

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 96/99

DATE OF DECISION:

this the 20th Day of July 2000

Shri M. Aravindakshan Applicant.

(By Shri Sureshkumar, Advocate)

Versus

Shri Union of India & Ors. , Respondents

(By Shri C.N. Anand, Advocate)

CORAM

Hon'ble Shri B.S.Jai Parameshwar, Member (J)

Hon'ble Shri B.N.Bahadur, Member (A)

(1) To be referred to the Reporter or not? |

(2) Whether it needs to be circulated to
other Benches of the Tribunal? | No

(3) Library.

Jai
(B.S.Jai Parameshwar)
Member (J)

sj*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

Original Application No. 96/1999
_____, this the 20 the July 2000.

Coram: Hon'ble Shri B.S. Jai Parameshwar, Member (J)
Hon'ble Shri B.N. Bahadur, Member (A)

Shri M. Aravindakshan,
Scientist -S.S.
Mumbai Research Centre of
Central Marine Fisheries
Research Centre,
148, Army & Navy Building
2nd Floor, M.G. Road,
Mumbai 400 001.

.... Applicant

(Applicant represented by Shri Sureshkumar, Advocate)

vs.

1. Union of India,
through the President,
Indian Council of Agricultural Research,
Krishi Bhavan, Dr. Rajendra Prasad Road,
New Delhi 110 001.
2. The Director General,
Indian Council of Agricultural Research,
Krishi Bhavan, Dr. Rajendra Prasad Road,
New Delhi 110 001.
3. The Director (Personnel)
Indian Council of Agricultural Research
Krishi Bhavan, Dr. Rajendra Prasad Road,
New Delhi 110 001.
4. The Director,
Central Marine Fisheries Research Institute
Post Box No.1603, Ernakulam,
Cochin 682 014. Respondents

(Respondents represented by Shri C.N. Anand, Advocate)

O R D E R (ORAL)

(Per B.S.Jai Parameshwar, Hon'ble Member (J):

Heard Mr. Sureshkumar learned Counsel for the Applicants
and Shri C.A. Anand, learned Counsel for the Respondents.

2. The Applicant was initially appointed as a Research Assistant
in the Respondent's organisation w.e.f. 30.2.1967. He was
promoted as Senior Research Assistant w.e.f. 21.7.1969. He was
confirmed on the said post on 1.11.1971 in the scale of pay

equivalent to Scientist 'S' Grade. On introduction of the Agricultural Research Service (ARS) he was inducted into Scientist 'S' Grade in the Scale of pay of Rs.550-25-750-EB-30-900 w.e.f. 1.10.1975 by office Order No.10/2/76/Per.1 dated 12th January, 1978 (Exh. B to O.A.). The Applicant was later promoted as Scientist S-1 Agricultural Research Service w.e.f. 1.7.1983 by order dated 28.11.1984. The Applicant was placed in the revised scale of pay of Rs. 2200-4000 under the UGC scale of pay w.e.f. 1.1.1986 (Exhibit A to the OA.). The Respondent No.3 by letter dated 27.8.1998, issued certain instructions for promotion of Scientific Officers under the Scheme known as Career Advancement Scheme. (Exh. 'A' is the copy of the said scheme.) The applicant submits that he fulfills the qualifications and is eligible for promotion under the said scheme.

3. He submitted his representations dated 29.12.1998, 5.1.1999 and 6.1.1999. At this stage we may observe that the representations submitted by the Applicant were not polite.

4. The applicant has filed this application for the following relief.

(i) To issue appropriate orders/directions to the Respondents to promote and place the applicant to the post of Scientist (Selection Grade)/Senior Grade in the pay scale of Rs.3700-5700 in terms of the clarification contained in the letter No.F.No.1 (6)/98-Per.1V dated 27th August, 1998 issued by the Respondent No.3 and circulated vide endorsement

...3/-

JK

No.11-13/89-Admn. Vol.IV dated 17.12.1998 by the Office of the Respondents No.4, with retrospective effect.

5. The Respondents have filed the reply. Their main contention is that for the similar relief, the Applicant had approached the Ernakulam Bench of the Tribunal in O.A.672/97. Further in the said application the Ernakulam Bench of the Tribunal has observed that the service rendered by the Applicant as Experimental Scientist cannot be reckoned for granting the benefit under the scheme. Further it is observed that the said decision has become final. The observations made by in the said O.A. by the Ernakulam Bench as regards computation of services rendered in the post of experimental scientists is confirmed. We cannot deviate from the said conclusion.

6. At a certain stage it was argued that the present Applicant is barred by the principles of *res judicata*. In fact, the applicant had sought promotion under the Career Advancement Scheme as envisaged in the letter dated 28.10.1991. That was the subject matter in the O.A. before the Ernakulam Bench of the Tribunal. While considering the eligibility of the Applicant for promotion under the said Scheme dated 28.10.1991 relying upon the earlier decision^{ion} the Bench had formed an opinion that the services rendered by the applicant as Experimental Scientist cannot be taken into consideration for providing promotion, under the Career Advancement Scheme dated 28.10.1991. The reliefs claimed in the present O.A. ^{is on the basis} ^{are}

of Scheme envisaged in the Letter ^{our} 27.8.1998. Hence in ^{our} ^{one} opinion the application is not barred by the principles of resjudicata. The application is maintainable.

7. The Learned Counsel for the Respondents submits that the since the decision of the Ernakulam Bench of the Tribunal in O.A. 672/97 has become final and this Tribunal cannot give a different direction to the Respondents to consider his case taking into consideration the services rendered by the applicant as an Experimental Scientist. We agree with the said submission. We are not directing the respondents to take into consideration the services rendered by the Applicant as Experimental Scientist, while considering his case under the Scheme dated 27.8.1998.

8. However, during the course of arguments, learned counsel for the Respondent brought our notice a letter of the ICAR F.No.10-27/94-Per.IV dated 24th March, 1999 wherein certain provision is made for Career Advancement of Scientific Officers. Further they submit that the case of the Applicant will be considered in accordance with the said letter of 24.3.1999.

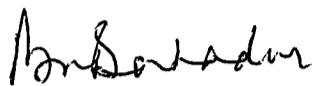
9. We feel it proper to direct the applicant, if he is so advised to submit a representation in a polite manner to the Respondent authorities for considering his case in accordance with Schemes dated 27.8.1998 and 24.3.1999 keeping in mind the observations made by the Ernakulam Bench of the Tribunal, in O.A.672/97 dated 23.12.1999.

10. The Applicant may submit such a representation within one month from the date of receipt of a copy of this order.

11. Time for compliance is 4 months from the date of receipt of the representation.



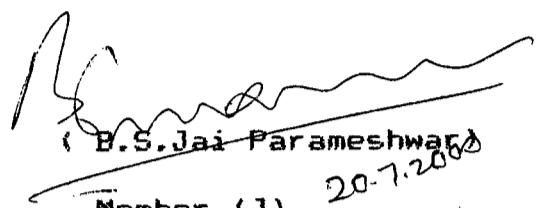
12. With the above observations the O.A. is disposed of with no order as to costs.



(B.N. Bahadur)

Member (A)

sj*



(B.S. Jai Parameshwar) 20-7-2000

Member (J)