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Reserved

Central Administrative Tribunal, Allahabad.  
CIRCUIT BENCH, LUCKNOW

Registration O.A.No. 14 of 1990 (L)

Dr. Ram Prakash Srivastava ..... Applicant

vs.

Director General, Indian Council  
of Agricultural Research, New  
Delhi and another ..... Respondents.

Hon. D.K.Agrawal, JM

Hon. K.Obayya, AM

(By Hon. D.K.Agrawal, JM)

This Application u/s.19 of the Administrative  
Tribunals Act XIII of 1985 was filed on 15.1.1990 and  
came up for hearing on admission before a Single Member  
on 16.1.1990. The following order was passed :-

" Heard.

Issue notice to Respondents to show cause  
why the petition may not be admitted. Reply  
may be filed within four weeks. List the case  
for admission on 10.3.90. Present position  
is maintained."

2. The dispute is with regard to the appointment  
of Director of Central Institute of Horticulture for  
the Northern Plains, Lucknow. The regular Director Dr.  
C.P.A.Iyer retired in or about June 1989. By an order  
dated 5.7.1989 (annexure 5 to the Application), the  
Applicant, namely, Dr. R.P.Srivastava was given officiating  
appointment as Director in the following words :-

" The President, Indian Council of Agricultural  
Research is pleased to appoint Dr. R.P.Srivastava  
Scientist S-3, Central Institute of Horticulture  
for Northern Plains, Lucknow as Director, C.I.H.N.P.  
Lucknow on officiating basis in the pay scale of  
Rs. 4500-150-5700-200-7300 with effect from the  
afternoon of 13th June 1989, till the post is filled  
up on regular basis or till further orders."

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3. The order dated 5.7.1989 was changed by an order dated 11.1.1990 (annexure 6 to the Application whereby the following order was passed appointing Dr. I.S.Yadav, Respondent no.2 as Director of the Institute :-

" The President, Indian Council of Agricultural Research is pleased to appoint Dr. I.S.Yadav as Officiating Director, Central Institute of Horticulture for Northern Plains, Lucknow with effect from the date of his taking over charge in addition to his present duties as Project Coordinator until a regular Director joins the position or further orders, whichever is earlier.

Consequently, Dr. R.P.Srivastava will stand reverted to his parent position as Scientist S-3 (pre-revised) from the date of handing over charge to Dr. I.S.Yadav."

It is alleged that Dr. I.S.Yadav took over charge on 12.1.90. The charge certificate was forwarded to the Director General Indian Council of Agricultural Research, New Delhi on 12.1.1990 by means of a letter (Annexure B-3 to the written statement of Respondent no.2).

4. The Applicant filed the present Application, as mentioned above on 15.1.1990 for quashing the order dated 11.1.1990 appointing Respondent no.2 as Director of the Institute. Interim relief was also sought that the Applicant's status be not disturbed. Although it was not specifically stated in the Application

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that the Applicant still ~~held~~ <sup>held</sup> the charge of Director but he desired an interim order on the basis as if he was actually holding the charge on the date of filing of the Application. The learned Single Judge before whom the Application came up, passed an order for maintaining the present position. It is said that a dispute arose <sup>between them in this</sup> and even cross FIRs were lodged.

5. Indian Council of Agricultural Research is a Society registered under the Societies Registration Act, 1860. Minister Incharge of the Portfolio of Agriculture in the Union Cabinet is the President of the Society. The Director General is the Principal Executive Officer of the Society. The President is the appointing authority for the post of Director of the Institute. The post has now been advertised on 3.2.1990 vide advertisement no.1 of 1990. The essential qualifications for the post of Director is five years experience as Principal Scientist or in an equivalent grade. The grade of the Principal Scientist is Rs.4500-7300. The comparative qualification ~~thexxparativexqua~~

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of the Applicant, i.e. R.P.Srivastava and the Respondent no.2, i.e. I.S.Yadav have been given in para 15 of the written statement of Respondent no.2. The same has not been controverted in the rejoinder filed by the Applicant. The comparative chart as detailed in para 15 of the written statement of the Respondent no.2 indicates that I.S.Yadav- Respondent no.2 was senior to R.P.Srivastava, Applicant having been appointed earlier and ~~is being~~ <sup>been</sup> placed in the grade of Principal Scientist w.e.f. 1.1.1983. The Applicant, i.e. R.P.Srivastava has not yet been placed in the grade of Principal Scientist i.e. Rs.4500-7300. Dr. R.P.Srivastava is still in the grade of Rs.3700-5700. Thus, on the basis of it, Dr. R.P.Srivastava is not qualified to be appointed to the post of Director unless the qualifications are relaxed for one or the other reason, if permissible under the bye-laws of Indian Council of Agricultural Research.

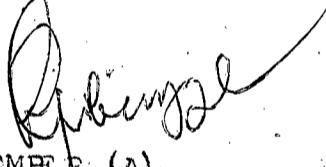
6. The controversy in question is very short as to whether the appointment of I.S.Yadav, Respondent no.2 suffers from any irregularity or illegality. The Applicant has challenged the appointment on the ground that the Respondent no.2 was Coordinator. May it be so, but Respondent no.2 is Principal Scientist placed in the grade of Rs.4500-7300 and, as such, according to the qualifications prescribed for the post of Director, I.S.Yadav- Respondent no.2 is qualified. If so, his appointment as officiating Director cannot be challenged on the ground that he was not qualified. The other aspect of the matter is as to whether the President was justified in appointing Dr. I.S.Yadav as officiating Director? To our mind there are no rules for officiating appointments. It is the discretion of the President to offer the officiating appointment to any person and, more particularly, to a person who is

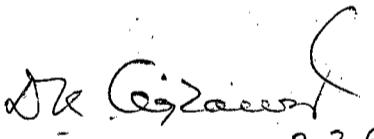
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qualified for the post. We are further of the opinion that the Applicant being not possessed of essential qualification for the post of Director, <sup>✓ he</sup> has no locus-standi to challenge the same. We do not consider it necessary to dilate the point as urged by the learned counsel for the Applicant that the impugned order dated 11.1.1990 was passed in violation of principles of natural justice inasmuch as opportunity of hearing was not afforded to the Applicant. It would suffice to say that no legal right accrued to the Applicant to hold the officiating appointment. Therefore, no opportunity of hearing was required. The mere offer of officiating appointment does not amount to a promotion order. If so, the impugned order does not amount to reversion of the Applicant. The opportunity of hearing would have been required if the Applicant was to be divested of the right vested <sup>✓ in</sup> him. In the circumstances, we are of opinion that this Application has no merit and it deserves to be dismissed.

7. The Application is dismissed without any order as to costs.

  
MEMBER (A)

  
MEMBER (J) 23.3.90

Dated: 23.3.1990  
kkb.