.12:-

In case of recruitment by promotion/ deputation/ transfer, grades from which promotion/ deputation/ transfer to be made-

--- "Promotion/Transfer on Deputation (including short term contract):-

Officers under Central/State Governments/ICAR/ Agricultural Universities/Public Sector Undertakings/ Recognised Research Institutions or Councils/ Semi-Government/Autonomous or Statutory Organisations:-

1.(a) (i) holding analogous posts on regular basis; or

(ii) with five years' regular service in posts in the scale of pay of Rs.2200-4000 or equivalent; or

(iii) with eight years' regular service in posts in the scale of pay of Rs.2000-3500 or equivalent; &

(b) Possessing educational qualifications and experience as prescribed for direct recruits under Column 8.

(II) Departmental Research Officer with five years' regular service in the grade and possessing a degree with Economics/Statistics/Commerce Mathematics/Agricultural Economics/Agriculture/ Horticulture as subject from a recognised University or equivalent will also be considered along with deputationists and in case he is selected for appointment to the post, the same shall be deemed to have been filled by promotion. (Period of deputation

including period of deputation in another Ex-Cadre post held immediately preceding this appointment in the same or some other organisation/department of the Central Government shall ordinarily not exceed 4 (four) years. The maximum age limit for appointment by transfer on deputation (including short-term contract) shall be not exceeding 56 years as on the closing date of the receipt of applications)."

Col.No.13:-

If a Departmental Promotion Committee exists what is its composition-

- "Grade 'A' Departmental Promotion Committee (for confirmation):
1. Joint Secretary (Hort.)/Commissioner
--Chairman
 2. Director(Horticulture)/Deputy Secretary (Horticulture)--Member
 3. Director, Directorate of Cashewnut Development, Cochin--Member

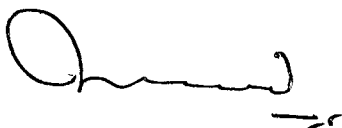
Note: The proceeding of the Departmental Promotion Committee relating to confirmation of a direct recruit shall be sent to the commission for approval. If, however, these are not approved by the commission a fresh meeting of the DPC to be presided over by the Chairman or a member of the Union Public Service Commission shall be held."

7. A reading of the columns 5 and 11 to 13 of the Recruitment Rules for the post of Director as well as Deputy Director, makes it abundantly clear that the post of Deputy Director is an isolated post because it is not a feeder post in the direct line of promotion as Director and also because the post of Deputy Director is not filled by promotion of member of a lower grade in the hierarchy in the organisation. The decisions contained in Annexure A1 and A6 are unsustainable and the orders are liable to be quashed.

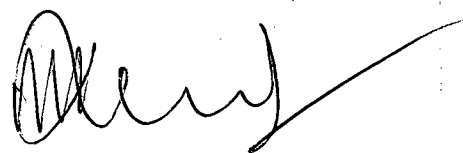
8. In the light of what is stated above, the contentions of the respondents are rejected and the Original Application is allowed. Annexure A1 and A6 impugned orders are set aside and the respondents are directed to grant the applicant financial upgradation under the ACP Scheme with effect from the due date with consequential benefits. However, the claim for interest

is disallowed. The above direction shall be complied with by the respondents within a period of three months from the date of receipt of a copy of this order. No order as to costs.

Monday, this the 7th day of October, 2002



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

AK.

A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of the order No.2-7/2000-Hort.VI dated 2/2001 along with covering letter No.A.40011/1/86-A4(Vol.II) dated 20.3.2001 issued by 2nd respondent.
2. A-2: True copy of the representation dated 19.8.1999 submitted by the applicant to the 2nd respondent.
3. A-3: True copy of the representation dated 12.1.2000 submitted by the applicant to the 2nd respondent.
4. A-4: True copy of the OM No.35034/1/97-Estt. (D) (Vol.IV) dated 10.2.2000, issued by the 2nd respondent.
5. A-5: True copy of the representation dated 19.5.2000 submitted by the applicant to the 2nd respondent.
6. A-6: A true copy of order No.2-7/2000-Hort.VI, dated 4.8.2000, issued for the 2nd respondent along with the covering letter dated 22.9.2000 of the 1st respondent.
7. A-7: True copy of the representation dated 28.9.2000 submitted by the applicant to the 2nd respondent.
8. A-8: True copy of the relevant Recruitment Rules for the post of Director and Deputy Director (Marketing).

Respondents' Annexures:

1. R-1: True extract of the Recruitment Rules for the post of Director.

npp
30.X.02