

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

ORIGINAL APPLICATION No. 205/10

This, the 8th day of May, 2013

**Hon'ble Justice Sri Alok Kumar Singh, Member (J)
Hon'ble Sri D. C. Lakha, Member (A)**

Nar Singh, aged about 49 years son of late Shri Baleshwar Singh resident of 2/301 Rajni Khand Sarda Nagar, Rae Bareli Road, Lucknow.

Applicant.

By Advocate Sri Praveen Kumar.

Versus

1. Union of India, through its Secretary, Department of Agriculture Research & Education (DARE) Ministry of Agriculture, Government of India, Krishi Bhawan, New Delhi.
2. Secretary Indian Council of Agricultural Research Krishi Bhawan, New Delhi.
3. Director General, Indian Council of Agricultural Research Krishi Bhawan, New Delhi.
4. Director Indian Institute of Sugarcane Research Rae Bareli Road, Lucknow.

Respondents

By Advocate Sri Rajendra Singh.

Order(Dictated in Open Court)

By Hon'ble Justice Sri Alok Kumar Singh, Member (J)

This O.A. has been filed with the following reliefs:-

1. To set aside the impugned order dated contained in Annexure No. 1 as well as the order dated 24.7.2009 after summoning the same from the opposite parties with all service consequential benefit.
2. Further be pleased to direct the opposite parties to consider the promotion of the applicant on the post of T-7-8 with effect from 0.1.07.2007 along with all service consequential benefits.
3. To grant any other relief which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.
4. Cost of the petition, may also be awarded to the applicant, as he has unnecessarily been dragged into litigation.

2. The brief facts of the case are that the applicant has obtained a master degree in Sociology and on the recommendation, of the Assessment Committee, it was also considered qualification in the relevant field for promotion from T-5 to T-6 vide its order dated 1.4.2002(Annexure-A-3) and the appointing authority i.e. Director, promoted the applicant in T-6 vide order dated 29.12.2003 w.e.f. 1.7.2002. The pay fixation was also accordingly made (Annexure A-4 and A-4A). On completion of 5 years as T-6, the Assessment Committee again met for consideration of promotion of the applicant



as T-7-8 but an objection was raised by the Director General that the Master Degree in Sociology is not in the relevant field which requires Master Degree in Agriculture only. As a consequence of this, the applicant was served with a show cause notice dated 30.4.2009 as to why he may not be reverted to T-5 w.e.f. 1.7.2002 for his failure to have essential qualification for promotion to T-6 (Annexure A-6). In response to this, the applicant submitted a detailed reply (comprising 3 pages) on 27.5.2009, placed at Annexure A-7. Thereafter, the applicant was served with impugned order dated 6.1.2010 issued by Senior Administrative Officer in pursuance of the order dated 24.7.2009 which has also been impugned. By means of these orders, the date of promotion of the applicant in grade T-6 has been altered from 1.7.2002 to 1.7.2007.

3. The O.A. has been contested by filing a detailed CA. The pith and substance of the entire defence is that the applicant was wrongly placed in the grade of T-6 w.e.f. 1.7.2002 and the Master Degree in sociology is not in the relevant field for the applicant. The applicant being BSC (Agriculture), therefore, for him, the relevant Master Degree has to be in Agriculture only. Consequently, this mistake was rectified by means of impugned order.

4. A rejoinder affidavit has also been filed reiterating the pleadings contained in the O.A.

5. Heard counsel for the parties and perused the entire material on record thoroughly.

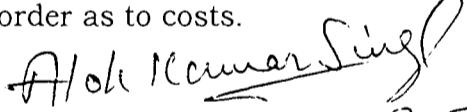
6. The learned counsel for the applicant confines his arguments only to the extent that a bare perusal of the impugned order dated 6.1.2010 would show that there is not even a whisper about any of the points raised by the applicant in his exhaustive reply/representation contained in three pages, which he had submitted in response to the show cause notice issued by the respondents. His emphasis is that on the same analogy, several officials have also been promoted. The law is settled on the point that similarly placed persons cannot be treated differently. Be that as it may. It is apparent from record that in the

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impugned orders, there is no even a whisper about any of the points raised in the aforesaid reply/representation dated 27.5.2009 (Annexure-A-7). It is a basic principle of natural justice that in such matters, an opportunity to show cause should be given. It is true that a show cause notice was accordingly given. The applicant also submitted his aforesaid reply/representation running into three pages. But it is really astonishing to note that in either of the impugned orders dated 24.7.2009 and 6.1.2010, there is no mention at all about the aforesaid reply/representation given by the applicant. It was incumbent of the respondents not only to mention about the reply/representation if it was received, but also to deal with the points raised therein by passing a speaking and reasoned order. As far as these points are concerned, the learned counsel for the respondents has nothing to say substantial in the absence of any thing on record to substantiate.

7. In view of the above, therefore, this O.A. is allowed. The orders dated 24.7.2009 and 6.1.2010 are hereby quashed with all consequential benefits. The respondents however, would be at liberty to take a decision afresh after taking into consideration all the points raised in the aforesaid reply/ representation submitted by the applicant by passing a speaking and reasoned order. No order as to costs.


(D. C. Lakha)
Member (A)


(Justice Alok Kumar Singh) 8.5.13
Member (J)

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