

Central Administrative Tribunal

Lucknow Bench

INDEX SHEET

Case Title OA 202 of 1984

Name of the Parties Mahesh Lal Applicant

Versus
Union of India

Respondents

Part A.E.C.

Sl. No.

File A

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B/C ditting 9/05/12

V.G.

805

Domestic
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

P.Y

23-A, Thornhill Road, Allahabad-211001

Registration No. 202 of 1986

APPLICANT (s) Mahesh Prasad

RESPONDENT(s) Union of India, Council of Agriculture Research

Particulars to be examined	Endorsement as to result of Examination
1. Is the appeal competent ?	- Yes -
2. (a) Is the application in the prescribed form ?	- Yes in old Proforma.
(b) Is the application in paper book form ?	Yes -
(c) Have six complete sets of the application been filed ?	only 2 sets have been filed.
3. (a) Is the appeal in time ?	- Yes -
(b) If not, by how many days it is beyond time ?	- No .
(c) Has sufficient cause for not making the application in time, been filed ?	- R.A .
4. Has the document of authorisation, Vakalat-nama been filed ?	- Yes -
5. Is the application accompanied by B. D./Postal-Order for Rs. 50/-	- Yes -
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?	- Yes -
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	- Yes -
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	<u>No - By Advocate</u>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW.

O.A./I.A. No. 202 1988(1)

Applicant(s)
Mahesh Pd.

Versus
U.O.2

Respondent(s)

Sr. No.	Date	Orders
	24/11/88	Hon. D.S. Misra, A.M. Hon. G.S. Sharma J.M.
		<u>Admit.</u> Issue notice to the respondents to file reply within a month & to show cause within fortnight days as to why the prayer for interim relief be not granted. Put up on 22-12-88 to consider the interim prayer.
		Sd/- J.M. Sd/- A.M. <i>Finish 28/11</i>
	28/11/88	<u>OR</u> Notices issued to respondents Nos. 142 through regd. Post. fixed 22-12-88 to consider the interim prayer.
	22-12-88	No sitting. Adjourned to 24/12/88 <i>Finish 28/11</i> for order.
	24/12	No sitting. Adjourned to 24/12/88 Sri R.B. Singh, Counsel for O.P. comes files today <i>22/12</i>

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT MACHNO.

O.A./T.A. No. 202 198 8(4)

Malash Ad.

Applicant(s)

Versus

6

Respondent(s)

Sr. No.	Date	Orders
	17.3.89	<p><u>OR</u></p> <p>Counsel for applicant has filed an Amended application with as directed by court 1st Notice has been issued to the respondent no 3 through regd post</p> <p>No reply has so far been filed by the respondents</p> <p>Calimitted for hearing as directed by court.</p>
	30/3/89	<p><u>ORS</u></p> <p>17.3.89</p> <p>Hon' Mr. D.S. Misra, A. M. Hon' Mr. D.K. Agrawal, J.M.</p> <p>The brief-holder of Shri K.B. Sinha learned counsel for the respondents requests for further time to file counter reply. He may do so within a month's time. The applicant may file rejoinder if any, within two weeks thereafter. List the case for hearing on 17-5-89.</p> <p>J. M. (sns)</p> <p>A. M.</p> <p><u>ORS</u> In compliance of court's order dt. 30.3.89, no reply have been filed so far Submitted for order</p>

08/202/88 (C)

75

24/4/90

Hon. Mr. D. K. Agrawal, A.M.
Hon. Mr. K. Obayya, A.M.

Due to old cases, this case cannot be taken up after lunch. At present, the Counsel for the parties are not present. Therefore, adjourned to 30/10/90 for hearing.

A.M.

D.P.

J.M.

sd

5.11.90

Due to Holiday. Adjourned to
20.12.90

2

20.12.90

No sitting Adj to 1.2.91.

2

1.2.91 -

No sitting Adj to 15.2.91.

15.2.91 -

No sitting Adj to 19.3.91.

2

19.3.91 -

No sitting adj to 13.5.91.

2

13.5.91

No Sittings off to 22.8.91

2

22.8.91

No Sittings off to 4.10.91

2

4.10.91

No sitting Adj to 13.12.91.

2

Rb

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH
Registration O.A.NO. 202 of 1988 (L)

Mahesh Prasad

....

Applicant

Vs.

Union of India & Others

Respondents

Hon'ble Mr.Justice U.C.Srivastava,V.C.

Hon'ble Mr.A.B. Gorthi, Member (A)

(By Hon. Mr.Justice U.C.Srivastava,V.C)

By means of this application, the applicant had challenged the action on the part of Respondent No.2 in the matter of filling up the posts of Superintendents lying vacant in his office with effect from 31.5.1985 and 31.5.87, and thereby wrongly deprived him from the said promotional post. The applicant had filed this application in the year 1988 and he having been ~~retired~~ during the pendency of application, and he had maintained his claim, and it was contended on behalf of the applicant that he was entitled from the date when the vacancy occurs or any subsequent date prior to his retirement, and he will be deemed to have been promoted with effect from that particular date and he is entitled to monetary benefit with retrospective effect including the pensionary benefits.

2. The applicant is holding the post of Assistant in the office of Director, Indian Institute of Sugarcane Research, Lucknow with effect from 3.8.77. In the seniority list the name of the applicant was at Sl.No.2 and as such it was claimed by him that on the basis of seniority he was entitled to one of the promoted post of Superintendent in the scale of Rs.1640-2900/- and the vacancy of Superintendent occurred on 1.6.87 on account of retirement of ~~the~~

incumbent Shri C.Wesley. As the applicant was not promoted in the second vacant post he made representation on 14.10.87 seeking the promotion. But no reply to his representation was given. The representation of the applicant was not forwarded to Respondent No.1 by the Respondent No.2 and the applicant was informed by the latter dattted 30.1.88 that the matter of his promotion was under consideration with the administration. The applicant again made a representation against the matter, but even then no action on the same was taken. The applicant let the file for representation before the higher authority. In his reminder the applicant also pointed out a decision which was taken ^{at} into the meeting of Joint Staff Council, Indian Institute of Sugarcane Research, Lucknow in this behalf. A meeting took place on 7th December, 1988 and Joint Consultative Council agreed that the staff and administrative control should be promoted right from the date of occurance of the vacancy and to achieve this/ action to fill up such position should be taken well in advance. It was further decided that the DPC should not take into consideration each and every ACR and for considering the case of promotion the ACRs should be considered and taken into account. The applicant's promotion lingered on and no reply to the same has been given and the applicant leveled charges against the then Director, deliberately Kishan Singh that because of the malafide action he / postponed the matter of promotion so that the applicant may not get promotion. Then he approached the Respondent No.1 with a request for creation of a post of Assistant Administrative Officer by surrendering the two posts of Superintendents, which is rejected by the Respondent no.1 vide an order dated 7.6.1987. The applicant again approached for the said matter but he also failed there.

AS

3. The applicant's grievance is that he was also a member of Joint Staff Council, and although the applicant was given outstanding by Reporting Officer but the respondent No.2 who is the Reviewing Officer disagreed with him and gave him adverse entry. Against the adverse entry the applicant preferred a representation to the respondent No.2 who did not loose any time to decided it and promoted some other persons in place of the applicant, while the representation of the applicant was still pending.

4. The respondents have denied the claims of the applicant and admitted that the adverse entries against the applicant were considered by the D.P.C. while considering the case of the applicant for promotion. As a matter of the applicant became entitled to the promotional post as and when vacancy occurs. The respondents are duty bound to consider the claim of the applicant when his terms comes and when the vacancy occurs, and when the vacancy occurs the respondents are duty bound to promote the applicant. Even if the matter was delayed by the authority, it may not be a case of co-incidence that the promotion was made when an adverse entry was given to the applicant. Even if the adverse entry was given to the applicant and the Reviewing Officer disagreed with the Reporting Officer. The D.P.C. should not have been taken into consideration not only they decided in the Joint Staff Committee. But as the factual position is that the adverse entry against which the representation is pending are not taken into account and denying the person from the promotional post. But the respondents did not hesitate in taking into consideration the said adverse entry and wrongly deprived the applicant for promotion. In such case it can be said that the denial of promotion to the applicant was fully un called

for and cannot be sustained. Accordingly this application deserves to be allowed and the respondents are directed to give notional promotion to the applicant with effect from the date the post ~~fell~~ became vacant. The applicant may not get salary for the said post but will be entitled to all the benefits of the said promotional post with effect from the date he gets the notional promotional in the matter of pension and other benefits. Let it be done within a period of 3 months from the date of communication of this order. No order as to costs.

Arun Singh

Member(A)

U

Vice-Chairman.

13th December, 1991, Alld.

(sph)

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In the Hon'ble Central Administrative Tribunal, Allahabad.

Lucknow Bench, Lucknow.

Application Registration No. 202 of 1988 (L)

Application under Section 19 of the Administrative
Tribunal Act 1985

Mahesh Krasad.

Applicant.

Versus.

Secretary, I.C.A.R.
and another.

Opp. Parties.

I N D E X

Sl.No. Particulars

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13. Vakalatname

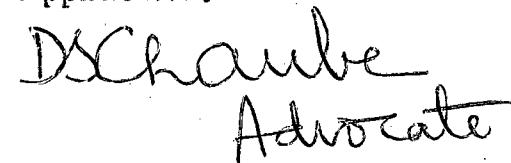
38.

Lucknow : Dated:

November 17, 1988.



Signature of
Applicant.


D.S. Chauhan
Advocate

AN

In the Hon'ble Central Administrative Tribunal, Allahabad.
Lucknow Bench, Lucknow.

Application Registration No. _____ of 1988.

Mahesh Prasad, aged about 57 years, Son of Late Shri Shiv Narain Lal Srivastava, resident of 21, Kashi Dera, Lucknow-18.

Applicant.

Versus.

1. The Secretary, Indian Council of Agricultural Research,
Krishi Bhawan, New Delhi-110001.
2. Director, Indian Institute of Sugarcane Research,
Post Office: Dilkusha, Rae Bareli Road, Lucknow-226002.

Opp. Parties.

*Noted for
24 Nov 1988
S. Kumar
21/11/88*
Application under Section 19 of the
Administrative Tribunal Act, 1985.

1. Particulars of the applicant.

(1). Name of the applicant. Mahesh Prasad.

(2). Name of father: Late Shri Shiv Narain Lal Srivastava.

(3). Designation and office in which employed. Assistant, Indian Institute of Sugarcane Research, Lucknow-2.

(4). Office address: Office of the Director, Indian Institute of Sugarcane Research, Lucknow-2.

(5). Address for service of notice. 21, Kashi Dera, Lucknow-18.

2. Particulars of respondents:

(1). Secretary, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi-110001.

(2). Director, Indian Institute of Sugarcane Research, Rae Bareli Road, Lucknow-2.

3. Particulars of the order against which application is made.

The application is submitted on the following main grounds amongst others:

(1). Wilful and deliberate inaction on the part of party No.2 in the matter of filling up the two posts of Superintendents lying vacant in his office since 31-5-1985 and 31-5-1987 and thereby depriving the applicant of his due and legitimate claim for appointment to the post of Superintendent.



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(2). Wilful and deliberate infringement of the rules and regulations existing in the matter of recruitment, appointments and promotions etc. in the office of the Director, Indian Institute of Sugarcane Research, Lucknow ~~by~~ by opposite party No.2.

(3). Defiance of the mandates and specific ^{instructions} ~~instruments~~ as well as suggestions of higher authorities viz. Indian Council of Agricultural Research, New Delhi and acting in an arbitrary manner by the opposite party No.2.

(4). Efforts by party No.2 to borrow staff from other offices and organisations in violation of the specific orders of Indian Council of Agricultural Research and in detriment to the interest of the applicant, vide their circular letter No.F.10(4)/78-Estt.V dated 15-11-1978 by issuing a circular letter noted below:-

A copy of the I.C.A.R. circular letter dated 15-11-1978 is enclosed as Annexure-10 to this application.

(1). Order No. F.2-27/76-Admn.III.

(2). Date. 10-10-1988.

(3). Passed by: The opposite party No 2 and communicated by Senior Administrative Officer, Indian Institute of Sugarcane Research, Lucknow.

(4). Subject in brief.

The applicant was entitled to be appointed to the post of Superintendent in the vacancy caused by the retirement of Shri C. Wesley on 1-6-1987, but he has been ignored so far, despite representations and assurances.

4. Jurisdiction of the Tribunal.

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of this Hon'ble Tribunal.

5. Limitation.

The applicant further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

6. Facts of the case.

(1). That the applicant is holding the post of Assistant in the scale of Rs.1400-2300/- with effect from 3-8-1977 in the office of opposite party No.2.

(2). That according to seniority of Assistants in the grade of Rs.1400-2300/- employed under the opposite party No.2, the applicant's name comes at Sl.No.2. He is, therefore, entitled to be appointed to that post

[Signature]

on the basis of seniority against one of two vacant posts of Superintendent in the scale of Rs.1640-2900/-.

The second vacancy of Superintendent occurred on 1-6-1987 on account of retirement of Shri C. Wesley.

(3). That the applicant made a representation on 14-10-1987 to the opposite party No.2 to seek promotion, but no reply was given. The applicant made further representation on 7-1-1988 addressed to the opposite party No.1 through proper channel. The opposite party No.2 did not forward this representation to the opposite party No.1 and he informed the applicant, vide O.M. No.F.10-11/55-Estt. (Vol.III) dated 30-1-1988 that the matter of his promotion was under consideration with the administration. A true copy of this O.M. is enclosed as Annexure-1 to this application.

(4). That the applicant again reminded the opposite party No.2 under his representation dated 18-2-1988 and thereupon he was again informed by the Senior Administrative Officer, vide O.M. No.F.10-11/55-Estt. (Vol.III) dated 14-3-1988 that the matter of his promotion was under consideration with the competent authority. A true copy of O.M. dated 14-3-1988 is enclosed as Annexure-2 to this application.

[Signature]

(5). That the applicant having failed to get any relief made a request to the opposite party No.2 vide his representation dated 14-4-1988 to accord permission for meeting the opposite party No.1 to enable him to explain his case. This request was also refused as communicated by the Senior Administrative Officer vide his O.M. No.F.10-11/55-Estt. (Vol.III) dated 6-5-1988. A true copy of letter dated 6-5-1988 is enclosed as Annexure-3 to this application.

(6). That in the circumstances, the applicant made detailed representation on 30-4-1988 addressed to the opposite party No.1 for redressal of his grievance. A true copy of representation dated 30-4-1988 is enclosed as Annexure-4 to this application.

(7). That the grievance of the applicant remained unredressed despite the reminders given by him on 6-6-1988, 14-6-1988 followed by telegraphic reminder dated 30-8-1988 and he hasnot been able to get any relief in the matter of his due promotion. The applicant in his reminder representation dated 6-6-1988 also intimated the opposite party No.1 that the opposite party No.2 in recent meeting of Joint Staff Council, Indian Institute of Sugarcane Research, Lucknow uttered that he would not make any promotion for further three

years meaning thereby that the applicant would retire on attaining the age of superannuation on 30-6-1989 without getting any chance of promotion.

(8). That a notice through counsel of applicant was also served upon the opposite party No.1 vide registered letter dated 5-10-1988 to get his grievance in the matter of promotion redressed, but the same also went unheeded without any action by the authorities.

A true copy of notice dated 5-10-1988 is enclosed as Annexure-5 to this application.

(9)(i). That the opposite party No.2 has hatched and is nursing an ill will and malafide intention against the applicant on account of the applicant's making a representation earlier to the Indian Council of Agricultural Research, New Delhi in regard to the mode of recruitment to the post of Superintendent in the office of the Indian Institute of Sugarcane Research, Lucknow. The controversial point was that party No.2 was making recruitment under direct recruitment quota whereas the post lay under promotion quota. The applicant made a representation to the Indian Council of Agricultural Research, whose verdict was in favour of the applicant meaning thereby that opposite party No.2 had to make recruitment to the post of Superintendent by promotion within the cadre of the

Indian Institute of Sugarcane Research, on the basis of seniority, ~~was not approached for selection.~~

(9)(ii). The second point of opposite party No.2 for having an ill will against the applicant was a representation made to the higher authorities against Sri Mummalal, importing by him a candidate, from an outside organisation, who, ultimately, was made senior to the applicant as well as others affecting thereby future prospects of not only the applicant, but those of others too.

(9) (iii). That ~~the~~ third point for opposite party No.2 nurturing a malafide intention against the applicant was the applicant's becoming a member of Joint Staff Council of the Institute in April, 1986.

(10). That actuated by the ill will and with a view to harassing the applicant, the opposite party No.2 approached on 15-7-1987 the opposite party No.1 with a request for creation of a post of Assistant Administrative Officer by surrendering the two posts of Superintendents. The request of opposite party No.2 was rejected by opposite party No.1 on 7-8-1987 vide his letter No.4(40)/85-EE.III dated 7-8-1987. A true copy of letter dated 7-8-1987 is enclosed as Annexure-6 to this application.

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(11). That the opposite party No.2 again approached opposite party No.1 for creation of a post of Assistant Administrative Officer by surrendering two posts of Superintendents. This request too of opposite party No.2 was rejected by opposite party No.1 vide his letter No.F.4-40/85-EE.III dated 9-6-1988. A true copy of letter dated 8-6-1988 is enclosed as Annexure-7 to this application.

(12). That opposite party No.1 in both of his letters dated 7-8-1987 (Annexure-6) and 9-6-1988 (Annex-7) instructed opposite party No.2 that the two vacant posts of Superintendents should be filled up immediately, as there was no justification for keeping these posts vacant for such long time and depriving the lower categories of staff of the benefit of higher posts.

(13). That the applicant joined as a member of Joint Staff Council of the Institute in April, 1986. The legal right of applicant for promotion as Superintendent with effect from 1-6-1987 was not considered and not granted only because of harassing attitude of opposite party No.2 towards the staff members of Joint Staff Council. This attitude of the opposite party No.2 is against the directions and policy of opposite party No.1 contained in No.4-7/85-Estt.V dated 8-10-1985.

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A true copy of this letter is enclosed as Annexure-8 to this application.

(14). That when the opposite party No.2 failed in his attempts to get two vacant posts of Superintendent abolished for creating one post of Assistant Administrative Officer, he has now issued letter on 10-10-1988 inviting applications from the employees of other Institutes with the sole malafide intention that the applicant may not get promotion to the vacant post of Superintendent. This procedure was not followed in previous two cases.

