

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.
CIRCUIT BENCH AT RANCHI

REGISTRATION NO. OA - 418/ of 1996

Date of order : 19.08.2000

1. Bhakti Prasad Banarjee, son of Late Dr. Prafulla Kumar Banarjee aged 56 years, Technical Officer (T-5) Indian Lac Research Institute, Namkum District - Ranchi.
2. Ram Chandra Maurya, son of Late Hazarilal Maurya aged 59 years, Technical Officer (T-5), Indian Lac Research Institute, Namkum, Distt.- Ranchi.

.....APPLICANTS.

By Advocate Mrs. M.M. Pal.

Versus

1. Union of India through the Under Secretary, ICAR, New Delhi.
2. Dy. Secretary (B), Indian Council of Agricultural, Krishi Bhawan, New Delhi -1.
3. Director General, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi - 1.
4. Director, Lac Institute, P.O. Namkum, Ranchi.

.....RESPONDENTS.

By Advocate Sri V.M.K. Sinha, Sr. Standing Counsel.

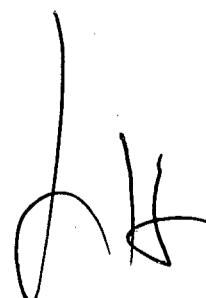
C O R A M

Hon'ble Mr. Justice S. Narayan, Vice-Chairman
Hon'ble Mr. L. Hmingliana, Member (A).

O R D E R

L.Hmingliana, Member (A):-

The two applicants were T-5 Technical Officers of the Indian Council of Agricultural Research (in short ICAR) at the time they filed the OA. They are B.Sc. Graduate. Their prayer in the OA is, in substance, for removal of the condition of 12 years minimum service in the grade of for promotion to the higher grade of T-6,



and for making five years as the minimum period of service in the grade required for promotion to T-6.

2. The applicant No. 1 joined service on 1.11.1961 as Junior Research Assistant, and the applicant No. 2 joined on 22.12.1952 as Junior Assistant. After getting the promotions, both of them reached ~~the~~ grade of Technical Officer T-5 on 1.7.1982. Both of them have since retired from service, the applicant No. 1 on 31.1.2000 and the applicant No. 2 on 31.3.1998. According to the hand book of Technical Service, which Mrs. M.M. Pal, the learned counsel produced during the hearing for our ~~inspection~~ ^{perusal}, the Technical Personnel of the ICAR are grouped into three categories as follows;

<u>Category</u>	<u>Grade</u>	<u>Pay prior to 1.1.1986</u>
Category I	T-1 i)	260-430
	T-2 ii)	330-560
	T-1-3 iii)	425-700
Category II	T-II-3 i)	425-700
	T-4 ii)	550-900
	T-5 iii)	650-1200
Category III	T-6 i)	700-1300
	T-7 ii)	1100-1600
	T-8 iii)	1300-1700
	T-9 iv)	1500-2000

3. We can see from the above statement that the promotion from T-5 to T-6, which the applicants are seeking, is ~~the~~ ^{the} promotion from ~~the~~ highest grade in category II to the lowest grade in category III. We can see from the hand book that ~~the~~ promotion from one category to a higher category was only on selection, and to fill in 20 per cent of the vacancies, and there was a category bar to promotion from one category to ~~the~~ higher category

except on selection. The category bar on promotion from category I to category II was removed with effect from 1.1.1995 vide order dated 1.2.1995. The category bar on promotion from grade II to grade III, which is from T-5 to T-6, as we have said, was also removed as described in ^{the} ICAR's letter dated 4.8.1995, according to which, those who are in T-5 (obviously those who are unable to get promotion to T-6 by selection) can get promotion, and for that purpose, the posts they are holding in T-5 are to be upgraded as T-6. But there is one condition which the applicants are challenging - the condition is that they have to complete 12 years of service in T-5 grade before they can get the benefit of the removal of the category bar ~~or~~ ^{for} promotion to T-6 grade.

4. The argument of the learned counsel was mainly that the minimum period of service in T-5 for promotion to T-6 must be kept at five years, because all promotions from one grade to the next higher grade, and even from T-6 to T-7 are after completion of five years, and subject to clearance in annual assessments for five years. She stated that both the applicants had to retire from service without promotion to T-6, even after they completed much more than the required 12 years of service in T-5, while their colleagues were granted the benefit of the removal of the category bar, and they were given the promotion.

5. It has to be noted that the promotion from

T-II-3 to T-4 and from T-4 to T-5 which the applicants got are promotions from grade to grade within the category and not from one category to another category, and where there was never any bar to promotion, and in fact, there is no direct recruitment to T-4 and T-5. Thus, keeping the minimum period of service in the lower grade to the higher grade as five years within the category compared cannot be compelled with the scheme of fixing the minimum period of service in T-5 for promotion to T-6 at 12 years. However, it has to be noted that for promotion from category I to category II, the minimum period does not appear to have been fixed at more than five years. Then, we do not find the condition of completing 12 years of service in T-5 for promotion to T-6 to be unreasonable. Besides, it is entirely a matter of policy where our interference would not be warranted. We also have to remember that the removal of the category bar on promotion from T-5 to T-6 was entirely in the interest of T-5 Officers who were unable to get promotion to T-6 by selection. This is quite clear from the fact that irrespective of whether there are vacancies in T-6 or not, T-5 Officers have to be given the benefit of promotion to T-6 by upgrading the post in T-5 which they are holding.

6. The learned counsel also referred to the award decreed by the Industrial Tribunal No. 2, Delhi

dated 8.1.1988, which is at Annexure -5. She stated that the award was implemented, but without induction clause which was for fixation of pay of the workmen who were parties to the settlement [✓] in the pay scale of Rs. 550-900/-. This pay of Rs. 550-900/- was the pre-revised pay scale of T-4 prior to 1.1.1986. Then, we do not see the relevance of the award for the purpose of deciding the case of the applicants.

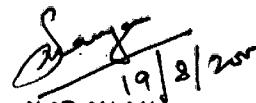
7. As regards the statement of the learned counsel that all the colleagues of the applicants had been given the promotion after they completed 12 years in T-5, we are of the view that it will be unreasonable not to give the promotion to the two applicants after they completed 12 years of service in T-5, in case they [✓] were approved for that purpose on their annual assessment, ^{for five years} which incidentally is only for five years and not 12 years. It is possible that the applicants were not assessed at all or the results of the assessment were not acted upon. In that event, we will have to give direction to the respondents to consider their case for promotion to T-6 with upgradation of their posts after they completed 12 years of service, and for that purpose, the yardstick of five years annual assessment will have to be applied to their case.

8. In view of what we have said, we dispose of the OA with the following direction: The respondents shall

consider the case of the applicants, if they have not already done, for promotion to T-6 with upgradation of their posts after they completed 12 years of service and issue appropriate orders, and in case they have already assessed them and found them to be eligible and suitable, the respondents shall issue the appropriate order of their promotion immediately. In case the applicants are promoted, they shall be entitled to all the consequential financial benefits including payments of arrears of salary differences and refixation of their pension. The respondents shall comply with this order within six months from the date of its communication.

There shall be no order as to costs.


(L. HMINGLIANA)
MEMBER (A) 198000


(S. NARAYAN)
19/2/2000
VICE-CHAIRMAN

/CBS/