

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

O.A. NO. 1153/1996

Mumbai, this ... 31<sup>st</sup> ... day of ... 2001

Hon'ble Shri S L Jain, Member (J)  
Hon'ble Shri Govindan S. Tampi, Member (A)

Om Prakash Vyas,  
Assistant Statistician,  
Central Poultry Breeding Farm,  
(Government of India)  
Aarey Milk Colony,  
MUMBAI.

.....Applicant.

(By: I.J. Naik, Advocate)

Versus

1. Union of India, through:  
The Secretary, Ministry of Agriculture,  
(Deptt. of Animal Husbandry & Dairying)  
Krishi Bhavan, New Delhi.
2. The Director,  
Central Poultry Breeding Farm,  
Aarey Milk Colony,  
Mumbai.

.....Respondents.

(By: Shri V.S. Masurkar, Advocate)

O R D E R

By: Hon'ble Shri Govindan S. Tampi, Member (A)

This application, filed under section 19 of the Administrative Tribunals Act, 1985, challenges the inaction of the respondent in respect of the upgradation of the post of Asstt. Statistician to that of Asstt. Director in terms of the Tribunal decision of 5.9.1994 in OA No. 666/94 as well as the order of Ministry of Agriculture's order dated 21.9.95, granting the benefit of higher pay scale to one individual only.

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2. Heard S/Shri I.J. Naik and V.S. Masurkar, learned counsel for the applicant and the respondents respectively.

3. Facts as brought out on record are that one Sh. L.K. Urs, holding the post of Asstt. Statistician, like the applicant, and working in Central Poultry Breeding Farm, Bangalore came up before this Tribunal in OA No. 666/94, seeking enhanced promotional avenues. The Tribunal by its order dated 5.9.1994, advised the respondents to provide appropriate promotional avenues to him by upgradation of the existing post or creation of a higher post, not lower than that of Asstt. Director. By its order dated 21.9.95, respondents upgraded the post of Asstt. Statistician in the scale of Rs. 1640-2900/- to that of Asstt. Director in the grade of Asstt. Director in the Scale of Rs. 2200/- - 4000/- but made the upgradation personal to the individual, without extending it to others similarly placed like the applicant - Asstt. Statistician in C.P.B.F. Aarey Milk Colony. The applicant's representation dated 22.1.96, seeking similar benefit/similar treatment has not been favourably considered. Hence this O.A. . According to the applicant, the order dated 21.9.95 upgrading the post of Asstt. Statistician to that of Asstt. Director in C.P.B.F., Bangalore and making the upgradation personal to the incumbent there was arbitrary and discriminatory and deserved to be quashed and the benefit be extended to him as well. The above pleas have been urged by Sh. I.J. Naik, learned Counsel .

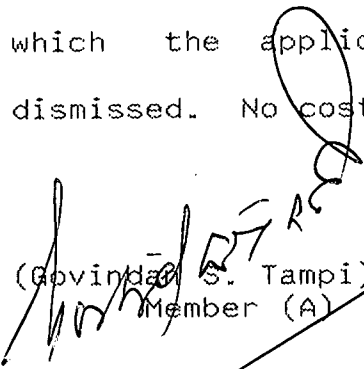
4. In their reply, the respondents point out that the applicant not being a party in OA No. 666/94, filed before the Bangalore Bench of the Tribunal cannot seek the benefit of the said decision automatically. Anyhow the issue has become infructuous with the issue of Agriculture Ministry's Order dated 2.7.1997 upgrading the post of Asstt. Statistician from the pay scale of Rs. 1640-2000/- to Rs.2200 - 4000/- and should be dismissed as such.

5. Reiterating his pleas, Sh. Naik learned Counsel for the applicant invites our attention to the decision of the Principal Bench in A.K. Khanna & OR Vs. Union of India and Others (ATR 1988 (2) CAT. 518) to show that the benefit of a judgement can be extended to others similarly placed as well, even when they are not parties to the decision.

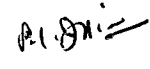
6. We have carefully considered the matter and examined the relevant records. The applicant in this case has claimed for himself the benefit of the decision passed by the Bangalore Bench of the Tribunal in OA 666/94, filed by L.K. Urs, Asstt. Statistician in C.P.B.F. Bangalore as well as the decision of the Govt. of India, Ministry of Agriculture Department of Animal Husbandry & Dairying letter No. 13-5/94-LD.II/Admn III dated 21.9.1995 upgrading the post of Asstt. Statistician to that of Asstt. Director in the pay scale of Rs.2200 - 4000/-. At the same time we find, attached to the reply by the respondents, copy of the Ministry of Agriculture, Deptt. of Animal Husbandry and Dairying letter F.No. 133/97. Adm III dated 2.7.1977 whereunder the post of Assistant Statistician CPBF Mumbai has been upgraded from the pay scale of Rs.1640 - 2900/- to

Rs. 2200 - 4000/- w.e.f. 25.6.97, as personal to the applicant. Obviously therefore the applicants promotional prospects have been opened and from a post in Group C, the post has been upgraded to Group 'A'. That being the case, the applicant has been granted the benefit which he was rightly entitled to. Nothing more remains to be done.

7. We observe that in the above circumstances, the OA has become infructuous, with the upgradation of the post which the applicant was occupying. OA is therefore dismissed. No costs.

  
(Govindan S. Tampi)  
Member (A)

Patwal/

  
( S.L. Jain )  
Member (J)