A true copy of circular letter dated 10-10-1988 is enclosed as Annexure-9 to this application. The wilful attempt to get the two vacant posts of Superintendent surrendered was made by making a reference by the opposite party No.2 twice on 15-7-1987 and 27-5-1988 with the sole malafide intention to get a post of Assistant Administrative Officer created to benefit a person of his choice and for collateral purposes.

(15), That the employees holding the post of Assistant in the grade of Rs.1400-2300/- with 5 years of service in the grade are eligible for promotion as Superintendent. The applicant fulfils the conditions of eligibility. His service records are good and there is no infirmity in the way of his promotion. He is, therefore,

[Signature]

entitled to be promoted and appointed to the post of Superintendent, which became due on 1-6-1987.

(16). That even according to roster fixed for filling up the posts, these two posts have to be filled in by making promotion from amongst general caste candidates. It is further submitted that even if any post was reserved for any category, the same cannot be allowed to be filled in from taking persons on deputation from outside so long as the eligible employees in lower cadre are available in the Institute itself and are capable of delivering goods on higher posts. The senior-most person in Assistants grade available for promotion is Shri S.C. Mohey who belongs to Scheduled Caste ^{and} for the second post of Superintendent, the turn is that of the applicant.

(17). That according to the directions of Govt. of India, Ministry of Home Affairs (Department of Personal and Admin. Reforms) Memo. No. 22012/4/78Estt. (D)/ dated 16-1-1980, the departmental promotion committee is required to be convened every year, so that the vacancy may be filled up promptly and no loss is caused to the concerned employees. In the present case, this specific provision has also been flouted by the opposite party No. 2. The D.P.C. has not been called to meet for considering the

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-: 12 :-

appointment to the vacant posts of Superintendents for the last three years.

7. Relief Sought:

In view of the facts mentioned in para 6 above, the applicant's prayer is for the following reliefs:-

- (1). to declare the applicant appointed as Superintendent with effect from 1-6-1987 and to give him consequential benefits of seniority, confirmation and payment of arrear salary and allowances since June, 1987 for which he was entitled but for with-holding of his due promotion.
- (2). to direct the opposite parties not to fill up any post of Superintendent from outsiders in pursuance of circular letter dated 10-10-1988 unless the applicant is given promotion as Superintendent retrospectively with effect from 1-6-1987.

8. Interim order, prayer.

Pending ~~final~~ final decision on the application, the applicant seeks issue of the following interim order:-

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to direct the opposite party No.2 to consider the case of applicant and to give him promotion with effect from 1-6-1987 as Superintendent against one of the vacant posts forthwith and in any case before taking action to fill up the post in pursuance of circular letter dated 10-10-1988. The applicant is due to retire on 30-6-1989.

9. Details of the remedy exhausted.

(1). The applicant declares that he made representations on 14-10-1987, 7-1-1988, 18-2-1988, 14-4-1988, 30-4-1988, 6-6-1988 and 14-6-1988 followed by telegraphic reminder dated 23-8-1988 to the opposite parties. The applicant also gave legal notice dated 5-10-1988 through his Advocate.

(2). The applicant was informed by the opposite party No.2 twice vide his O.M. dated 30-1-1988 and on 14-3-1988 that the matter of his promotion was under consideration. His request to meet the opposite party No.1 was refused vide communication dated 6-5-1988. The applicant has lost all hopes to get relief departmently.

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10. Matter not pending with any other Courts etc.

The applicant further declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or has been rejected by any court of law or any other Bench of the Tribunal.

11. Particulars of Bank Draft/Postal order in respect of the application fee.

(1). No. of Indian Postal order.	No. DD/4- 822714 for Rs.50.00 (Rupees fifty only).
(2). Name of issuing Post Office.	G.P.O., Lucknow.
(3). Date of issue of postal order.	16-11-1988.
(4). Post Office at which payable.	G.P.O., Lucknow.

12. Details of index:

An index in duplicate containing of the documents to be relied upon is enclosed.

13. List of Enclosures.

- (1). O.M. No.F.10-11/55-Estt. (Vol.III) dated 30-1-1988.
- (2). O.M. No.F.10-11/55-Estt. (Vol.III) dated 14-3-1988.
- (3). O.M. No.10-11/55-Estt. (Vol.III) dated 6-5-1988.
- (4). Representation dated 30-4-1988 of applicant.
- (5). Notice dated 5-10-1988

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(6). Letter No.4(40/85-EE.III dated 7-8-1987 of opposite party No.1.

(7). Letter No.4-40/85-EE.III dated 9-6-1988 of opposite party No.1.

(8). Letter No.4-7/85-Estt.V dated 8-10-1985 of opposite party No.1.

(9). Circular No.F.2-27/76-Admn.I. dated 10-10-1988.

(10). Circular No.F.10(4)/78-Estt. V dated 15-11-1978.

VERIFICATION

I, Mahesh Prasad, aged about 57 years, Son of Late Shri Shiv Narain Lal Srivastava, resident of 21, Kashi Dera, Rakabganj, Lucknow do hereby verify that the contents from 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Lucknow: Dated:

November 17, 1988.



Signature of
the applicant.

DS Chawla
Advocate

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In the Hon'ble Central Administrative Tribunal, Allahabad
Lucknow Bench Lucknow.

Application Registration No. of 1988.

Mahesh Prasad

Applicant

Versus

Secretary, ICAR & Others

Opp. Parties.

Annexure No. 1

INDIAN INSTITUTE OF SUGARCANE RESEARCH: LUCKNOW-2

No. F. 10/11/55-Estt. (Vol. III)

Dated: January 30, 1988.

OFFICE MEMORANDUM.

With reference to his application dated 14.10.87
addressed to the Director, IISR and representation dated
7.1.88 addressed to Secretary, ICAR, regarding his promotion
to the post of Superintendent at this Institute, Shri Mahesh
Prasad, Assistant is informed that the matter is under
consideration with the Administration.

sd/-S.R. MISRA

Sr. Scientist and Head of Office.

Shri Mahesh Prasad,

Assistant,
through P.C.(S),
I.I.S.R., Lucknow.

*My
Attestation
Human*

17
A28

In the Hon'ble Central Administrative Tribunal, Allahabad
Lucknow Bench Lucknow.

Application Registration No. of 1988.

Mahesh Prasad

Applicant

Vs.

Secretary, ICAR & Others

Opp. Parties.

Annexure No. 2

INDIAN INSTITUTE OF SUGARCANE RESEARCH:LUCKNOW-2
No.10-11/55-Estt.PVol.III) Dated:March 14, 1988.

Office Memorandum

With reference to his request/reminder dated 18.2.88 regarding his promotion to the post of Superintendent at this Institute, Shri Mahesh Prasad, Assistant is informed that the matter is under consideration with the competent authority.

sd/-

Senior Administrative officer
Indian Institute of Sugarcane Research
Luck now.

Shri Mahesh Prasad,
Assistant,
through P.C.(s),
IISR, Lucknow.

*My
Attested copy
Sharma*

18
RVA

In the Hon'ble Central Administrative Tribunal,
Allahabad, Lucknow Bench, Lucknow.

Application Registration No. of 1988.

Mahesh Prasad.

Applicant.

Versus.

Secretary, I.C.A.R.
and another.

Opp. Parties.

Annexure No.3.

INDIAN INSTITUTE OF SUGARCANE RESEARCH:LUCKNOW-2.

No.10-11/55-Estt. (Vol.III)

Dated: May 6, 1988.

OFFICE MEMORANDUM.

With reference to his request dated 14-4-1988
permission to meet Secretary, I.C.A.R. regarding his
promotion to the post of Superintendent, Shri Mahesh
Prasad, Assistant is informed that Director, I.I.S.R.
has considered his request and permission to meet
Secretary, I.C.A.R. is refused due to insufficiency of
reasons. Further he is advised to put up his grievances
to the Director.

Sd/- A.K.Chaturvedi,
Sr. Administrative Officer.

Shri Mahesh Prasad,
Assistant,
through P.C.(S),
I.I.S.R., Lucknow.

Attested copy
Atma

19

In the Hon'ble Central Administrative Tribunal, Allahabad
Lucknow Bench Lucknow.

Application Registration No. of 1988.

Mahesh Prasad

Applicant

Versus

Secretary, ICAR & Others

Opp. Parties.

Annexure No. 4

To,

The Secretary,
Indian Council of Agricultural Research,
Krishi Bhawan,
New Delhi-110001.

Subject: Appointment to the vacant posts of
Superintendent at the I.I.S.R., Lucknow.

Sir,

Most respectfully I beg to submit the following
few lines for kind consideration of the ICAR:-

1. That two posts of Superintendent in the Office of the Director, Indian Institute of Sugarcane Research, Lucknow are lying vacant for considerable long time.
2. That I submitted an application to the Director, IISR, Lucknow on 14.10.87 requesting him to initiate necessary action for appointing suitable persons to the vacant posts.
3. That no reply was received from him, nor was any action to fill up the vacant posts taken by him, till 7.1.88.

Attested copy
R. Kumar

My

A.R.

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4. That on 7.1.88 I submitted a representation addressed to the Secretary, ICAR, New Delhi, through proper channel, requesting the ICAR to issue necessary instructions to the Director IISR, Lucknow for filling up the two vacant posts of Superintendent without further delay.

5. That my aforesaid representation was withheld and instead of forwarding it to the Secretary, ICAR New Delhi, the Director, IISR, Lucknow informed me under his Memo No.F-10-11/55-Estt. (Vol. III), dated 30.1.88 that the matter of my promotion to the post of Superintendent was under consideration with the Administration.

6. That I submitted another application on 18.2.88 requesting the Director, IISR, Lucknow to take up the matter on priority basis. In reply thereto the Director, IISR, Lucknow again informed me under his Memo No.F-10-11/55-Estt. (Vol. III) dated 14.3.88 that the matter was under consideration with the competent authority.

7. That after waiting for a month, I submitted another application to the Director, IISR, Lucknow requesting him to grant me necessary permission for meeting the Secretary, ICAR, New Delhi for explaining my case to him. I also mentioned in that application that if no reply is received from him till 24.4.88. it will be presumed that His Honour has no objection to my meeting the Secretary ICAR, New Delhi. Incidentally, no reply, whatsoever has been received from the Director till today, nor has any

*Attached copy
of memo*

W.H.

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action been initiated towards making appointment to the vacant posts of Superintendent. Accordingly I venture to submit this representation to the ICAR direct.

8. That, Sir. I have completed 33 years of service in this Department, out of which about 11 years as an Assistant in the revised scale of Rs. 1400-2300, just below the post of Superintendent. I shall be attaining the age of superannuation after 14 months.

9. That being confident that my work and conduct has been satisfactory all along, I look forward for promotion to the next higher post of Superintendent which is natural for any employee.

10. That I also invited the attention of the Director IISR, Lucknow to the mandates and instructions issued by the ICAR in their letter No. 4-7/85-Estt.V, dated 8.10.85 No F.No.6(33)/87-WS, dated 27.7.87 and No.4(40)/85-EE-III dated 7.8.87 and requested him to initiate action in appreciation and honour thereof, for filling up the vacant posts of Superintendent specially when only 14 months have remained in my retirement and the nature and volume of work in the Department fully justifies appointment, but unfortunately no heed has been paid by the Director, IISR, Lucknow so far, which is injurious to the future interest of an employee, like me.

11. That to a layman it appears that the matter of appointment is being procrastinated deliberately and

Attested copy
G. Kumar

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there is no intention to consider the promotion of eligible employees. It also appears that the matter would remain shelved till I retire from the services.

12. That alongwith my eligibility for promotion to the post of Superintendent there is a Scheduled Caste employee in this very Institute who is due for promotion in the post of Superintendent. Surprisingly, the case of Scheduled Caste candidate is also being ignored, which is in flagrant violation of the Constitutional propriety and the specific orders of the Government issued from time to time.

13. That the D.P.C. has not been convened for pretty long time for selecting suitable candidates for promotion to vacant posts which is a Must as laid down in appendix 29 para III of the C.S.R. Volume II Part I.

Wherefore in the contest of the foregoing submissions, I pray for the intervention of the ICAR and for issuing necessary orders directing the authorities of the Indian Institute of Sugarcane Research, Lucknow in the interest of the welbeing of the employees to take necessary action for filling up the two posts of Superintendent lying vacant for considerable long time. I may also submit that if necessary I may be permitted to explain my case to your honour personally in the 2nd week of May 1988.

*Attested copy
Human
the case,*

Thanking you Sir,

Dated: 30.4.88.

Yours faithfully,
sd/- Mahesh Prasad, Assistant,
Indian Institute of Sugarcane Research,
Lucknow

23
PBM

In the Hon'ble Central Administrative Tribunal, Allahabad
Lucknow Bench Lucknow.

Application Registration No. of 1988.

Mahesh Prasad

Applicant

Versus

Secretary, ICAR & Others.

Opp. Parties.

Annexure No. 5

Daya Shanker Chauhan
Advocate
High Court & Service Tribunal

Khurshed Bagh Gate
Lucknow.

Ref. MP/88

Dated: 5.10.1988.

To,

The Secretary,
Indian Council of Agricultural,
Research, Krishi Bhawan,
New Delhi-110001.

Dear Sir,

Under instructions of my client, Shri Mahesh Prasad, aged about 57 yrs, s/o Late Shir Sheo Narain Lal Srivastava, resident of 21, Kashidera Rakabganj, Lucknow. 18 employed in the office of the Director, Indian Institute of Sugarcane Research, Lucknow and holding the post of Assistant in the scale of Rs. 1400-2300. I give you notice as under:-

1. That my client was employed in the office of Director, IISR, Lucknow on the post of Jr. Clerk in the scale of Rs. 55-130 in the year 1955.

2. That my client was promoted to higher posts by

*Attested copy
J. Kumar*

D. M. S.

virtue of his good record of service and at present he is occupying the post of Assistant in the scale of Rs. 1400-2300 since August 1977.

3. That during the year 1987, two posts of Superintendents in the scale of Rs. 1640-2900 fell vacant in the office of Director, IISR, Lucknow, My client, on the basis of Seniority coupled with satisfactory record of Service, was a claimant for promotion to one of these posts.

4. That the Director, IISR in order to promote an employee of the Directorate of his own choice, already working on the post of Supdt. to the higher post of A.A.O. approached the ICAR in July 1987 for creation of a post of A.A.O. by surrendering the two vacant post of Supdts. The proposal of the Director was turned down by the ICAR stating that this will adversely affect the career prospects of lower categories of staff.

5. That in August 1987 the ICAR issued instruction to the Director, IISR to make necessary efforts to fill up the existing one vacant post of A.A.O. and two vacant posts of Supdts. vide their letter No.4-40/85-EE.III dated 7.8.1987.

6. That my client submitted an application to the Director, IISR, Lucknow on 14.10.87 requesting him to initiate necessary action for appointing suitable persons to the two vacant posts of Supdts.

*Attested copy
J. Kumar*

7. That having failed to receive any reply from the Director, IISR my client submitted an application to the

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Secretary, ICAR through proper channel on 7.1.88 requesting him to issue necessary instructions to the Director, IISR for filling up the posts.

8. That the application submitted to the Secretary, ICAR was withheld by the Director, IISR and a reply was given to my client that the matter of his promotion is under consideration with the Administration under his letter No.F-10-11/55-Estt. (Vol. III), dated 3.1.88.

9. That since then no action appears to have been taken by the Director, IISR for filling up the posts despite representations made by my client on 14.10.87, 18.2.88, 14.4.88, 30.4.88, 14.6.88 and a telegram to the Secretary, ICAR on 23.8.88. The last three representations were addressed to the ICAR.

10. That the Director, IISR is hatching ill will, against my client and is not taking any action for filling up the posts with a malafide and prejudicial intention just to harm & harass my client.

11. That my client has rendered about 33 yrs. of service in the Deptt. and the period of his attaining the age of superannuation is very short viz. only eight months.

12. That though the nature and volume of work in the office of the Director, IISR warrants provision of additional hands, the Director has publicly uttered that no promotion will be made till he retires from service.

13. That the Director has been issuing unnecessary &

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uncalled for warnings to my client on baseless and frivolous grounds just in order to spoil his record and harass him.

14. That the DPC has not been convened for pretty long time for selecting suitable candidates for promotion to vacant posts, which is a Must as laid down in appendix 29 para 3 of the CSR Vol. II Part. I.

15. That the service record of my client has all along been satisfactory and on that basis coupled with seniority it is natural for him to look forward for promotion to the next higher post of Superintendent.

16. That the Director, IISR is annoyed with my client for the simple reason that he happens to be a member of the Joint Staff Council and has submitted representations for his promotion.

Wherefore, in the context of the aforesaid facts and circumstances, I give you this legal notice for promoting my client to the post of Supdt. w.e.f. the date the vacancy was available & his promotion became due, within 15 days from the date of receipt of this notice, failing which my client will be left with no option except to seek legal remedy by filing a petition in the court of law at your risk and cost.

Attested copy
Signature
Dated: 5.10.88.

Yours faithfully
sd/-D.S. CHAUBE
ADVOCATE

B3 207

In the Hon'ble Central Administrative Tribunal, Allahabad
Lucknow Bench Lucknow.

Application Registration No. of 1988.

Mahesh Prasad

Applicant

Versus

Secretary, ICAR & others

Opp. Parties.

Annexure No. 6

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAWAN, NEW DELHI.

No. 4(40)/85-EE.III

Dated the 7/8/87.

To,

The Director,
Indian Institute of Sugarcane Research,
Lucknow-226002.

Sub: IISR, Lucknow-VII Plan- Sanction for Strengthening
of IISR, Lucknow- Regarding.

Sir,

With reference to your letter No. 1-30/84-Adm.I
dated 15.7.87 on the above subject, I am to say that it has
been decided not accept the proposal to create one post of
A.A.O in lieu of two vacant posts of Superintendent, as
this will adversely affect the career prospects of lower
categories of staff and Ministry of Finance has already
turned down the same. You are however, advised to make
necessary efforts to fill up the existing one vacant

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of Human*

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post of A.A.O. and 2 vacant posts of Superintendents
which will meet your requirements.

Yours faithfully.

sd/-
(M.E.K. NAIR)
Deputy Director (Finance).

Attested copy
G. Kumar

A40

In the Hon'ble Central Administrative Tribunal, Allahabad.

Lucknow Bench, Lucknow.

Application Registration No. _____ of 1988.

Mahesh Prasad. ----- Applicant.

Versus.

Secretary, I.C.A.R.
and another. ----- Opp. Parties.

ANNEXURE NO. 7.

Indian Council of Agricultural Research,
Krishi Bhawan, New Delhi-110001.

No. F.4-40/85-EE.III. Dated: 9-6-1988.

To

The Director,
Indian Institute of Sugarcane Research,
Lucknow.

Subject:- Sanction for the post of Assistant Administrative Officer (Cash & Audit) at I.I.S.R., Lucknow.

Sir,

With reference to your letter No. F.2-3/76-Admn.I dated 27-5-1988 on the above subject and to say that the Institute was advised vide this office letter of even number dated 7-8-1987 to make necessary efforts to fill up the existing one vacant post of Assistant Administrative Officer and two vacant posts of Superintendents which would

*Attested copy
by Debara*

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for met their requirement. It appears that the Institute has not filled up the vacant posts so far. Since one post of Assistant Administrative Officer and 2 posts of Superintendents are already vacant at the Institute, the proposal for creation more post of Assistant Administrative Officer is not found justified. You are therefore, again requested to make necessary efforts to fill up the vacant posts of Assistant Administrative Officer and 2 posts of Superintendents which will meet your requirement and also furnish reasons for keeping the posts vacant for a such long time.

Yours faithfully,

Sd/- (P.P. Johar).

Under Secretary.

My
Attested copy
Gururaj

In the Hon'ble Central Administrative Tribunal, Allahabad,
Lucknow Bench Lucknow.

Application Registration no. of 1988.

Mahesh Prasad

Applicant.

Versus

Secretary, I.C.A.R. & others

• Opp. Parties.

Annexure No. 8

CONFIDENTIAL

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
RAJ BHAVAN, NEW DELHI-110001.

No. : 4-7/85-Estt. V

Dated the 8th October, 1985.

To.

All the Directors/Project Directors of the ICAR Research Institutes.

Sub: Harrasament of CJ&C & LJC members-regarding.

Sir,

As you are aware the Joint Staff Councils are working in each Institute as provided in the Joint Consultative Machinery of the Indian Council of Agricultural Research. In the meeting of the Central Joint Staff Council held at National Academy Agricultural Research Management, Hyderabad on 10th and 11th December, 1984, it was pointed out by the Secretary (staff side), Central Joint Staff Council that the members of the staff side of the Institute Joint Staff Council are harrassed and victimised by the

32

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- : 2 :-

Directors concerned. Some instances were also cited by some of the members and the Secretary (staff side) of the Central Joint Staff Council. The Chairman, therefore, desired that the Directors of the Institutes may be requested not to harrass and victimise the members of the Institutes Joint staff council as they represent the various interests in the Institute on the Joint Staff Council.

The receipt of the letter may please be acknowledged.

Yours faithfully,

sd/-Kishori Lal
Addl. Secretary (A)

Copy to Shri I.S. Harith, Secretary (Staff Side)
Central Joint Staff Council, Indian Agriculture Research
Institute, New Delhi-110 012.

2. Per III/IV, Sections, ICAR.
3. All EE Sections, ICAR.

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Attested Copy
J. Kumar

AMG

In the Hon'ble Central Administrative Tribunal Allahabad
Lucknow Bench Lucknow.

Application Registration No. of 1988

Mahesh Prasad

Applicant

Versus

Secretary, ICAR & Others

Opp. Parties.

Annexure No. 9

INDIAN INSTITUTE OF SUGARCANE RESEARCH LUCKNOW

No. 2-27/78-Adm.-I

Dated: October: 10, 1988.

To,

All the Directors of Research Institutes/
Projects/Regional Stations/Sub-Stations under
the Indian Council of Agricultural Research.

Subject: Recruitment to the post of Superintendent (Res-
erved for S.T.O) in the pay scale of Rs. 1640-2900
on deputation basis at IISR.

Sir,

One post of Superintendent (Reserved for ST) in
the pay scale of Rs. 1640--2600-EB-75-2900 to be filled
up on deputation basis at this Institute.

It is, therefore, requested that the above
vacancy may be circulated amongst the employees of your
Institute holding the post of Assistant in the grade
of Rs. 1400-2300 with five years of Service in the grade.
The particulars of eligible candidates, who are willing
to be considered for the above vacancy and can be
spared immediately in the event of selection, may kindly
be forwarded in the enclosed proforma alongwith their

Attestal copy
G. Kumar

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up to-date C.C.R. Dossiers so as to reach this Institute within 30 days from the date of issue of this circular.

While forwarding the application a certificate to the effect that no vigilance/disciplinary case is pending/ contemplated against the candidate, may also kindly be furnished.

Yours faithfully,

sd/-

Senior Administrative Officer.

*With
Attestation
Khemka*

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In the Hon'ble Central Administrative Tribunal, Allahabad.
Lucknow Bench, Lucknow.

Application Registration No. of 1988.

Mahesh Prasad. ----- Applicant.

Versus.

Secretary, I.C.A.R.
and another, ----- Opp. Parties.

ANNEXURE NO. 10.

Indian Council of Agricultural Research,
Krishi Bhawan, New Delhi-1.

No. F.10(4)/78-Estt.V. Dated: the 15th November, 1978.

CIRCULAR.

To

All the Directors of the
Institutes.

Subject:- Permanent absorption of staff taken on deputation
from Central/State Government Offices -
instructions regarding.

Sir,

Some staff members have drawn the attention of the Council to the permanent absorption of staff, taken on deputation from Central/State Government Offices and other organisations, to the ~~max~~ detriment of the Institutes' employees. This has been considered in detail and it has been decided that, whereas it may not be

*Attested before
G. Kumar*

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possible to close the doors permanently against taking persons from outside, such borrowing may be limited to selected fields, where persons of the right calibre and experience are not available within the Council and its Institutes. Even in these fields the borrowing should be limited to such period as is necessary to train out own staff to man the posts. Haphazard absorption of staff from outside on permanent basis should be avoided.

Yours faithfully,

Sd/-

(S.S. Dhanoa)
Secretary, I.C.A.R.

Attest
S. S. Dhanoa
P. Kumar

A.Y.S

In the Hon'ble Central Administrative Tribunal, Allahabad.
Lucknow Bench, Lucknow.

Application Registration No. of 1988.

Mahesh Prasad. ----- Applicant.

Versus.

Secretary, I.C.A.R. ----- Opp. Parties.
 and another.

Application for stay.

That for the facts and reasons disclosed in the accompanying application, it is humbly prayed that this Hon'ble Tribunal may be graciously pleased to direct the opposite party No.2 to consider the case of applicant and to give him promotion as Superintendent against one of the vacant posts forthwith and before filling up any post from outsider in pursuance of circular letter dated 10-10-1988 contained in Annexure-9 of the application.

Such interim order/direction as deemed appropriate may also pleased be passed by this Hon'ble Tribunal.

Lucknow : Dated:

November 17th, 1988.

Counsel for Applicant.

Mahesh
 D.S. Chauhan
 Petitioner
 (D.S. Chauhan)
 Advocate.

व अदालत श्रीमान

Central Administrative Tribunal Allahabad
Lucknow Bench, Lucknow महोदय

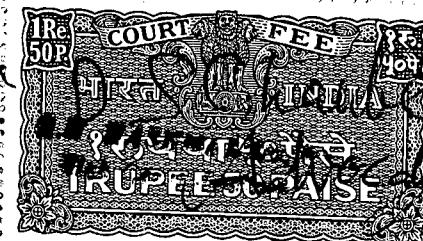
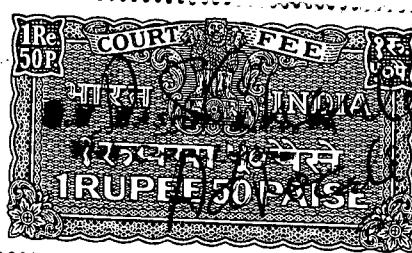
[वादी] अपीलान्ट

प्रतिवादी [रेस्पान्डेन्ट]

श्री Mahesh Prasad का वकालतनामा

Mahesh Prasad

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Secretary, I.C.A.R and another

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

मुकदमा नं०

सन्

पेशी की ता०

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ऊपर लिखे मुकदमा में अपनी ओर से श्री

D. S. Chauhan

S. K. Asthana and Satish Sharma

वकील

महोदय

एडवोकेट

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या यंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वशा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पंरोक्त को भेजता रहूँगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

Accepted

हस्ताक्षर

D. S. Chauhan

साक्षी (गवाह)

दिनांक

17/11/88

महीना

सन् १६ ₹०

Accepted
Sharma
17/11/88

Amended Application 159

In the Hon'ble Central Administrative Tribunal, Allahabad.
Lucknow Bench, Lucknow.

Application Registration No. 202 of 1988.

Amended application under Section 19
of the Administrative Tribunal Act, 1985.

Mahesh Prasad.

Applicant.

Versus.

Secretary, I.C.A.R.
and others.

Opp. Parties.

I N D E X

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1.	Application.	1-17
2.	Annexure No.1. O.M. No.10-11/55-Estt. (Vol.III) dated 30-1-1988 of opposite party No.2.	18
3.	Annexure No.2. O.M.No.F.10-11/55-Estt. (Vol.III) dated 14-3-1988 of opposite party No.2.	19
4.	Annexure No.3. O.M. No.F.10-11/55-Estt. (Vol.III) dated 6-5-1988 of opposite party No.2.	20
5.	Annexure No.4. Representation dated 30-4-1988 of applicant.	21-24
6.	Annexure No.5. Notice dated 5-10-1988.	25-28

7. Annexure No.6. 29 - 30
Letter No.4(40)/85-EE.III.
dated 7-8-1987 of opposite
party No.1.

8. Annexure No.7. 31 - 32
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9. Annexure No.8. 33 - 34
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party No.1.

10. Annexure No.9. 35 - 36
Circular No.2-27/76-Admn.I
dated 10-10-1988 of opposite
party No.2.

11. Annexure No.10. 37 - 38
Circular No.10(4)/78-Estt.V.
dated 15-11-1978 of opposite
party No.1.

12. Annexure No.11. 39
Adverse remark for the
year ending 1987.

13. Annexure No.12. 40 - 41
Representation dated
17-12-1988 of applicant.

14. Annexure No.13. 42
Order dated 15-12-1988
making promotion as
Superintendent to junior.

15. Annexure No.14. 43 - 44
Circular letter No.1-1/86-
Per.IV dated 7-12-1988
of opposite party No.1.

Lucknow: Dated:

Signature of
Applicant.

452

In the Hon'ble Central Administrative Tribunal, Allahabad.
Lucknow Bench, Lucknow.

Application Registration No. 202 of 1988.

Mahesh Prasad, aged about 57 years, Son of Late Shri Shiv Narain Lal Srivastava, resident of 21, Kashi Dera, Lucknow-18.

Applicant.

Versus.

1. The Secretary, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi-110001.
2. Director, Indian Institute of Sugarcane Research, Post Office: Dilkusha, Rae Bareli Road, Lucknow-226002.
3. Shri Nagendra Nath, Superintendent, Office of the Director, Indian Institute of Sugarcane Research, Lucknow.

Opp. Parties.

Amended application under Section 19
of the Administrative Tribunal Act, 1985.

1. Particulars of the applicant.

(1). Name of the applicant:	Mahesh Prasad.
(2). Name of Father:	Late Shri Shiv Narain Lal Srivastava.
(3). Designation and office in which employed.	Assistant, Indian Institute of Sugarcane Research, Lucknow-2.

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(4). Office Address: Office of the Director,
Indian Indian Institute of
Sugarcane Research,Lucknow-2.

(5). Address for service of notice. 21, Kashi Dera, Lucknow-18.

2. Particulars of respondents:

(1). Secretary, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi-110001.

(2). Director, Indian Institute of Sugarcane Research,
Rae Bareli Road, Lucknow-2.

(3). Shri Nagendra Nath, Superintendent, Office of the Director, Indian Institute of Sugarcane Research, Lucknow.

3. Particulars of the order against which application is made.

The application is submitted on the following main grounds amongst others:

(1). Wilful and deliberate inaction on the part of opposite party No.2 in the matter of filling up the two posts of Superintendents lying vacant in his office since 31-5-1985 and 31-5-1987 and thereby depriving the applicant of his due and legitimate claim for appointment to the post of Superintendent.

(2). Wilful and deliberate infringement of the rules and regulations existing in the matter of recruitment, appointments and promotions etc. in the office of the Director, Indian Institute of Sugarcane Research, Lucknow by opposite party No.2.

(3). Definance of the mandates and specific instructions as well as suggestions of higher authorities viz. Indian Council of Agricultural Research, New Delhi and acting in an arbitrary manner by the opposite party

No.2.

(4). Efforts by party No.2 to borrow staff from other offices and organisations in violation of the specific orders of Indian Council of Agricultural Research and in detriment to the interest of the applicant, vide their circular letter No.F.10(4)/78-Estt.V dated 15-11-1978 by issuing a circular letter noted below:-

A copy of I.C.A.R. circular letter dated 15-11-1978 is enclosed as Annexure-10 to this application.

(1). Order No.

F.2-27/76-Admn.III.

(2). Date.

10-10-1988.

(3). Passed by:

The opposite party No.2 and communicated by Senior Administrative Officer, Indian Institute of Sugarcane Research, Lucknow.

(4). Subject in brief.

The applicant was entitled to be appointed to the post of Superintendent in the vacancy caused by the ~~retirement~~ recruitment of Shri C.Wesley on 1-6-1987, but he has been ignored so far, despite representations and assurances.

(5). The promotion of opposite party No.3 has been made on the post of Superintendent by the opposite party No.2 vide his order on 15-12-1988 by ignoring the claim of applicant who is senior to him.

4. Jurisdiction of the Tribunal.

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of this Hon'ble Tribunal.

5. Limitation.

The applicant further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

6. Facts of the case.

1. That the applicant is holding the post of Assistant in the scale of Rs.1400-2300/- with effect from 3-8-1977 in the office of opposite party No.2.

2. That according to seniority of Assistants in the grade of Rs.1400-2300/- employed under the opposite party No.2, the applicant's name comes at Sl.No.2.

He is, therefore, entitled to be appointed to that post on the basis of seniority against one of two vacant posts of Superintendent in the scale of Rs.1640-2900/-.

The second vacancy of Superintendent occurred on 1-6-1987 on account of retirement of Shri C. Wesley,

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3. That the applicant made a representation on 14-10-1987 to the opposite party No.2 to seek promotion, but no reply was given. The applicant made further representation on 7-1-1988 addressed to the opposite party No.1 through proper channel. The opposite party No.2 did not forward this representation to the opposite party No.1 and he informed the applicant, vide O.M. No.10-11/55-Estt.(Vol.III) dated 30-1-1988 that the matter of his promotion was under consideration with the administration. A true copy of this O.M. is enclosed as Annexure-1 to this application.

4. That the applicant again reminded the opposite party No.2 under his representation dated 18-2-1988 and thereupon he was again informed by the Senior Administrative Officer, vide O.M. No.F.10-11/55-Estt.(VOL.III) dated 14-3-1988 that the matter of his promotion was under consideration with the competent authority. A true copy of O.M. dated 14-3-1988 is enclosed as Annexure-2 to this application.

5. That the applicant having failed to get any relief made a request to the opposite party No.2 vide his representation dated 14-4-1988 to accord permission for meeting the opposite party No.1 to enable him to explain his case. This request was also refused as communicated

by the Senior Administrative Officer vide his O.M. No. F.10-11/55-Estt. (Vol.III) dated 6-5-1988. A true copy of letter dated 6-5-1988 is enclosed as Annexure-3 to this application.

6. That in the circumstances, the applicant made detailed representation on 30-4-1988 addressed to the opposite party No.1 for redressal of his grievance. A true copy of representation dated 30-4-1988 is enclosed as Annexure-4 to this application.

7. That the grievance of the applicant remained unredressed despite the reminders given by him on 6-6-1988, 14-6-1988 followed by telegraphic reminder dated 30-8-1988 and he has not been able to get any relief in the matter of his due promotion. The applicant in his reminder representation dated 6-6-1988 also intimated the opposite party No.1 that the opposite party No.2 in recent meeting of Joint Staff Council, Indian Institute of Sugarcane Research, Lucknow uttered that he would not make any promotion for further three years meaning thereby that the applicant would retire on attaining the age of superannuation on 30-6-1989 without getting any chance of promotion.

8. That a notice through counsel of applicant was also served upon the opposite party No.1 vide registered letter dated 5-10-1988 to get his grievance in the matter of promotion redressed, but the same also went unheeded without any action by the authorities. A true copy of notice dated 5-10-1988 is enclosed as Annexure-5 to this application.

9(1) That the opposite party No.2 has hatched and is nursing an ill will and malafide intention against the applicant on account of the applicant's making a representation earlier to the Indian Council of Agricultural Research, New Delhi in regard to the mode of recruitment to the post of Superintendent in the office of the Indian Institute of Sugarcane Research, Lucknow. The controversial point was that party No.2 was making recruitment under direct recruitment quota whereas the post lay under promotion quota. The applicant made a representation to the Indian Council of Agricultural Research, whose verdict was in favour of the applicant meaning thereby that opposite party No.2 had to make recruitment to the post of Superintendent by promotion within the cadre of the Indian Institute of Sugarcane Research on the basis of seniority.

9(ii). The second point of opposite party No.2 for having an ill will against the applicant was a representation made to the higher authorities against importing by him a candidate Shri Manna Lal from an outside organisation, who, ultimately, was made senior to the applicant as well as others affecting thereby future prospects of not only the applicant, but those of others too.

9.(iii). That third point for opposite party No.2 nurturing a malafide intention against the applicant was the applicant's becoming a member of Joint Staff Council of the Institute in April, 1986.

10. That actuated by the ill will and with a view to harassing the applicant, the opposite party No.2 approached on 15-7-1987 the opposite party No.1 with a request for creation of a post of Assistant Administrative Officer by surrendering the two posts of Superintendents. The request of opposite party No.2 was rejected by opposite party No.1 on 7-8-1987 vide his letter No.4(40)/85-EE.III dated 7-8-1987. A true copy of letter dated 7-8-1987 is enclosed as Annexure-6 to this application.

11. That the opposite party No.2 again approached opposite party No.1 for creation of a post of Assistant Administrative Officer by surrendering two posts of Superintendents. This request too of opposite party No.2 was rejected by opposite party No.1 vide his letter No. F.4-40/85-EE.III dated 9-6-1988. A true copy of letter dated 9-6-1988 is enclosed as Annexure-7 to this application.

12. That opposite party No.1 in both of his letter dated 7-8-1987 (Annexure-6) and 9-8-1988 (Annexure-7) instructed opposite party No.2 that the two vacant posts of Superintendents should be filled up immediately, as there was no justification for keeping these posts vacant for such long time and depriving the lower categories of staff of the benefit of higher posts.

13. That the applicant joined as a member of Joint Staff Council of the Institute in April, 1986. The legal right of applicant for promotion as Superintendent with effect from 1-6-1987 was not considered and not granted only because of harassing attitude of opposite party No.2 towards the staff members of Joint Staff Council. This attitude of the opposite party No.2 is against the directions and policy of opposite party No.1 contained in

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No.4-7/85-Estt.V. dated 8-10-1985. A true copy of this letter is enclosed as Annexure-8 to this application.

14. That when the opposite party No.2 failed in his attempt to get two vacant posts of Superintendent abolished for creating one post of Assistant Administrative Officer, he has now issued letter on 10-10-1988 inviting applications from the employees of other Institutes with the sole malafide intention that the applicant may not get promotion to the vacant post of Superintendent. This procedure was not followed in previous two cases. A true copy of circular letter dated 10-10-1988 is enclosed as Annexure-9 to this application. The wilful attempt to get the two vacant posts of Superintendent surrendered was made by making a reference by the opposite party No.2 twice on 15-7-1987 and 27-5-1988 with the sole malafide intention to get a post of Assistant Administrative Officer created to benefit a person of his choice and for collateral purposes.

15. That the employees holding the post of Assistant in the grade of Rs.1400-2300/- with 5 years of service in the grade ~~as~~ are eligible for promotion as Superintendent. The applicant fulfills the conditions of eligibility. His service records are good and there is no infirmity in the way of his promotion. He is, therefore,

entitled to be promoted and appointed to the post of Superintendent, which became due on 1-6-1987.

16. That even according to roster fixed for filling up the posts, these two posts have ~~to~~ to be filled in by making promotion from amongst general caste candidates. It is further submitted that even if any post was reserved for any category, the same cannot be allowed to be filled in from taking persons on deputation from outside so long as the eligible employees in lower cadre are available in the Institute itself and are capable of delivering goods on higher posts. The senior-most person in Assistants grade available for promotion is Shri S.C. Mohey who belongs to Scheduled Caste ^{and} for the ~~a~~ second post of Superintendent, the turn is that of the applicant.

17. That according to the directions of Govt. of India, Ministry of Home Affairs (Department of Personnel and Admn. Reforms) Memo No.22012/4/78Estt(D)/ dated 16-1-1980, the departmental promotion committee is required to be convened every year, so that the vacancy may be filled up promptly and no loss is caused to the concerned employees. In the present case, this specific provision has also been flouted by the opposite party No.2. The D.P.C. has not been called to meet for considering the appointment to the vacant posts of Superintendents for the last three years.

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(A/C)

18. That after admission of the application on 24-11-1988 and after issuing notices to the opposite parties, the applicant was communicated an adverse remark for the year ~~xx~~ ending 1987 by the opposite party No.2 vide note contained in No. Admn-1/87/CR-Adv. dated 9-12-1988 received by the applicant on 14-12-1988. A true copy of this adverse remark is enclosed as Annexure-11 to this application.

19. That the adverse remark was not communicated in accordance with prescribed procedure. The details of reporting officer and reviewing officer have not been furnished. The applicant therefore, requested vide his letter dated 17-12-1988 to furnish reply on the points mentioned therein and to communicate complete entry so as to enable him to make representation. A true copy of this letter is enclosed as Annexure-12 to this application. No reply has been received so far.

20. That according to well recognised principle of law, the adverse remark which is still subjudice is not relevant material to withhold the promotion of applicant.

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21. That immediately after communication of adverse remark on 14-12-1988, the opposite party No.2 issued office order contained in No.2-27/78-Adm.I dated 15-12-1988 making promotion of his junior, the opposite party No.3 on the post of Superintendent on provisional basis. A true copy of above office order is enclosed as Annexure-13 to the application.

22. That the Indian Council of Agricultural Research, New Delhi, parent body of the Indian Institute of Sugarcane Research has directed its subordinate Directors of all Indian Institutes that the staff ~~should~~ be promoted right on the date of occurrence of vacancies and that in cases of promotion, the character rolls of the eligible officials upto the year ending prior ~~to~~ to the occurrence of vacancies should be considered and taken into account. A true copy of the I.C.A.R. circular letter No.F.1-1/86-Per.IV dated 7-12-1988 is enclosed as Annexure-14 to this application.

Out of the two posts of Superintendent, one fell vacant on 31-5-1985 and the other on 1-6-1987. The applicant is entitled to be promoted in the vacancy occurred on 1-6-1987. The character roll entry pertaining to the year ending 1987, though given to the applicant due to bias and malafide is not relevant to be taken into account.

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while considering his case for promotion to the post of Superintendent. The entries of the applicant upto the year ending prior to occurrence of the vacancy viz. the year ending 1986 are commendatory and there is no reason to declare the applicant unsuitable for promotion.

23. That the applicant has at his credit good service records and there is no reason to declare him unsuitable for promotion in preference to his junior, the opposite party No.3.

7. Relief sought:

In view of the facts mentioned in para 6 above, the applicant's prayer is for the following reliefs:-

1. to declare the applicant appointed as Superintendent with effect from 1-6-1987 and to give him consequential benefits of seniority, confirmation and payment of arrear salary and allowances since June, 1987 for which he was entitled but for withholding of his due promotion.

2. to direct the opposite parties not to fill up any post of Superintendent from outsiders in pursuance of circular letter dated 10-10-1988 unless the applicant is given promotion as Superintendent retrospectively with effect from 1-6-1987.

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3. to quash the promotion of opposite party No.3
made on the post of Superintendent by office
order dated 15-12-1988.

8. Interim order, prayer.

Pneding final decision on the application, the applicant
seeks issue of the following interim order:-

to direct the opposite party No.2 to consider
the case of applicant and to give him promotion
with effect from 1-6-1987 as Superintendent against
one of the vacant posts forthwith and in any case
before taking action to fill up the post in
pursuance of circular letter dated 10-10-1988.

The applicant is due to retire on 30-6-1989.

9. Details of the remedy
exhausted.

(1). The applicant declares that he made representations
on 14-10-1987, 7-1-1988, 18-2-1988, 14-4-1988,
30-4-1988, 6-8-1988 and 14-6-1988 followed by
telegraphic reminder dated 23-8-1988 to the
opposite parties. The applicant also gave legal
notice dated 5-10-1988 through his Advocate.

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(2). The applicant was informed by the opposite party No.2 twice vide his O.M. dated 30-1-1988 and on 14-3-1988 that the matter of his promotion was under consideration. His request to meet the opposite party No.1 was refused vide communicated dated 6-5-1988. The applicant has lost all hopes to get relief departmently.

10. Matter not pending with any other Courts etc.

The applicant further declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or has been rejected by any court of law or any other Bench of the Tribunal.

11. Particulars of Bank Draft/Postal order in respect of the application fee.

(1). No. of Indian postal order.	No. DD/4-822714 for Rs.50.00 (Rupees fifty only).
(2). Name of issuing post office:	G.O.O., Lucknow.
(3). Date of issue of postal order.	16-11-1988.
(4). Post Office at which payable.	G.P.O., Lucknow.

12. Details of index:

An index in duplicate containing of the documents to be relied upon is enclosed.

13. List of enclosures.

- (1). O.M. No.F.10-11/55-Estt.(Vol.III) dated 30-1-1988.
- (2). O.M. No.F.10-11/55-Estt.(Vol.III) dated 14-3-1988.
- (3). O.M. No.10-11/55-Estt.(Vol.III) dated 6-5-1988.
- (4). Representation dated 30-4-1988 of applicant.
- (5). Notice dated 5-10-1988.
- (6). Letter No.4(40)/85-EE.III dated 7-8-1987 of opposite party No.1.
- (7). Letter No.4-40/85-EE.III dated 9-6-1988 of opposite party No.1.
- (8). Letter No.4-7/85-Estt.V dated 8-10-1985 of opposite party No.1.
- (9). Circular No.F.2-27/76-Adm.I dated 10-10-1988.
- (10). Circular No.F.10(4)/78-Estt.V dated 15-11-1978.
- (11). Adverse remark for the year ending 1987.
- (12). Representation dated 17-12-1988.
- (13). Order dated 15-12-1988 making promotion as Superintendent to junior.
- (14). Circular letter dated No.1-1/86-Per.IV dated 7-12-1988 of opposite party No.1.

V E R I F I C A T I O N

I, Mahesh Prasad, aged about 57 years, Son of Late Shri Shiv Narain Lal Srivastava, resident of 21, Kashi Dera, Rakabganj, Lucknow do hereby verify that the contents from 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Lucknow: Dated:

November , 1988.

Signature of
the applicant.

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In the Hon'ble Central Administrative Tribunal, Allahabad
Lucknow Bench Lucknow.

Application Registration No. 202 of 1988

Mahesh Prasad

Applicant

Versus

Decretary, ICAR & Others

Opp. Parties.

Annexure No. 1

INDIAN INSTITUTE OF SUGARCANE RESEARCH: LUCKNOW
No. F 10/11/55-Estt. (Vol. III) Dated : January 30, 1988.

OFFICE MEMORANDUM

With reference to his application dated 14.10.87
addressed to the Director, IISR and representation dated
7.1.88 addressed to Secretary, ICAR, regarding his promotion
to the post of Superintendent at this Institute, Shri Mahesh
Prasad, Assistant is informed that the matter is under
consideration with the Administration.

sd/- S.R. MISRA
Sr. Scientist and Head of Office.

Shri Mahesh Prasad,
Assistant,
through P.G.C.(S)
I.I.S.R., Lucknow.

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In the Hon'ble Central Administrative Tribunal, Allahabad
Lucknow Bench Lucknow.

Application Registration No. 202 of 1988(L)

Mahesh Prasad

Applicant

Vs.

Secretary ICAR & Others

Opp. Parties.

ANNEXURE NO. 2

INDIAN INSTITUTE OF SUGARCANE RESEARCH: LUCKNOW-2
No.10-11/55-Estt.P vol.III) Dated: March, 14, 1988.

OFFICE MEMORANDUM

With reference to his request/reminder dated
18.2.88 regarding his promotion to the post of ~~Superintendent~~
Superintendent at this Institute, Shri Mahesh Prasad,
Assistant is informed that the matter is under consideration
with the competent authority.

sd/-

Senior Administrative Officer
Indian Institute of Sugarcane
Research, Lucknow.

Shri Mahesh Prasad,
Assistant,
through P.C.(s),
IISR, Lucknow.

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In the Hon'ble Central Administrative Tribunal, Allahabad
Lucknow Bench Lucknow.

Application Registration No. 202 of 1988 (L)

Mahesh Prasad

Applicant

Versus

Secretary, I.C.A.R.
and others

Opp. Parties.

Annexure No.3

INDIAN INSTITUTE OF SUGARCANE RESEARCH: LUCKNOW-2
No. 10-11/55-Estt. (Vol. III) Dated: May, 6, 1988.

OFFICE MEMORANDUM

With reference to his request dated 14.4.1988
permission to meet Secretary, I.C.A.R. regarding his
promotion to the post of Superintendent, Shri Mahesh
Prasad, Assistant is informed that Director, I.I.S.R.
has considered his request and permission to meet
Secretary, I.C.A.R. is refused due to insufficiency of
reasons. Further he is advised to put up his grievances
to the Director.

sd/-A.K. Chaturvedi,
Sr. Administrative Officer

Shri Mahesh Prasad
Assistant,
through P.C.(S)
I.I.S.R., Lucknow.

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In the Hon'ble Central Administrative Tribunal ,Allahabad
Lucknow Bench Lucknow.

Application Registration No. 202 of 1988(L)

Mahesh Prasad

Applicant

Versus

Secretary ICAR & Others

Opp. Parties.

Annexure No. 4

To,

The Secretary,
Indian Council of Agricultural Research,
Krishi Bhawan,
New Delhi-110001.

Subject: Appointment to the vacant posts of
Superintendent at the I.I.S.R., Lucknow.

Sir,

Most respectfully I beg to submit the following few
lines for kind consideration of the ICAR:-

1. That two posts of Superintendent in the Office of the Director, Indian Institute of Sugarcane Research, Lucknow are lying vacant for considerable long time.
2. That I submitted an application to the Director, IISR, Lucknow on 14.10.1987 requesting him to initiate necessary action for appointing suitable persons to the vacant posts.
3. That no reply was received from him, nor was any action to fill up the vacant posts taken by him till 7.1.1988.
4. That on 7.1.88 I submitted a representation addressed to the Secretary, ICAR, New Delhi, through

proper channel, requesting the ICAR to issue necessary instructions to the Director, IISR, Lucknow for filling up the two vacant posts of Superintendent without further ~~delay~~ delay.

5. That my aforesaid representation was withheld and instead of forwarding it to the Secretary, ICAR New Delhi the Director, IISR, Lucknow informed me under his Memo No. F-10-11/55-Estt. (Vol. III), dated 30.1.88 that the matter of my promotion to the post of Superintendent was under consideration with the Administration-

6. That I submitted another application on 18.2.88 requesting the Director, IISR, Lucknow to take up the matter on priority basis. In reply there to the Director, IISR, Lucknow again informed me under his Memo No. -F-10-11/55-Estt. (Vol-III) dated 14.3.88 that the matter was under consideration with the competent authority.

7. That after waiting for a month, I submitted another application to the Director, IISR, Lucknow requesting him to grant me necessary permission for meeting the Secretary, ICAR, New Delhi for explaining ~~my~~ my case to him. I also mentioned in that application that if no reply is received from him till 24.4.88, it will be presumed that His Honour has no objection to my meeting the Secretary ICAR, New Delhi. Incidentally, no reply, whatsoever has been received from the Director till today, nor has any action been initiated towards making appointment to the vacant posts of Superintendent. Accordingly I venture to submit this representation to the ICAR direct.

8. That, Sir, I have completed 33 years of service

in this Department, out of which about 11 years as an Assistant in the revised scale of Rs. 1400-2300, just below the post of Superintendent. I shall be attaining the age of superannuation on ~~1st November~~ XXXXXXXXXXXXXXXX of superannuation after 14 months.

9. That being confident that my work and conduct has been satisfactory all along, I look forward for promotion to the next higher post of Superintendent which is natural for any employee.

10. That I also invited the attention of the Director IISR Lucknow to the mandates and instructions issued by the ICAR in their letter No. 4-7/85-Estt.V, dated 8.10.85 No. F.No.6(33)/87-WS, dated 27.7.87 and No.4(40)/85-EE-III dated 7.8.87 and requested him to initiate action in appreciation and honour thereof, for filling up the vacant posts of Superintendent specially when only 13 months have remained in my retirement and the nature and volume of work in the Department fully justifies appointment, but unfortunately no heed has been paid by the Director, IISR Lucknow so far, which is injurious to the future interest of an employee, like me.

11. That to a layman it appears that the matter of appointment is being procrastinated deliberately and there is no intention to consider the promotion of eligible employees. It also appears that the matter would remain shelved till I retire from the services.

12. That alongwith my eligibility for promotion to the post of Superintendent there is a Scheduled Caste employee in this very Institute who is due for promotion in the post of Superintendent. Surprisingly, the case of Scheduled Caste candidate is also being ignored, which is in

flagrant violation of the Constitutional propriety and the specific orders of the Government issued from time to time.

13. That the D.P.C. has not been convened for pretty long time for selecting suitable candidates for promotion to vacant posts which is a Must as laid down in appendix 29 para III of the C.S.R. Volume II Part I.

Wherefore in the contest of the foregoing submissions, I pray for the intervention of the ICAR and for issuing necessary orders directing the authorities of the Indian Institute of Sugarcane Research, Lucknow in the interest of the welfare of the employees to take necessary action for filling up the two posts of superintendent lying vacant for considerable long time. I may also submit that if necessary I may be permitted to explain my case to your honour personally in the 2nd week of May 1988.

I shall be extremely grateful for suitable orders in the case.

Thanking you Sir,

Dated: 30.4.88

Yours faithfully,

sd/-Mahesh Prasad, Assistant
Indian Institute of Sugarcane Research,
Lucknow.

In the Hon'ble Central Administrative Tribunal, Allahabad

Lucknow Bench Lucknow.

Application Registration No. 202 of 1988 (L)

Mahesh Prasad

Applicant

Versus

Secretary, ICAR & Others

Opp. Parties.

Annexure No. 5

Daya Shanker Chaudhary
Advocate
High Court & Service Tribunal

Khurshed Bagh Gate
Lucknow.

Ref. MP/88 Dated: 5.10.1988.

To,

The Secretary,
Indian Council of Agricultural
Research, Krishi Bhawan,
New-Delhi-110001.

Dear Sir,

Under instructions of my client, Shri Mahesh Prasad, aged about 57 years, s/o Late Shri Sheo Narain Lal Srivastava, resident of 21, Kashidera Rakabganj, Lucknow 18, employed in the office of the Director, Indian Institute of Sugarcane Research, Lucknow and holding the post of Assistant in the scale of Rs. 1400-2300. I give you notice as under:-

1. That my client was employed in the office of Director, IISR, Lucknow on the post of Jr.Clerk in the scale of Rs. 55-130 in the year, 1955.
2. That my client was promoted to higher posts by virtue of his good record of service and at present he is occupying the post of Assistant ~~Engineer~~ in the scale of

1400-2300 since August 1977.

3. That during the year, 1987, two posts of Superintendents in the scale of Rs. 1640-2900 fell vacant in the office of Director, IISR, Lucknow, My client, on the basis of Seniority coupled with satisfactory record of service, was a claimant for promotion to one of these posts.

4. That the Director, IISR in order to promote an employee of the Directorate of his own choice, already working on the post of Supdt. to the higher post of A.A.O. approached the ICAR in July 1987 for creation of a post of A.A.O. by surrendering the two vacant post of Supdts. The proposal of the Director was turned down by the ICAR stating that this will adversely effect the career prospects of lower categories of staff.

5. That in August 1987 the ICAR issued instruction to the Director, IISR to make necessary efforts to fill up the existing one vacant post of A.A.O. and two vacant posts of Supdts. vide their letter No.4-40/85-EE.III dated 7.8.1987.

6. That my client submitted an application to the Director, IISR, Lucknow on 14.10.87 requesting him to initiate necessary action for appointing suitable persons to the two vacant posts of Supdts.

7. That having failed to receive any reply from the Director, IISR my client submitted an application to the Secretary, ICAR through proper channel on 7.1.88 requesting him to issue necessary instructions to the Director, IISR for filling up the posts.

8. That the application submitted to the Secretary,

ICAR was withheld by the Director, IISR and a reply was given to my client that the matter of his promotion is under consideration with the Administration under his letter No.F-10-11/55-Estt.(Vol.III), dated 3.1.88.

9. That since then no action appears to have been taken by the Director, IISR for filling up the posts despite representations made by my client on 14.10.87, 18.2.88, 14.4.88, 30.4.88, 14.6.88 and a telegram to the Secretary, ICAR on 23.8.88. The last three representations were addressed to the ICAR.

10. That the Director, IISR is hatching ill will, against my client and is not taking any action for filling up the posts with a malafide and prejudicial intention just to harm & harass my client,

11. That my client has rendered about 33 Yrs. of Service in the Deptt. and the period of his attaining the age of superannuation is very short viz. only eight months.

12. That though the nature and volume of work in the office of the Director, IISR warrants provision of additional hands, the Director has publicly uttered that no promotion will be made till he retires from service.

13. That the Director has been issuing unnecessary and uncalled for warnings to my client on baseless and frivolous grounds just in order to spoil his record and harass him.

14. That the DPC has not been convened for pretty long time for selecting suitable candidates for promotion to vacant posts, which is a must as laid down in appendix 29 para 3 of the CSR Vol. II Part.I.

15. That the service record of my client has all along been satisfactory and on that basis coupled with seniority

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it is natural for him to look forward for promotion to the next higher post of Superintendent.

16. That the Director IISR is annoyed with my client for the simple reason that he happens to be a member of the Joint Staff Council and has submitted representations for his promotion.

Wherefore, in the context of the aforesaid facts and circumstances, I give you this legal notice for promoting my client to the post of Supdt. w.e.f. the date the vacancy was available and his promotion became due, within 15 days from the date of receipt of this notice, failing which my client will be left with no option except to seek legal remedy by filing a petition in the court of law at your risk and cost.

Dated: 5.10.88.

Yours faithfully,

sd/-D.S. CHAUBE
ADVOCATE.

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In the Hon'ble Central Administrative Tribunal, Allahabad
Lucknow Bench Lucknow.

Application Registration No. 202 of 1988 (L)

Mahesh Prasad

Applicant

Versus

Secretary, ICAR & Others

Opp. Parties.

Annexure No. 6

INDIAN COUNCIL OF AGRICULTURAL RESEARCH

KRISHI BHAWAN, NEW DELHI.

No. 4(40)/85-EE-III

Dated the 7/8/87.

To,

The Director,
Indian Institute of Sugarcane Research,
Lucknow-226002.

SUB: IISR, Lucknow-~~WV~~ Plan-Sanction for Strengthening
of IISR, Lucknow -Regarding.

Sir,

With reference to your letter No. 1-30/84-Adm. I
dated 15.7.87 on the above subject, I am to say that it
has been decided not accept the proposal to create one
post of A.A.O. in lieu of two vacant posts of Superinten-
dent, as this will adversely affect the career prospects
of lower categories of staff and Ministry of Finance has
already turned down the same. You are however, advised to
make necessary efforts to fill up the existing one vacant

30
-2-

post of A.A.O. and 2 vacant posts of Superintendents
which will meet your requirements.

Yours faithfully,

sd/-

(M.G.A. NAIR)
DEPUTY DIRECTOR (FINANCE)

TRUE COPY.

31
A62

In the Hon'ble Central Administrative Tribunal, Allahabad
Lucknow Bench Lucknow.

Application Registration No. 202 of 1988. (L)

Mahesh Prasad

Applicant

Versus

Secretary, I.C.A.R.
and others

Opp. Parties.

ANNEXURE NO. 7

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAWAN, New Delhi-110001.

No.F.4-40/85-EE.III

Dated: 9.6.1988.

To,

The Director,

Indian Institute of Sugarcane Research,
Lucknow.

SUBJECT: SANCTION FOR THE POST OF ASSISTANT ADMINISTRATIVE
OFFICER (CASH & AUDIT) AT I.I.S.R. ,LUCKNOW.

Sir,

With reference to your letter No.F.2-3-/76 -Admn. I
dated 27.5.1988 on the above subject and to say that the
Institute was advised via this office letter of even
number dated 7.8.1987 to make necessary efforts to fill up
the existing one vacant post of Assistant Administrative
Officer and two vacant posts of Superintendents which
would for met their requirement. It appears that the
Institute has not filled up the vacant posts so far.

since one post of Assistant Administrative Officer and 2 posts of Superintendents are already vacant at the Institute, the proposal for creation more post of Assistant Administrative Officer is not found justified. You are therefore, again requested to make necessary efforts to fill up the vacant posts of Assistant Administrative Officer and 2 posts of Superintendents which will meet your requirement and also furnish reasons for keeping the posts vacant for a such long time.

Yours faithfully,

sd/- (P.P.JOHAR)
UNDER SECRETARY.

33 Day

In the Hon'ble Central Administrative Tribunal, Allahabad
Lucknow Bench Lucknow.

Application Registration No. 202 of 1988 (L)

Mahesh Prasad

Applicant.

Versus

Secretary, I.C.A.R. & Others

Opp. Parties.

Annexure No. 8

CONFIDENTIAL

INDIAN COUNCIL OF AGRICULTURAL RESEARCH

KRISHI BHAWAN: NEW DELHI-110001.

No.: 4-7/85-Estt.V

Dated the 8th October, 1985.

To,

All the Directors/Project Directors of the ICAR
Research Institutes.

SUB: Harrasment of CJSC & IJC members-regarding.

Sir,

As you are aware the Joint Staff Councils are working in each Institute as provided in the Joint Consultative Machinery of the Indian Council of Agricultural Research. In the meeting of the Central Joint Staff Council held at National Academy Agricultural Research Management Hyderabad on 10th and 11th December, 1984, it was pointed out by the Secretary (staff side), Central Joint Staff Council that the members of the staff side of the Institute Joint Staff Council are harrassed and victimised by the Directors concerned, Some instances were also cited by some of the members and the Secretary (staff side) of the Central Joint Staff Council. The Chairman,

therefore, desired that the Directors of the Institutes may be requested not to harrass and victimise the members of the Institutes Joint Staff Council as they represent the various interests in the Institute on the Joint Staff Council -

The receipt of the letter may please be acknowledged.

Yours faithfully,

sd/-Kishori Lal
Addl. Secretary (A)

Copy to Shri I.S. Harith, Secretary (Staff Side)
Central Joint Staff Council, Indian Agriculture Research
Institute, New Delhi-110 012.

2. per III/IV, sections, ICAR.
3. All EE Sections, ICAR,

35
ppb

In the Hon'ble Central Administrative Tribunal, Allahabad
Lucknow Bench Lucknow.

Application Registration No. 202 of 1988. (L)

Mahesh Prasad

Applicant.

Versus

Secretary, ICAR & Others

Opp. Parties.

Annexure No. 9

INDIAN INSTITUTE OF SUGARCANE RESEARCH LUCKNOW.

No. 2-27/78-Adm.-I

Dated: October 10, 1988.

To,

All the Directors of Research Institutes/
Project & Regional Stations/Sub-Stations under
the Indian Council of Agricultural Research.

SUBJECT: RECRUITMENT TO THE POST OF SUPERINTENDENT
(RESERVED FOR ST. 9. IN THE PAY SCALE OF
Rs. 1640-2900 on DEPUTATION BASIS AT IISR.

Sir,

One post of Superintendent (Reserved for ST) in
the pay scale of Rs. 1640-2600-EB-75-2900 to be filled
up on deputation basis at this Institute.

It is, therefore, requested that the above vacancy
may be circulated amongst the employees of your
Institute holding the post of Assistant in the grade
of Rs. 1400-2300 with five years of Service in the grade.
The particulars of eligible candidates, who are willing
to be considered for the above vacancy and can be
spared immediately in the event of selection, may kindly
be forwarded in the enclosed proforma alongwith their

upto-date C.C.R. Dossiers so as to reach this Institute within 30 days from the date of issue of this circular.

While forwarding the application a certificate to the effect that no vigilance/disciplinary case is pending/contemplated against the candidate, may also kindly be furnished.

Yours faithfully,

sd/-

SENIOR ADMINISTRATIVE OFFICER.

37
A88

In the Hon'ble Central Administrative Tribunal ,Allahabad
Lucknow Bench Lucknow.

Application Registration No. 202 of 1988 (L)

Mahesh Prasad

Applicant

Versus

Secretary, I.C.A.R.
and others

Opp. Parties

ANNEXURE NO. 10.

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAWAN, NEW DELHI-1.

No. F.10(4)/78-Estt.V

Dated: the 15th November, 1978.

CIRCULAR.

To,

All the Directors of the
Institutes.

SUBJECT: PERMANENT ABSORPTION OF STAFF TAKEN ON DEPUTATION
FROM CENTRAL / STATE GOVERNMENT OFFICES INSTRUCTIONS
REGARDING.

Sir,

Some staff members have drawn the attention of
the Council to the permanent absorption of staff, taken
on deputation from Central/State Government Offices and
other organisations, to the detriment of the Institutes
employees. This has been considered in detail and it has
been decided that, whereas it may not be possible to
close the doors permanently against taking persons from
outside, such borrowing may be limited to selected
fields, where persons of the right calibre and experience

are not available within the Council and its Institutes. Even in these fields the borrowing should be limited to such period as is necessary to train out own staff to man the posts. Haphazard absorption of staff from outside on permanent basis should be avoided.

Yours faithfully,

sd/-

(S.S. DHANOA)
SECRETARY, I.C.A.R.

~~CONFIDENTIAL~~

INDIAN INSTITUTE OF SUGARCANE RESEARCH : LUCKNOW - 2

No. Adm.I/87/CR.Adv.

Dated : December 9, 1988.

D.R.O

NOTE

Sub : Communication of Adverse Remarks.

The following observations have been made in the Annual Assessment Report of Shri Mahesh Prasad, Assistant for the year ending 1987.

(1) Is the Reviewing Officer satisfied : No. The man, at best, that the Reporting Officer has made is an average worker, his/her report with due care and if and when he works. attention and after taking into account all the relevant material ?

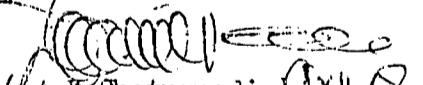
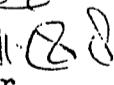
(2) Do you agree with the assessment : No. Shri Mahesh Prasad of the officer given by the Reporting Officer ? has been known to the undersigned for the past 30 years of which the last 20 was under his adm. control.

(3) General remarks with specific : Shri Mahesh Prasad, had comments about the general remarks given by the Reporting Officer and remarks about the meritorious work of the officer including the grading ? he shown any initiative or organising capacity or hard work we would have recommended his promotion. Shri Prasad never gave any opportunity of it at any time.

(4) Has the officer any special : Should he come on time atleast characteristics, and/or any abilities which would justify his/her selection for special assignment or/ out of turn promotion ? If so, specify ? one good point may be in his favour. We do not think that he is a case fit for promotion or even advance increment, which if given will deleteriously affect morale of good workers.

In view of above, Shri Mahesh Prasad, Assistant is hereby informed about his above mentioned shortcomings. Representations, if any, may be submitted within one month.

This is being issued with the approval of the Director, IISR.


(A.R. Chaturvedi) 
Sr. Administrative Officer

✓ Shri Mahesh Prasad
Assistant,
through P.C.(S), I.I.S.R., Lucknow.

Copy to C.R. Folder of Shri Mahesh Prasad, Assistant,
Project Coordinating Cell, I.I.S.R., Lucknow.

Mahesh Prasad
Sr. Administrative Officer

14/12/88

Received on 14/12/88
14/12/88

To,

The Senior Administrative Officer,
IISR, Lucknow.

Subject: Communication of Adverse Remarks.

Through Proper Channel

Sir,

I am in receipt of your Note No. Admn. I/87/CR.Adv. dated 9.12.88 (received by me on 14.12.1988) communicating the Adverse Remarks alleged to have been awarded to me for the year ending 1987.

In this connection I would most respectfully request :

- i) that the complete entry, which has not been communicated, may kindly be communicated. In the matter of an adverse entry it is customary and covered by conventions and rules that the whole entry is communicated. The remarks of the Reporting Officer may be furnished to me.
- ii) It is not clear from your Note under reference as to who has given the adverse remarks after reviewing the observations of the Reporting Officer. If the reviewing remarks have been given by the Hon'ble Director, his name as a rule, should be mentioned at the end of the entry in token of his having given and signed the remarks along with the date.
- iii) The date when the Reviewing Officer recorded his observations on the report of the Reporting Officer may kindly be intimated.
- iv) I have been graded as an average worker, not fit for promotion. Average worker is not an adverse remark 'Not being fit for promotion' is an observation about

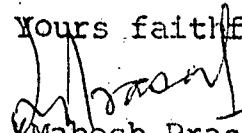
41
82
promotion. What are the expression in the Note under reference conveying adverse remarks about my work and character during the year under reference. The expression constitutes only opinion of the Reviewing Officer and nothing adverse about my work & conduct.

I shall ^{submit} my representation on receipt of the complete entry and a reply to the aforesaid points.

I shall be grateful for an early reply.

Thanking you,

Yours faithfully,


(Mahesh Prasad) 17/12/88

Assistant
Project Coordination Unit, IISR,
Lucknow.

Dated: 17th December, 1988

INDIAN INSTITUTE OF SUGARCANE RESEARCH : LUCKNOW-226002.

No.: P.2-27/78-Adm. I

Dated: December 15, 1988

DOP

OFFICE ORDER

On the recommendations of the Departmental Promotion Committee the Director, IISR has been pleased to approve the promotions of the following personals on the posts mentioned against them with effect from 2nd December, 1988, in the Administrative establishment of this Institute.

Sr. No.	Name	Present post	Promoted to the post
1.	Shri S.C.Mohay (Scheduled caste).	Assistant (Rs. 1400-2300)	Superintendent (Rs. 1640-2900) against the vacant post for S.T.
2.	Shri Nagendra Nath	Assistant (Rs. 1400-02300)	Superintendent (Rs. 1640-2900) against the vacant post for unreserved.

The above promotions are purely on provisional basis and shall be governed by the relevant rules.

The above personals will be on probation for a period of two years and are liable to be reverted to their lower posts in the event of their unsatisfactory work and conduct during the period of probation. Their inter-se seniority will be governed in accordance with the rules on the subject. Probation period is extendable as per rules. Their pay will be fixed in accordance with the rules on the subject.

sd/-A.K.Chaturvedi,
15-12-1988.
S.s. Admin. Officer

Distributions:

1. Shri S.C.Mohay, Assistant, through Supdt., Adm. II Section, IISR, Lucknow.
2. Shri Nagendra Nath, Assistant -do-
3. Service Books of above personals.
4. Personal files of above personals.
5. Accounts Officer, IISR
6. Supdt., Adm. II, IISR.

M3
DGM

In the Hon'ble Central Administrative Tribunal, Allahabad

Lucknow Bench Lucknow.

Application Registration No. 2020f 1988(L)

Mahesh Prasad

Applicant

Versus

The Secretary, I.C.A.R.
New Delhi & Others.

Opp. Parties

ANNEXURE NO. 14

INDIAN COUNCIL OF AGRICULTURAL RESEARCH

KRISHI BHAWAN, NEW DELHI-110001.

No. F.1-1/86-Per.IV

Dated: December 7, 1988.

To,

The Director of all Research Institutes.

SUBJECT: D.P.Cs.-Promotion from the date of occurrence
of vacancies and consideration of C.Rs. for
the period prior to the vacancies-Instructions
regarding.

Sir,

Please refer to the D.O. letter of even number dated
30.1.1986 and 7.5.1987 of the D.G., I.C.A.R. to the
Institutes regarding preparation of a phased programme to
convene the meetings of the Departmental Promotion
Committees/Selection Committees in advance so that instances
of delay in promotion, confirmation etc. are kept to the
barest minimum if the same cannot be eliminated alongwith
altogether. The above matter was again considered at the
meeting of Central Joint Staff held at N.D.R.I., Karnal,
from 30th to 31st. July, 1988 and it was agreed that the
staff in the administrative control should be promoted

right on the date of occurrence of vacancies and to
achieve this timely action to fill up such position should
be taken well in advance.

2. The question as to the period for which the
C.Rs. should be taken into account by the D.P.C. for
considering the cases of promotions was also discussed in
the Central Joint Staff council in its meeting held at
Karnal in July, 1988 and it was agreed that in the cases
of promotions, the C.Rs of the eligible officials upto the
year ending prior to the occurrence of vacancies should be
considered and taken into account.

3. With a view to implement the above decisions, it is
suggested that the programme for holding the meetings
of D.P.Cs./Selection Committees of the Institutes may be
drawn in the beginning of the year and the meetings convened
sufficiently in advance of the occurrence of vacancies
to ensure that the officials recommended for promotion
join their duties on the date of occurrence of vacancies.

Yours faithfully,

sd/-G.C.Srivastava
Secretary, I.C.A.R.

X6

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
LUCKNOW BENCH LUCKNOW

INRE -

Application Registration No. 202 of 1988

Mahesh Prasad aged about 57 years
S/O Shive Narain Lal Sriwatawa
R/O 21, Kashi Dera, Lucknow

..... Applicant

Versus

1- The Secretary, Indian Council of Afril.

Research, Krishi Bhawan
New Delhi-

2- Director, Indian Institute of Sugercane Research,
P.O. Dilkusha, Rae Bareli Road,
Lucknow.

APPLICATION FOR CONDONATION OF DELAY

The objection / Reply to the paras incorporated
and counter
by the amendment application dated 22.12. 1988 could not
be filed within time inadvertently. The same is being
filed herewith. It may kindly be taken on record and
delay in filing the same may kindly be condoned.

Lucknow Dated
17-5-1989

Verendrye misse
Advocate
Counsel for Oppo. Parties

RPT

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
LUCKNOW BENCH LUCKNOW

In re:

APPLICATION REGISTRATION NO 202 of 1988

Mahesh Prasad aged about 57 years, son of
Sri Shiv Narain Lal Srivastava, R/O 21,
Kashi Dera, Lucknow

..... Applicant

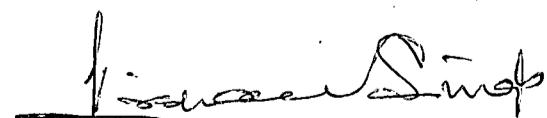
Versus

1. The Secretary, Indian Council of
Agril. Research, Krishi Bhawan
New Delhi
2. Director,
Indian Institute of Sugarcane Research,
P.O. Dilkusha, Rae Bareli Road, Lucknow-2

..... Opp. parties

the paras incorporated by the
OBJECTIONS/REPLY to/ amendment application
dated 22.12.1988 filed in Central Administrative
Tribunal by Sri Mahesh Prasad, Assistant, IISR
Lucknow.

1. That the allegations made in the first para of the application which has not been numbered only this much is admitted that an adverse entry for the year ending 1987 was communicated to the applicant vide note no. Adm.1/87/CR.Adv. dated 9.12.88. It is also admitted that the promotion order of his Juniors was



Director:

India Institute of Sugarcane Research
LUCKNOW

issued vide order dated 15.12.88 but it is denied that the opposite party no 2 had issued the said orders with any malafide intention. The allegation that the opposite party in doing so acted with malafide intention or withholding the promotion of the applicant is entirely false and denied. It is nothing but an effort on the part of the applicant to defame the opposite party no 2.

It is further stated that the promotion of the Juniors was made after the Departmental Promotion Committee which met on 2.12.88 considered the eligible candidates in the zone of promotion for promotion against the vacant posts of office Superintendents - one meant for unreserved candidate and the other for Scheduled Tribe. The candidature of applicant was also considered alongwith other eligible candidates as per guidelines issued by the ICAR from time to time and accordingly Departmental Promotion Committee recommended promotion of another Assistant on the post of Superintendent meant for unreserved candidate.

2. That in reply to para marked 1 & 2 in the application it is stated that if the Tribunal so directs Sri Nagendra Nath may be impleaded as opposite party no 3. It is however stated that the applicant has no right to implead Sri Nagendra Nath who has been promoted

on the recommendations of the Departmental Promotion Committee. It is further stated that if the applicant is aggrieved against the said selection made by Departmental Promotion Committee he should first approach to Departmental Authorities and not rush to the Tribunal without exhausting the departmental remedies:

3. That the averments made by the applicant in his proposed addition against item no 3 as sub para 5 are not correct and hence the same are denied. The contention of applicant that the promotion of opp party no 3 i.e. Sri Nagendra Nath Assistant IISR Lucknow has been made on the post of Supdt by the opp. party no 2 vide his order dated 15.12.88 by ignoring the claim of the applicant who is senior to him is not correct. The opp party no 3 who was promoted vide office order issued under no 2-27/78-Adm. I dated 15.12.88 after he was duly selected by the Departmental Promotion Committee which also considered the case of the applicant. The claim of the applicant was not at all ignored. His case was duly considered by the D.P.C alongwith other eligible candidates for making promotion on the basis of selection against the vacant post of Supdt meant for unreserved candidate. The D.P.C. constituted as per instructions issued by the ICAR

Prasad Singh

Director
Indian Institute of Sugarcane Research
LAKHNOOR

promoted opp party no 3 after taking into consideration the relevant records of all eligible Assistants including the applicant.

4. That in reply to para marked 18 in the amendment application the contents of the applicant given in the proposed added para no 18 are misleading. The CCR remarks were communicated to Sri Mahesh Prasad as a routine official matter and it has no reference with the filing of an application at C.A.T.
5. That the averments made by the applicant in para marked 19 are not admitted. The adverse remarks mentioned in his annual character roll for the period ending 1987 were communicated to him in accordance with the instructions issued in this connection. The applicant is not supposed to and has no right to know the identity of the officer who has made adverse remarks in his character roll. However, the application submitted by the applicant dated 17.12.88 is under process and he will be replied in due course.
6. That the averments made by the applicant in para marked 20 are not admitted. The D.P.C. has considered the relevant documents while considering the promotion case on the basis of selection and has not overlooked his case merely on the basis of only one CCR for the period ending 1987 the adverse comments recorded therein were communicated to the applicant. Isabas Singh

Director

Indian Institute of Sugarcane Research
G.S.R.D.C.W.

7. That the contention of the applicant in para marked 21 is not admitted and is misleading to the extent that the D.P.C. met on 2.12.88 and promotion orders were issued vide office order dated 15.12.88
8. That in reply to para marked 22 it is stated that the instructions issued by the Secretary, ICAR vide circular no 1-1/86-Per.IV, dated 7.12.88 and enclosed by the applicant as Annexure 14 to his application are being the practised in toto. The reason for arranging the DPC at belated stage has already been elaborated in counter affidavit submitted on 18.2.89 by the opp. party no 2 in Central Administrative Tribunal, Lucknow Bench Lucknow.

The D.P.C. considered the CCR's of the eligible officials upto the year ending prior to the occurrence of the vacancy and accordingly made its recommendations. The contention of the plaintiff that the entries of the applicant upto the year ending prior to occurrence of the vacancy viz year ending 1986 are commendatory and there is no reason to declare the applicant unsuitable for promotion is not admitted, since his CCR are not carrying commendatory remarks. It is further stated that the recommendation of the D.P.C. are not open to challenge by the applicant.

9. That the averments made by the applicant in para marked 23 of the amendment application are not admitted. The service record of the applicant was not found good enough by the D.P.C. for promoting him against the post

Lokendra Singh

Director

Indian Institute of Sugarcane Research
L D K N O W

11/62
: 6 :

of Supdt on the basis of selection.

Kishan Singh

(Kishan Singh)

Director

Indian Institute of Sugarcane Research,
Lucknow.

Director.

Indian Institute of Sugarcane Research

L U C K N O W

R/03

Application Registration No. - 202 of 1988 (C)
Mahesh Prasad - Applicant

Vs.

Union of India and others -

Respondent

1. Secretary, I.C.A.R., Krishi Bhavan, New Delhi.
2. Director, IISR, Rae Bareli Road, Lucknow - 226 002.

Counter to the APPLICATION UNDER SECTION 29 OF ADMINISTRATIVE TRIBUNAL ACT, 1985

The reply to the grounds submitted by the applicant for interim relief.

Para-1: The contents of para 1 are not admitted as stated. Two post of Office Supdt., were lying vacant at this Institute - One post meant for Scheduled Tribe is vacant w.e.f. 20.5.85 and the other post to be filled from amongst the unreserved candidates fell vacant on 1.6.87. The applicant's allegation regarding wilful and deliberate inaction on the part of Party No. 2 in the matter of filling up of two posts of Superintendents is wrong and is denied.

The correct position is that as per recruitment rules for the post of Superintendent circulated by the Director(Personnel) I.C.A.R., Krishi Bhavan, New Delhi vide circular No. 8(3)/82 Per. III, dated 4th October 1983, both the said vacant posts are to be filled by promotion on selection basis. A copy of the said circular is enclosed as Annexure A-1.

Since no employee of the Institute was eligible for promotion for the post reserved for Scheduled Tribe, which fell

Praveen Singh
18/12/89
Director

Indian Institute of Sugarcane Research
LUCKNOW

vacant w.e.f. 20.5.85, it could not be filled and the applicant cannot claim promotion on the said post. The D.P.C. which met on 18.5.85 promoted only one Assistant Shri S. Wesley on the post of Supdt. meant for unreserved candidate.

Regarding the other post meant for unreserved candidates it was created w.e.f. 1.6.1987.

These two aforesaid posts could not be filled up as Financial Adviser, I.C.A.R., New Delhi was approached vide D.O. Letter dated 12.6.87 for sanctioning one post of Asstt. Admn.Officer against the two vacant posts of Office Superintendents. This proposal was not accepted by the Deputy Director (Finance), I.C.A.R. vide letter No. 4(40)/85-EE. III, dated 7th August 1987, as this will affect the career prospects of Lower category staff.

For filling these posts the meeting of the Departmental Promotion Committee was fixed on 24.11.88 but due to administrative reasons it could not meet on that date. Another date of D.P.C. was fixed on 2.12.88 by the Director vide his order dated 26.11.88 and accordingly these posts of Office Superintendents have been filled by promoting two Assistants on Selection basis vide Office Order issued under No. 2-27/78-Adm.I dated 15.12.88 (Annexure-II).

Para-2 : The ~~arguments~~ ^{overments} made by the applicant in para 2 are denied. As per details give in para No. 1 above, the rules and regulations prescribed by the ICAR, have not been violated at any stage and thus the question of wilful and deliberate infringement of rules and regulations does not arise.

Para-3 : That the contents of para 3 of application are not admitted and it is further stated that the advice and instructions received from the ICAR, New Delhi have not been defied.

.....3/-
Shashi Singh
18/2/89
Director

2105

Para-4 : That the contention of applicant in para No. 4 is misleading and hence denied. In this particular case as may be seen from the Annex. 10 of the application, Secretary, I.C.A.R. has not stopped the permanent absorption of staff taken on deputation altogether, but has advised that haphazard absorption of staff from outside on permanent basis should be avoided.

A circular has been issued amongst the ICAR Institutes vide this office circular No. 2-27/78-Adm. I, dated October 10, 1988 for recruitment to the post of Supdt. (reserved for Scheduled Tribe) on deputation basis at IISR, keeping in view the instructions laid down in enclosed Annexure No. 1. (Furthermore applicant does not have any claim of promotion on the reserved post meant for S.T.)

Para-5 : The arguments made in para 5 of the application are not denied.

Para-6 : That the reply to para No. 6 of the application is as under:-

- (1) The contents of this para are admitted being factual.
- (2) That the contention of the applicant that he stands second in the seniority list of Assistant's is admitted. (However, his contention that he is entitled to be appointed on the basis of seniority against one of the two vacant posts of Supdt. is denied.) As per rules the post of the Supdt. is to be filled on Selection basis by giving due regard to the seniority. The Departmental Promotion Committee which met on 2.12.88 duly considered the case of the applicant but did not find him suitable for promotion against the post vacant for un-reserved candidates.
- (3) That the contention of the applicant in para 3 are admitted being factual. His representation dated 30.4.88 addressed to the Secretary, I.C.A.R., New Delhi

Isaacs Singh

18/2/89 ...4/-

Director

Indian Institute of Sustainable Research

6, Sector 10, Chandigarh

A18

is under consideration.

(4) That the allegation of applicant in para 4 are admitted.

(5) That the allegation of applicant in para 5 are admitted. However, he was advised to place his grievances before the Director, IISR, Lucknow.

(6) That the allegation of applicant in para No. 6 are admitted. However, his representation dated 30.4.88 is under consideration with the ICAR, New Delhi.

(7) That the contents of para No. 7 of the application are denied for want of knowledge. However, his assertion that the Opposite Party No. 2 in recent meeting of Joint Staff Council, IISR, Lucknow uttered that he would not make any promotions for further three years is false (and is nothing but an attempt, on his part to malign the Opposite Party No. 2.)

(8) That the contents of para No. 8 of the application are denied for want of knowledge as notice Annexure 5 enclosed with application is a legal notice, dated 5.10.88 served on Secretary, I.C.A.R., New Delhi is still to be received by Opposite Party No. 2.

(9) i) That the contents of para 9 (i) are denied for want of knowledge about full details of applicant's specific representation made to ICAR, New Delhi. However, contention of applicant that Opposite Party No. 2 has hatched and is nursing an ill-will against him is denied and is totally false.

(9) ii) That the contention of applicant that the Opposite Party No. 2 is having an ill-will against him is denied. However, Shri Munna Lal was absorbed at this Institute w.e.f. 1.12.77

Salman Singh
18/12/88

Director

Indian Institute of Sugarcane Research

L.D. H. No. 102

....5/-

A10

against a substantive post of Assistant as per instructions received from the Under Secretary, I.C.A.R., New Delhi vide letter No. 4-30/77-EE.III, dated 11th August 1978 (Annexure A-III). As Shri Munna Lal was absorbed as per instructions of the ICAR, New Delhi, the hatching of ill-will against applicant by the Opposite Party No.2 is nothing but flight of and his imagination is entirely false.

(9)iii) That the contention of applicant that Opposite Party No. 2 is nurturing a malafide intention against him since he became a member of Joint Staff Council of this Institute w.e.f. April, 1986 is also his flight of imagination & is entirely false.

(10) That the contention of applicant in para 10 is not admitted. However, proposal for creation of a post of Asstt. Admin. Officer in lieu of two posts of Supdts. was made to ICAR in public interest in order to improve working of the Institute rather than with a ill-will to harass the applicant, but the same was not accepted.

(11) That the contents of para 11 of the application are denied as this time Council was approached by the Institute for sanction of one post of Asstt. Admin. Officer against the two vacant posts of Technical and Class IV instead of two posts of Office Supdts. as mentioned in the application.

(12) That the contents of para 12 of the application are admitted.

(13) That the contention of the applicant in para 13 of the application are not admitted. Vacant posts could not be filled earlier on administrative grounds. However, contention of the applicant that he was not granted promotion w.e.f. 1.6.87 only because of harassing attitude of the Opposite Party No. 2 against the staff members of Joint Staff Council is baseless

Viswanath Singh
18/2/89 ...6/-

Director

Indian Institute of Sugarcane Research
L.D.C.R. v. G.Y.T

8109

:- 7 :-

I, the above named Opposite Party No. 2 do hereby verify that the contents of paras 1 to 17 except brackettes portion of paras 4, 6 (2) and 6 (7) are true to my knowledge and while these of paras 18, brackettes portions of paras 4, 6 (2) & 6(7) are believed by me to be true. Signed & verified this 18th day of February 1989 at my office.

Opposite Party No. 2
187289

Opposite Party No. 2
Director
Indian Institute of Sugarcane Research
L D C H W

and denied. The applicant was not found suitable for promotion by the D.P.C.

(14) That the contention of applicant in para No. 14 are baseless and denied. The promotion of applicant is not related with the recruitment action initiated for the vacant post meant for Scheduled Tribe candidate.

The applicant's contention that the Opposite Party No. 2 made two references on 15.7.87 and 27.5.88 with the sole malafide intention to get a post of Asstt. Adm. Officer to benefit a person of his choice is just flight of his imagination and is false.

(15) That the contention of the applicant in para 15 of application is partially admitted to the extent that he is eligible for consideration for promotion to the post of Supdt. subject to the condition that D.P.C. finds him suitable for promotion on the basis of Selection. D.P.C. met on 2.12.1988 considered his candidature but did not find him suitable for promotion to the post of Office Supdt. after considering his service records.

(16) That the contention of the applicant in para 16 of his application are misleading and denied. The Departmental Promotion Committee which met on 2.12.88 has promoted Shri S.C. Mohey, Scheduled Caste candidate against the vacant post of Scheduled Tribe and unreserved candidate against the other unreserved post.

(17) That the contention of applicant in para No. 17 is not admitted. The D.P.C. has met on 2.12.88 and promotion order has been issued. Promoted employees have also joined against the two vacant posts.

(18) That the claim petition lacks merit and is liable to be dismissed with cost.

Opposite Party No. 2

Final Settlement

18/7/89

Director

Indian Institute of Sugarcane Research

L.J.C.R. O.W

.... 7/-

8109

:- 7 :-

I, the above named Opposite Party No. 2 do hereby verify that the contents of paras 1 to 17 except brackettes portion of paras 4, 6 (2) and 6 (7) are true to my knowledge and while these of paras 18, brackettes portions of paras 4, 6 (2) & 6(7) are believed by me to be true. Signed & verified this 18th day of February 1989 at my office.

L. D. C. R. N. D. W.
1872/89

Opposite Party No. 2

Director
India Institute of Sugarcane Research
L. D. C. R. N. D. W.

BHARTIYA KRISHI ANUSANDHAN PARISHAD
 INDIAN COUNCIL OF AGRICULTURAL RESEARCH
 KRISHI BHAVAN, NEW DELHI

No.8(3)/82-Per. III

To

Dated the 4th October, 1983

The Directors/Project Directors of
 all Research Institutes under ICAR.

Subject: Recruitment Rules for the posts of Superintendent (Rs. 550-900)/,
 Administrative Officer (Rs. 700-1300) at the Research Institutes
 under ICAR - Amendments thereof.

Ref.

i) Council's letter No.7(40)/81-Per. III dated 20.9.1982 - ^{Page 142}
 ii) Council's letter No.3(14)/81-Per. III dated 4.1.1982.

Sir,

A reference is invited to the Council's letters cited above whereby the Recruitment Rules for the posts of Superintendent (Rs. 550-900) and Administrative Officer (Rs. 700-1300) at the Research Institutes under the Council were last amended. The Recruitment Rules for the aforesaid posts have been amended further with the approval of the Governing Body and the President of the Council as indicated below:-

SUPERINTENDENT (Rs. 550-900)

Existing provisions under
Col. 9 of the R/Rules.

(a) 100% by promotion

Amended provisions under Col. 9
of Recruitment Rules.

(a) (i) 66 2/3% by promotion.

(ii) 33 1/3% by way of limited
 Departmental Competitive
 Examination confined to
 Assistants and Stenographers
 in the scale of Rs.425-700 of
 the concerned Institutes,
 having not less than 3 years
 service in the grade of
 Assistant/Stenographer as
 on 1st January of the year
 in which the examination is
 held. In case, however, no
 eligible departmental candi-
 date qualifys in the exami-
 nation the post may be filled
 by deputation from other
 Institutes.

.....2/-
 18/12/83
 18/12/83

Director

Indian Institute of Sugarcane Research
 LUCKNOW.

<p>(b) Failing (a) by deputation of assistants having 5 years service in the grade in other Institutes.</p>	<p>(b) Failing (a) above by deputation of Assistants having 5 years service in the grade in other Institutes.</p>
<p>(c) Failing (a) & (b) by deputation of suitable Assistants in the scale of Rs.425-700 from the State Governments/Union Territories having 5 years service in the grade.</p>	<p>(c) Failing (a) & (b) by deputation of suitable Assistants in the scale of Rs.425-700 from the State Governments/Union Territories having 5 years service in the grade.</p>

Applicable
to filing up
vacancies
not $q^{(a)(c)}$ and
not $q^{(a)(b)}$
in rules
of
Sickle cell
fellowship
P. No. 203

ADMINISTRATIVE OFFICER (Rs. 700-1300)

under the Combined Cadre of A.O.s

Existing provision under Col. 9
of the Recruitment Rules.

Amended provisions under Col. 9
of the Recruitment Rules.

(a) 60% by promotion.
 (b) 40% by direct recruitment. Provided that:-

(a) 60% by promotion.

i) departmental candidates in the grade of Superintendent and Assistant Administrative Officer possessing the prescribed qualifications will be eligible to compete with outsiders, age relaxation in their case being upto 40 years and;

i) departmental candidates in the grade of Superintendent (Rs.550-900), Assistant Administrative Officer (Rs.650-1200) and Senior Stenographer (Rs.550-900) possessing the prescribed qualifications will be eligible to compete with outsiders, age relaxation in their case being upto 40 years and;

ii) the Council shall have the authority to inter-change officers on a limited scale not exceeding five in number between this grade of officers and Section Officers in the Council.

ii) the Council shall have the authority to inter-change officers on a limited scale not exceeding five in number between this grade of officers and Section Officers in the Council.

2. A copy each of the revised recruitment rules as amended above for the posts of Superintendent and Administrative Officer at the Research Institutes under the Council are circulated herewith for information/guidance of all concerned.

The receipt of this letter may kindly be acknowledged.

Yours faithfully,

(S.P.(RAI))

**Radico Institute of Sugarcane Research
LUCKNOW.**

REVISED RECRUITMENT RULES FOR THE POST OF SUPERINTENDENT
AT RESEARCH INSTITUTES UNDER I.C.A.R.

1. Name of the post	Superintendent
2. Classification	Administrative post
3. Scale of pay	Rs. 550-25-750-EB-30-900.
4. Whether selection post or non-selection post.	Selection.
5. Age for direct recruits	Not applicable
6. Educational and other qualifications prescribed for direct recruits.	Not applicable
7. Whether age and educational qualifications prescribed for direct recruits will apply in the case of promotees.	Not applicable
8. Period of probation, if any.	2 years.
9. Method of recruitment whether by direct recruitment or by promotion or by deputation/transfer.	<p>(a) (i) 66 2/3% by promotion.</p> <p>(ii) 33 1/3 % by way of limited Departmental Competitive Examination confined to Assistants and Stenographers/ in the scale of Rs.425-700 of the concerned Institutes, having not less than 3 years service in the grade of Asstt/ Stenographer</p> <p>(b) Failing (a). above by deputation of Assistants having 5 years service in grade in other Institutes.</p> <p>(c) Failing (a) &(b) by deputation of suitable Assistants in the scale of Rs.425-700 from the state Governments/Union Territories having 5 years service in the grade.</p>

Isaac Snijfs 2/-

Editor

Padico Institute of Sucreano Research
LOCK 9 M.

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ANNEXURE - II

REVISED RECRUITMENT RULES FOR THE POST OF ADMINISTRATIVE OFFICER
AT RESEARCH INSTITUTES UNDER I.C.A.R.

1. Name of the post

Administrative Officer

2. Classification

Administrative post.

3. Scale of pay

Rs. 700-40-900-EB-40-1100-50-1300.

4. Whether selection post
or non-selection post.

Selection post.

5. Age for direct recruits

21 to 30 years

6. Educational and other
qualifications required
for direct recruits.

Essential:

Graduate of a recognised University
securing not less than 50% marks
in final degree examination, preference
being given to 1st Class graduates or
a post graduates.

Desirable:

- i) M.B.A. degree from a recognised
University.
- ii) Administrative experience.

Not applicable.

7. Whether age and educational
qualifications prescribed
for direct recruits will
apply in case of promotees.

2 years for both promotees as well
as direct recruits.

8. Period of probation,
if any.

(a) 60% by promotion

(b) 40% by direct recruitment.

Provided that:-

- i) departmental candidates in the
grade of Superintendent
(Rs. 550-900), Assistant Admini-
nistrative Officer (Rs. 650-1200)
and Senior Stenographer (Rs. 550-
900) possessing the prescribed
qualifications will be eligible
to compete with outsiders, age
relaxation in their case being
upto 40 years and
- ii) the Council shall have the auth-
ority to inter-change officers on
a limited scale not exceeding
five in number between this grade
of officers and Section Officers
in the Council.

100/-2/-

Director

Indica Institute of Subsurface Research

L 30

12. Remarks

i) For the purpose of selection all the eligible officers will be considered by the D.P.C.

ii) A panel of officers suitable for appointment as Administrative Officer will be drawn up by the DPC having regard to the vacancies existing or likely to arise in the course of one year.

iii) Appointment to vacancies of Administrative Officers shall be in accordance with the position of the Officers in the panel.

iv) If an officer in the panel declines the offer of appointment as Administrative Officer in a particular Institute, the post shall be offered to the next officer in the panel.

@ v) An officer declining the post of Administrative Officer/(Sr.A.O./Chief.A.O.) on promotion in a particular Institute will not be considered for promotion for three years from the date he declines the promotion.

vi) Refusal by an officer to accept the post of A.O. for any reason whatsoever will entail, for forfeiture of his claim for retrospective seniority in the higher grade in the event of his subsequent appointment to the higher grade. In other words, he will count his seniority in the grade of A.O. only from the date of his actual appointment to that grade.

vii) The panel of suitable officers drawn up by the DPC shall be valid for a period of one year from the date it is drawn, the life of the panel may not be extended.

** Amended vide Council's letter No.3(9)/81-Per.III dated 10th July, 1981

£ Amended vide Council's letter No.3(12)/81-Per.III dated 24th October, 1981

@ Amended vide Council's letter No.3(14)/81-Per.III dt. 4th January, 1982.

...

Prakash Singh
181 2189

Director

Indo Institute of Sugarcane Research
L.H.C. 1981

INDIAN INSTITUTE OF SUGARCANE RESEARCH, LUCKNOW-226002.

No. F. 2-27/78-Adm. I.

Dated : December 15, 1988.

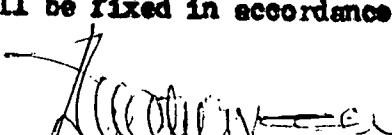
OFFICE ORDER

On the recommendations of the Departmental Promotion Committee the Director, IISR, has been pleased to approve the promotions of the following personals on the posts mentioned against them, with effect from 2nd December 1988, in the Administrative establishment of this Institute.

<u>Sr. No.</u>	<u>Name</u>	<u>Present post</u>	<u>Promoted to the post</u>
1.	Shri S.C. Mohey (Scheduled caste)	Assistant (Rs. 1400-2300)	Superintendent (Rs. 1640-2900) against the vacant post for S.T.
2.	Shri Nagendra Nath	Assistant (Rs. 1400-2300)	Superintendent (Rs. 1640-2900) against the vacant post for unreserved

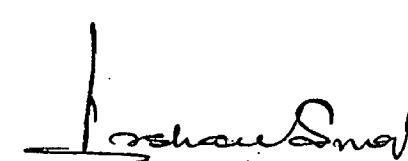
The above promotions are purely on provisional basis and shall be governed by the relevant rules.

The above personals will be on probation for a period of two years and are liable to be reverted to their lower posts in the event of their unsatisfactory work and conduct during the period of probation. Their inter-se seniority will be governed in accordance with the rules on the subject. Probation period is extendable as per rules. Their pay will be fixed in accordance with the rules on the subject.


(A.K. Chaturvedi)
Senior Administrative Officer

Distribution

1. Shri S.C. Mohey, Assistant through Supdt. Adm. II, IISR, Lucknow.
2. Shri Nagendra Nath, Assistant -do-
3. Service Books of above personals
4. Personal files of above personals
5. Accounts Officer, IISR
6. Supdt. Adm. II, IISR.


18/2/89
Director,
Indian Institute of Sugarcane Research
L. U. G. K. N. O. W.

TELEGRAM : AGRISEC



Annexure A/16
A/III

(1)

TELEPHONE : 382091

भारतीय कृषि अनुसन्धान परिषद कृषि भवन, डा० राजेन्द्र प्रसाद रोड, नई दिल्ली ।

INDIAN COUNCIL OF AGRICULTURAL RESEARCH KRISHI BHAVAN, Dr. RAJENDRA PRASAD ROAD, NEW DELHI-1

F. No. 4-30/77-EE. III

Dated the 11th August, 1978.

To

The Director,
Indian Institute of Sugarcane Research,
Lucknow.

Sub:- Permanent absorption of Shri Munna Lal, Sr. Accountant
C.C.A. (Supply), New Delhi against the permanent post of
Assistant in the ICAR (I.I.S.R., Lucknow).

Sir,

I am directed to refer to this Council's letter No. 4-30/77-EE. III dated the 15th July, 1978 on the subject mentioned above and to forward herewith a copy of letter No. A/35020/5/77-Es. II, dated the 10th August, 1978 from the Ministry of Supply and Rehabilitation, Department of Supply, Nirman Bhawan, New Delhi wherein they have agreed to the permanent absorption of Shri Munna Lal, Senior Accountant of the Office, C.C.A. (Supply), New Delhi in the services of Indian Council of Agricultural Research (Indian Institute of Sugarcane Research, Lucknow) in the public interest w.e.f. 1-12-1977 (FN). Necessary orders to absorb Shri Munna Lal in a substantive post of Assistant at I.I.S.R., Lucknow w.e.f. 1-12-77 (FN) may please be issued by you in the capacity of the competent appointing authority. The appointment orders may please be issued as per terms and conditions agreed to by the Ministry of Supply and Rehabilitation vide their aforesaid letter and also clarification given vide this Council's letter No. 4-30/77-EE. III dated 9.1.1978, under intimation to this Council and also Ministry of Supply and Rehabilitation.

B.

Yours faithfully,

(THAKUR DAS)
UNDER SECRETARY.

US/11.8.78

Director
Indian Institute of Sugarcane Research
LUCKNOW.

(2) (5)

A/17

No.A-35020/5/77-ESII
Government of India
Ministry of Supply & Rehabilitation
Department of Supply
Nirman Bhavan
New Delhi.

Dated the, 10-8-78

The Under Secretary to the Govt. of India,
Ministry of Agriculture & Irrigation (DARE),
Indian Council of Agriculture & Research,
Krishi Bhavan, New Delhi.

Subject:- Permanent absorption of Shri Munna Lal,
Sr. Accountant of the office of the
CCA(Supply) New Delhi in the Indian Council
of Agricultural Research (I.I.S.R.) Lucknow.

.....
Sir,

I am directed to refer to your letter 4-30/77.
E.E.III(DARE) dated 20.8.77 on the above subject and to
convey the sanction of the President to the permanent
absorption of Shri Munna Lal, Sr. Accountant office of the
Chief Controller of Accounts, Department of Supply in the
I.C.A.R. (I.I.S.R.) Lucknow in public interest with effect
from the date indicated below on the following terms and
conditions:-

Debited via
I.C.A.R. letter
No. 4-20/77-28
dt. 11.1.1978

I. The permanent absorption shall take place with
effect from 1.12.1977(F.N.).

II. Pension/Gratuity:- On his permanent absorption
in the I.C.A.R. (I.I.S.R.) Lucknow Shri Munna Lal shall
be eligible for pro-rata pension and death-cum-retirement
gratuity, based on the length of his qualifying service
under the Government of India till the date of his
permanent absorption in I.I.S.R. Lucknow as admissible
under the pro-rata pension/death-cum-retirement
gratuity rules for officers of the Central Civil Service
in force on the above mentioned date.

III. The pro-rata pension and death-cum-retirement
gratuity will be calculated respectively on the basis of
average emoluments for ten months preceding the date of
absorption and emoluments immediately before absorption.

IV. The amount of pro-rata pension and Death-cum-
retirement gratuity would be worked out and intimated to
Shri Munna Lal as well as to I.I.S.R. Lucknow. These
retirement benefits will become payable from the date he
will complete thirty years qualifying service or 55 years
age, or date of absorption in the Institute whichever
is later. The total gratuity admissible in respect of
service rendered under Govt. and under I.I.S.R. should
not exceed the amount that would have been admissible
had he continued in Govt. service and retired on the
same pay which he draw from I.I.S.R.

Substitute
to Vide letter
No. A-35020
77-ES-D dt
9.9.1980
placed on p
132

Signature -
Director 187-289
Indian Institute of Sugarcane Research
LUCKNOW.

D118
(52)
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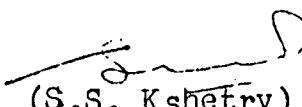
X. Provident Fund:

The amount of subscription, together with interest thereon, standing in the General Provident Fund Account of Shri Munna Lal will be transferred to his new Provident Fund Account under the I.I.S.R, Lucknow. Once such a transfer of Provident Fund balance has taken place, Shri Munna Lal will be subject to the Provident Fund Rules of the I.I.S.R, Lucknow and not to the Provident Fund Rules of the Government of India.

XI. Refixation of Pay:- The pay of Shri Munna Lal will be refixed as re-employed pensioner w.e.f. the date from which he becomes entitled to draw the pro-rata retirement benefits.

2. This issues with the concurrence of the Ministry of Finance vide their U.O.No.3887-EV(B)/78 dated 3.8.1978.

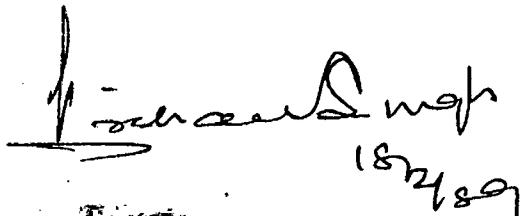
Yours faithfully,


(S.S. Kshetry)
Deputy Secretary to the Govt. of India.

Copy to:-

1. C.C.A., Deptt. of Supply, New Delhi (15 copies).
2. Under Secretary, Indian Council of Agriculture Research, Krishi Bhavan, New Delhi.
3. Director, Indian Institute of Sugarcane Research, Lucknow (U.P.)
4. Shri Munna Lal, Indian Institute of Sugarcane Research, Lucknow (U.P.)
5. Sanction file.


(S.S. Kshetry)
Deputy Secretary to the Govt. of India.


18/2/89
Director
Indian Institute of Sugarcane Research
LUCKNOW.

All
R.A

In the Hon'ble Central/Administrative Tribunal,
Allahabad, Lucknow Bench, Lucknow.

In Re.

Application Registration No. 202 of 1988.

Filed today
2/7
Mahesh Prasad. - --- Applicant.

Versus.

Secretary, ICMR
and others. ---- Opp. Parties.

Rejoinder to the reply/written statement
filed by opposite party No. 2 to the application.

1. That the contents of para 1 of the reply, hereinafter referred to as Written Statement, are misleading and evasive. The correct position is that two posts of Superintendent fell vacant with effect from 20-5-1985 and 1-6-1987 and the applicant, having been placed in the seniority list at Sl. No. 2, was entitled to get second post ^{vacant} ~~vacant~~ with effect from 1-6-1987. The opposite party No. 2, instead of convening the meeting of Departmental Promotion Committee, made wilful attempt to get these two vacant posts abolished and instead to get a post of Assistant Administrative Officer created with the sole malefide intention to withhold his promotion.

-: 2 :-

It is further stated that Shri S.C. Mohoy a Scheduled caste employee holding the post of Assistant was available and he could have been promoted as Superintendent against the post fallen vacant on 20-5-1985. But the opposite party No.2 did not fill up the post deliberately for collateral purpose on the plea that this post belongs to Scheduled Tribe. However, as soon as, the notice of application filed before this Hon'ble Tribunal by the applicant, was served upon the opposite party No.2, he issued order for the promotion of Shri S.C. Mohoy, a Scheduled ~~post~~ ^{caste} employee against that very post which was claimed by him to be belonging to Schedule Tribe. This falsifies his statement and substantiates ~~that~~ his malafide intentions. The other vacant post created on 1-6-1987 was also filled in immediately by the same order dated 15-12-1988 by making promotion of the junior of the applicant and his claim was denied with pre-determined mind by making adverse entry in his character roll maliciously. This adverse entry ending December, 1987 was communicated only on 14-12-1988 to the applicant and the same was adversely acted against him even without giving him a chance of making representation.

W.M.P.

A/21

-: 3 :-

2. That the contents of paras 2 and 3 of written statement are denied and the averments made in paras 2 and 3 of application are reiterated.

3. That in reply to para 4 of written statement, it is stated that the post was deliberately not filled up by making promotion of departmental candidates and these two posts were kept unfilled for indefinite period so as to cause harm to staff and the applicant. It is further stated that the said circular specifically provides that no candidate shall be called from outside and absorbed in the cadre of this Institute.

4. That in reply to para 6(2) of the written statement, it is stated that although, the ^{law.} ~~post of~~ Superintendent is a selection post but the selection has to be made from the eligibility list prepared according to seniority of eligible candidates and on the basis of proper and relevant service records without taking cognizance of any disputed adverse material. In fact, the case of applicant was not properly considered and not only an adverse entry was maliciously recorded in his character roll for the period ending December, 1987 which was ^{law.} ~~by letter dated~~ communicated to him on 29-12-1988 which was communicated to him on 14-12-1988 and without giving him a chance of representation, the same was adversely acted upon in the matter of his selection for the post of Superintendent held on 2-12-1988. It is further submitted

10. That in reply to para 9(ii) of written statement, it is submitted that Shri Munna Lal an outsider was absorbed against government orders which seriously affected the future prospects of I.I.S.R. employees including that of applicant.

11. That in reply to para 9(iii) of written statement, the averments made in para 9(iii) of application are reiterated.

12. That in reply to paras 9(11), (12) and (13) of written statement, it is submitted that the opposite party No.2 repeatedly approached the opposite party No.1 to surrender two vacant posts of Superintendents with the sole malafide intention to make denial of legal right of applicant to get promotion. His repeated proposal was not accepted by the opposite party No.1, notwithstanding the post was kept pending and not filled up.

13. That in reply to para 6(14) of written statement, the averments made in para 6 (14) of application are reiterated.

14. That in reply to para 6(15) of written statement, it is stated that there is nothing adverse against him as on 1-6-1987 to withhold his promotion on the post of Superintendent. His selection was prejudiced on the

A/23

basis of disputed adverse entry ending December, 1987 which was taken into account in the selection held on 2-12-1988 against the rules.

15. That in reply to para 6(16) of written statement, it is stated that it is well recognised principle of law and natural justice that no adverse entry should be acted upon to take any adverse decision in service matter unless the same is communicated and opportunity for representation was given. The adverse entry for the period ending December, 1987 was adversely acted upon against the applicant which seriously prejudiced his selection.

16. ^{in reply to} That the contents of para 6(17) of written statement, the averments made in para 6 (17) of application are reiterated. The junior of applicant has been promoted and the applicant was superseded in unlawful manner and for malafide reasons.

17. That the contents of para 6(18) of written statement do not have any force and there is no proper reasons to withhold the promotion of applicant.

18. That in respect of para 1 of objections/ reply to the paras incorporated by the amendment application, it is submitted that the adverse entry for the period ending December, 1987 which was communicated only on

that in the past to the promotion to the post of Superintendent was made ⁱⁿ routine and every senior person was given promotion provided there was no adverse material against him. This can be substantiated from the records pertaining to the selection and promotions of Saryu Shri H.L. Khanna, U.S. Bhattacharya, Jagdish Ram, S.B. Chaurasia, Ishwar Singh, C.V. Joseph and C. Wesley made on the post of Superintendent.

5. That the contents of para 6 (3) of written statement are substantiate that the promotion case to the applicant was deliberately delayed and his representation was kept pending indefinitely.

6. That in reply to paras 6(5) and (6) of written statement, it is submitted that his promotion was deliberately delayed despite repeated representations.

7. That in reply to para 6 (7) of written statement, the averments in para 6(7) of application are reiterated.

8. That the contents of para 6(8) of written statement need no comments.

9. That in reply to para 9(1) of written statement, the averments made in para 9(1) of application are reiterated.

M/S

basis of disputed adverse entry ending December, 1987 which was taken into account in the selection held on 2-12-1988 against the rules.

15. That in reply to para 6(16) of written statement, it is stated that it is well recognised principle of law and natural justice that no adverse entry should be acted upon to take any adverse decision in service matter unless the same is communicated and opportunity for representation was given. The adverse entry for the period ending December, 1987 was adversely acted upon against the applicant which seriously prejudiced his selection.

16. ^{In reply to} That the contents of para 6(17) of written statement, the averments made in para 6 (17) of application are reiterated. The junior of applicant has been promoted and the applicant was superseded in unlawful manner and for malafide reasons.

17. That the contents of para 6(18) of written statement do not have any force and there is no proper reasons to withhold the promotion of applicant.

18. That in respect of para 1 of objections/ reply to the parts incorporated by the amendment application, it is submitted that the adverse entry for the period ending December, 1987 which was communicated only on

14-2-1988 was not relevant to withhold his promotion due on 1-6-1987. The selection is liable to be vitiated and the applicant is entitled to get promotion retrospectively with effect from 1-6-1987 on the basis of his good service records as existing on the said date.

19. That in reply to para 2~~x~~ 2 of objection/reply, it is stated that the applicant was unlawfully and ~~maxx~~ maliciously superseded in the matter of promotion only after he moved this Hon'ble Tribunal for redressal of his grievances.

20. That in reply to para 3 of objection/reply, it is submitted that the case of applicant for promotion was not properly considered and his promotion was withheld maliciously after baseless adverse entry was recorded in his character roll and without giving him chance to make representation his promotion was ~~maxx~~ withheld on the basis of said adverse entry. The applicant rendered about 34 years service in and in his entire service, he was never given any adverse entry or warning etc.

21. That in reply to para 4 of objection/reply, it is submitted that in the manner in which the adverse entry was recorded and communicated after filing of the application before this Hon'ble Tribunal is sufficient to

10. That in reply to para 9(ii) of written statement, it is submitted that Shri Munna Lal an outsider was absorbed against government orders which seriously affected the future prospects of I.I.S.R. employees including that of applicant.

11. That in reply to para 9(iii) of written statement, the averments made in para 9(iii) of application are reiterated.

12. That in reply to paras 9(11), (12) and (13) of written statement, it is submitted that the opposite party No.2 repeatedly approached the opposite party No.1 to surrender two vacant posts of Superintendents with the sole malafide intention to make denial of legal right of applicant to get promotion. His repeated proposal was not accepted by the opposite party No.1, notwithstanding the post was kept pending and not filled up.

13. That in reply to para 6(14) of written statement, the averments made in para 6 (14) of application are reiterated.

14. That in reply to para 6(15) of written statement, it is stated that there is nothing adverse ^{against} him as on 1-6-1987 to withhold his promotion on the post of Superintendent. His selection was prejudiced on the

establish that the applicant was not properly treated at the hands of opposite party No.2 and the adverse entry was recorded and his promotion was withheld without pre-determined mind.

22. That in reply to para 5 of objection/reply, it is stated that the applicant has a legal right to know the name of officer who recorded adverse entry in his character roll. It is unfortunate that his application dated 17-12-1988 still remains unrepiled and in the meantime, the applicant's promotion was withheld on the basis of said adverse entry and he has also since been retired on attaining the age of superannuation.

23. That in reply to para 6 of objection/reply, it is submitted that the opposite party No.2 may be directed to produce the relevant records/proceeding of D.P.C. held on 2-12-1988 and also in respect of earlier selections held for the post of Superintendent which will substantiate that the case of applicant was dealt with in biased manner and his selection was prejudiced because of disputed adverse entry for the period ending December, 1987.

24. That in reply to para 7 of objection/reply, the averments made in para 21 of application are reiterated.

W.Y

25. That in reply to para 8 of objection/reply are misconceived, baseless and denied. The averments made in para 22 of application are reiterated.

26. That in reply to para 9 of objection/reply, it is reiterated that the selection of applicant for the post of Superintendent was prejudiced only on account of the fact that the disputed adverse entry against which he was not given opportunity of representation was acted against him in violation of the principle of natural justice. It has already ~~been~~ ^{been} stated earlier that in the past, ~~the~~ the promotions were made according to seniority without enforcing the selection on merit from whole field of eligibility. The applicant was not given even a single adverse entry or any warning throughout his 34 years of ~~service as~~ ^{by and} service ~~as~~ it is unfortunate that at the fag-end of his service he has been faced with the supersession on account of ill-will and prejudicial attitude of opposite party No.2. The ~~applicant~~ ^{application} is deserves to succeed with ~~cost~~ ^{cost} cost.

Lucknow: Dated:

July 20th, 1989.


(Mahesh Prasad).

Applicant.

dated 9-12-1988 received by him on 14-12-1988 and has also issued promotion order of his junior vide office order dated 15-12-1988 and therefore it has become necessary in the interest of justice to amend the application as below:-

(1) The following may be added as opposite party No.3 in the application.

Shri Nagendra Nath, Superintendent, Office of the Director, Indian Institute of Sugarcane Research, Rae Bareli Road, Post Office: Dilkusha, Lucknow-2

(2) Against item No.2, the following may be added at Sl.No.3.

Shri Nagendra Nath, Superintendent, Office of the Director, Indian Institute of Sugarcane Research, Lucknow-2.

(3) Against item No.3, the following may be added as sub-para 5.

The promotion of opposite party No 3 has been made on the post of Superintendent by the opposite party No.2 vide his order on 15-12-1988 by ignoring the claim of applicant who is senior to him.



(4) Against item No.6, the following sub-paras may be added.

18. That after admission of the application on 24-11-1988 and after issuing notices to the opposite parties, the applicant was communicated an adverse remark for the year ending 1987 by the opposite party No.2 vide note contained in No. Adm.I/87/CR.Adv. dated 9-12-1988 received by the applicant on 14-12-1988. A true copy of this adverse remark is enclosed as Annexure-11 to the application.

19. That the adverse remark was not communicated in accordance with prescribed procedure. The details of reporting officer and reviewing officer have not been furnished. The applicant therefore, requested vide his letter dated 17-12-1988 to furnish reply on the points mentioned therein and to communicate complete entry so as to enable him to make representation. A true copy of this letter is enclosed as Annexure-12 to the applicant. No reply has been received so far.

20. That according to well recognised principle of law, the adverse remark which is still subjudice is not relevant material to withhold the promotion of applicant.

[Handwritten signature]

21. That immediately after communication of adverse remark on 14-12-1988, the opposite party No.2 issued office order contained in No.2-27/78-Adm.I dated 15-12-1988 making promotion of his junior, the opposite party No.3 on the post of Superintendent on provisional basis. A true copy of above office order is enclosed as Annexure-13 to the application.

22. That the Indian Council of Agricultural Research, New Delhi, parent body of the Indian Institute of Sugarcane Research ~~XXX~~ has directed its subordinate Directors of all Indian Institutes that the staff should be promoted right on the date of occurrence of vacancies and that in cases of promotions, the Character rolls of the eligible officials upto the year ending prior to the occurrence of vacancies should be considered and taken into account. A true copy of the I.C.A.R. circular letter No. F.1-1/86-Per.IV dated 7-12-1988 is enclosed as Annexure-14 to this application.

Out of the two posts of Superintendent, one fell vacant on 31-5-1986 and the other on 1-6-1987. The applicant is entitled to be promoted in the vacancy

occurred on 1-6-1987. The character/entry pertaining to the year ending 1987, through given to the applicant due to bias and malafide is not relevant to be taken into account while considering his case for promotion to the post of Superintendent. The entries of the applicant upto the year ending prior to occurrence of the vacancy viz. the year ending 1986 are commendatory and there is no reason to declare the applicant unsuitable for promotion.

23. That the applicant has at his credit good service records and there is no reason to declare ~~him~~ unsuitable for promotion in preference to his junior, the opposite party No.3.

(5). Against item No.7, the following may be added as sub-para 3.

Sub-para-3. to quash the promotion of opposite party No.3 made on the post of Superintendent by office order dated 15-12-1988.

P R A Y E R

It is, therefore, humbly prayed that this Hon'ble Tribunal may be graciously pleased to accord permission to amend the application accordingly.

AB3

-: 5 :-

VERIFICATION

I, Mahesh Prasad, aged about 57 years, Son
of LateShri Shiv Narain Lal Srivastava, resident of
21, Kashi Dera, Rakabganj, Lucknow do hereby verify that
the contents of paras from 1 to 5 are true to
my personal knowledge and belief and that I have not
suppressed any material facts.

Lucknow: Dated:

December 22, 1988.


Signature of
the applicant.

CONFIDENTIAL

A.B.U

INDIAN INSTITUTE OF SUGARCANE RESEARCH : LUCKNOW - 2

No. Adm.I/87/CR.Adv.

Dated : December 9, 1988.

NOTE

Sub : Communication of Adverse Remarks.

.....

The following observations have been made in the Annual Assessment Report of Shri Mahesh Prasad, Assistant for the year ending 1987.

(1) Is the Reviewing Officer satisfied : No. The man, at best, that the Reporting Officer has made is an average worker, his/her report with due care, if and when he works. and attention and after taking into account all the relevant material ?

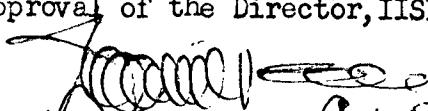
(2) Do you agree with the assessment : No. Shri Mahesh Prasad of the officer given by the Reporting Officer ? has been known to the undersigned for the past 30 years of which the last 20 was under his adm. control.

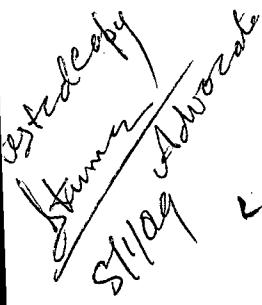
(3) General remarks with specific : Shri Mahesh Prasad, had comments about the general remarks he shown any initiative given by the Reporting Officer or organising capacity or and remarks about the meritorious hard work we would have recommended his promotion. Shri work of the officer including the Prasad never gave any opportunity of it at any time. grading ?

(4) Has the officer any special : Should he come on time atleast characteristics, and/or any abilities one good point may be in his which would justify his/her selection for special assignment or/ favour. We do not think that out of turn promotion ? If so, he is a case fit for promotion specify ? or even advance increment, which if given will deleteriously affect morale of good workers.

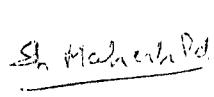
In view of above, Shri Mahesh Prasad, Assistant is hereby informed about his above mentioned shortcomings. Representations, if any, may be submitted within one month.

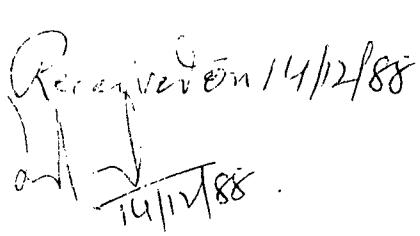
This is being issued with the approval of the Director, IISR.

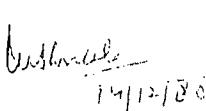

(A.K. Chaturvedi) XII/88
Sr. Administrative Officer


Shri Mahesh Prasad
Assistant,
through P.C.(S), I.I.S.R., Lucknow.

Copy to C.R. Folder of Shri Mahesh Prasad, Assistant, Project Coordinating Cell, I.I.S.R., Lucknow.


Sh. Mahesh Prasad


Sr. Administrative Officer


14/12/88

Received on 14/12/88

14/12/88

To

The Senior Administrative Officer,
IIST, Lucknow.

Subject: Communication of Adverse Remarks

Through Proper Channel

Sir,

I am in receipt of your Note No. Admn. I/87/CP. Adv., dated 9-12-88 (received by me on 14-12-1988) communicating the Adverse Remarks alleged to have been awarded to me for the year ending 1987.

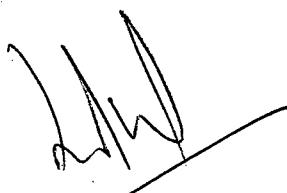
In this connection I would most respectfully request:

- i) that the complete entry, which has not been communicated, may kindly be communicated. In the matter of an adverse entry it is customary and covered by conventions and rules that the whole entry is communicated. The remarks of the Reporting Officer may be furnished to me.
- ii) It is not clear from your Note under reference as to who has given the adverse remarks after reviewing the observations of the Reporting Officer. If the reviewing remarks have been given by the Hon'ble Director, his name as a rule, should be mentioned at the end of the entry in token of his having given and signed the remarks along with the date.
- iii) The date when the Reviewing Officer recorded his observations on the report of the Reporting Officer may kindly be intimated.

I have been graded as an average worker, not fit for promotion. Average worker is not an adverse remark 'Not being fit for promotion' is an

*Attached copy
Herman
Sthal*

iv)



ALB

observation about promotion. What are the expresss. in the Note under reference conveying adverse remarks about my work and character during the year under reference. The expression constitutes only opinion of the Reviewing Officer and nothing adverse about my work & conduct.

I shall submit my representation on receipt of the complete entry and a reply to the aforesaid points.

I shall be grateful for an early reply,

Thanking you,

Yours faithfully,

M. Prasad 17/12/88
(Mahesh Prasad)

Assistant
Project Coordination Unit, IISR,
Lucknow.

Dated: 17th December, 1988

Attested copy
Kumar
SI/109/2006

[Signature]

A/180

In the Hon'ble Central Administrative Tribunal, Allahabad.

Lucknow Bench, Lucknow.

Application Registration No.202 of 1988.

Mahesh Prasad. -----

Applicant.

Versus.

The Secretary,
I.C.A.R., New Delhi
and another. -----

Opp. Parties.

ANNEXURE No.14.

INDIAN COUNCIL OF AGRICULTURAL RESEARCH,
Krishi Bhawan, New Delhi-110001.

No.F.1-1/86-Per.IV.

Dated: December 7, 1988.

To

The Directors of all Research Institutes.

Subject:- D.P.Cs - Promotion from the date of occurrence
of vacancies and consideration of C.Rs. for
the period prior to the vacancies - Instructions
regarding.

Sir,

Please refer to the D.O. letter of even number
dated 30-1-1980 and 7-5-1987 of the D.G., I.C.A.R. to the
Institutes regarding preparation of a phased programme to
convene the meetings of the Departmental Promotion
Committees/Selection Committees in advance so that instances
of delay in promotion, confirmation etc. are kept to the

*1. Attached copy
2. Kumar
3. Jagatwala*

barest minimum if the same cannot be eliminated alongwith altogether. The above matter was again considered at the meeting of Central Joint Staff held at N.D.R.I., Karnal, from 30th to 31st July, 1988 and it was agreed that the staff in the administrative control should be promoted right on the date of occurrence of vacancies and to achieve this timely action to fill up such position should be taken well in advance.

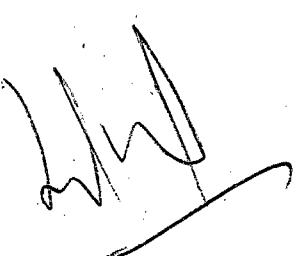
2. The question as to the period for which the C.Rs. should be taken into account by the D.P.C. for considering the cases of promotions was also discussed in the Central Joint Staff Council in its meeting held at Karnal in July, 1988 and it was agreed that in the cases of promotions, the C.Rs of the eligible officials upto the year ending prior to the occurrence of vacancies should be considered and taken into account.

3. With a view to implement the above decisions, it is suggested that the programme for holding the meetings of D.P.Cs/Selection Committees of the Institutes may be drawn in the beginning of the year and the meetings convened sufficiently in advance of the occurrence of vacancies to ensure that the officials recommended for promotion join their duties on the date of occurrence of vacancies.

*Attested copy
G.C. Srivastava
21/09/1988*

Yours faithfully,

(G.C. Srivastava)
Secretary, I.S.A.R.



0/6
C/S
Registered

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH, GANDHI BHAWAN

LUCKNOW

10/38 to 10/39

No. CAT/CB/LKO/

Dated : _____

Registration No. _____ of 1988 (62)

Applicant

Versus

Respondent's

To

Mr. _____

01/34
Re
Registered

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH, GANDHI BHAWAN
LUCKNOW

No. CAT/CB/LKO/ *9/Cal*

Dated : 7/3/49

Registration No. 202 of 1938 (U)

Makar Ad.

Applicant

Versus

U. O. C.I.

Respondent's

To

Sir Narendra Nath Sethi

9/10 Director, Andhra Institute of
Sugar-cane Research, Vis

Please take notice that the applicant above named has presented an application, a copy whereof is enclosed herewith which has been registered in this Tribunal and the Tribunal has fixed 20 day of 3 1949 for hearing.
In the meantime Counter affidavit may be filed.

If no, appearance is made on your behalf by your pleader or by some one duly authorised to Act and plead on your in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this 9 day of 3 1949.

h
For DEPUTY REGISTRAR

dinesh/

Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow

C/35

Hon'ble Central Administrative Tribunal,
Circuit Bench, Gandhi Bhawan, Lucknow.

O.A. No. 202 of 1988(L).

Mahesh Prasad.

Applicant.

Versus.

**Secretary, I.C.A.R.
and another.**

Opp. Parties.

Notice of Motion.

1. That the applicant has moved an application for the amendment in the application dated 17-11-1988. The date 24-2-1989 was fixed in original application.

2. That the said amendment application has been fixed for hearing on 25-1-1989.

Kindly take the notice for 25-1-1989 and you are requested to appear on 25-1-1989 at 10-30 A.M. before the Hon'ble Tribunal, Circuit Bench, Lucknow.

Lucknow : Dated:

January 12, 1989.

DS Chawla

Advocate.

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