

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ~~Lucknow~~ BENCH

OA/T/RA/CP/MA/DT 14/190.....of 20.....

Dr. R. P. Shrivastav.....Applicant(S)

Versus

....Director General Indian Council.....Respondent(S)

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Certified that the file is complete in all respects.

B.C. Filled needed & necessary

Signature of S.O.

22/6/2014

Signature of Deal. Hand

(AU)

Reserved

Central Administrative Tribunal, Allahabad.
CIRCUIT BENCH, LUCKNOW

Registration O.A.No. 14 of 1990 (L)

Dr. Ram Prakash Srivastava Applicant

vs.

Director General, Indian Council
of Agricultural Research, New
Delhi and another Respondents.

Hon. D.K.Agrawal, JM

Hon. K.Obayya, AM

(By Hon. D.K.Agrawal, JM)

This Application u/s.19 of the Administrative
Tribunals Act XIII of 1985 was filed on 15.1.1990 and
came up for hearing on admission before a Single Member
on 16.1.1990. The following order was passed :-

" Heard.

Issue notice to Respondents to show cause
why the petition may not be admitted. Reply
may be filed within four weeks. List the case
for admission on 10.3.90. Present position
is maintained."

2. The dispute is with regard to the appointment
of Director of Central Institute of Horticulture for
the Northern Plains, Lucknow. The regular Director Dr.
C.P.A.Iyer retired in or about June 1989. By an order
dated 5.7.1989 (annexure 5 to the Application), the
Applicant, namely, Dr. R.P.Srivastava was given officiating
appointment as Director in the following words :-

" The President, Indian Council of Agricultural
Research is pleased to appoint Dr. R.P.Srivastava
Scientist S-3, Central Institute of Horticulture
for Northern Plains, Lucknow as Director, C.I.H.N.P.
Lucknow on officiating basis in the pay scale of
Rs. 4500-150-5700-200-7300 with effect from the
afternoon of 13th June 1989, till the post is filled
up on regular basis or till further orders."

DK Agrawal

3. The order dated 5.7.1989 was changed by an order dated 11.1.1990 (annexure 6 to the Application whereby the following order was passed appointing Dr. I.S.Yadav, Respondent no.2 as Director of the Institute :-

" The President, Indian Council of Agricultural Research is pleased to appoint Dr. I.S.Yadav as Officiating Director, Central Institute of Horticulture for Northern Plains, Lucknow with effect from the date of his taking over charge in addition to his present duties as Project Coordinator until a regular Director joins the position or further orders, whichever is earlier.

Consequently, Dr. R.P.Srivastava will stand reverted to his parent position as Scientist S-3 (pre-revised) from the date of handing over charge to Dr. I.S.Yadav."

It is alleged that Dr. I.S.Yadav took over charge on 12.1.90. The charge certificate was forwarded to the Director General Indian Council of Agricultural Research, New Delhi on 12.1.1990 by means of a letter (Annexure B-3 to the written statement of Respondent no.2).

4. The Applicant filed the present Application, as mentioned above on 15.1.1990 for quashing the order dated 11.1.1990 appointing Respondent no.2 as Director of the Institute. Interim relief was also sought that the Applicant's status be not disturbed. Although it was not specifically stated in the Application

Ok Agreed

that the Applicant still ~~held~~ ^{held} the charge of Director but he desired an interim order on the basis as if he was actually holding the charge on the date of filing of the Application. The learned Single Judge before whom the Application came up, passed an order for maintaining the present position. It is said that a dispute arose ^{between them in this} and even cross FIRs were lodged.

5. Indian Council of Agricultural Research is a Society registered under the Societies Registration Act, 1860. Minister Incharge of the Portfolio of Agriculture in the Union Cabinet is the President of the Society. The Director General is the Principal Executive Officer of the Society. The President is the appointing authority for the post of Director of the Institute. The post has now been advertised on 3.2.1990 vide advertisement no.1 of 1990. The essential qualifications for the post of Director is five years experience as Principal Scientist or in an equivalent grade. The grade of the Principal Scientist is Rs.4500-7300. The comparative qualification ~~thexxparativexqua~~

DKG

of the Applicant, i.e. R.P.Srivastava and the Respondent no.2, i.e. I.S.Yadav have been given in para 15 of the written statement of Respondent no.2. The same has not been controverted in the rejoinder filed by the Applicant. The comparative chart as detailed in para 15 of the written statement of the Respondent no.2 indicates that I.S.Yadav- Respondent no.2 was senior to R.P.Srivastava, Applicant having been appointed earlier and ~~is being~~ ^{been} placed in the grade of Principal Scientist w.e.f. 1.1.1983. The Applicant, i.e. R.P.Srivastava has not yet been placed in the grade of Principal Scientist i.e. Rs.4500-7300. Dr. R.P.Srivastava is still in the grade of Rs.3700-5700. Thus, on the basis of it, Dr. R.P.Srivastava is not qualified to be appointed to the post of Director unless the qualifications are relaxed for one or the other reason, if permissible under the bye-laws of Indian Council of Agricultural Research.

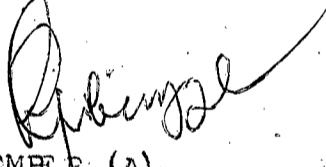
6. The controversy in question is very short as to whether the appointment of I.S.Yadav, Respondent no.2 suffers from any irregularity or illegality. The Applicant has challenged the appointment on the ground that the Respondent no.2 was Coordinator. May it be so, but Respondent no.2 is Principal Scientist placed in the grade of Rs.4500-7300 and, as such, according to the qualifications prescribed for the post of Director, I.S.Yadav- Respondent no.2 is qualified. If so, his appointment as officiating Director cannot be challenged on the ground that he was not qualified. The other aspect of the matter is as to whether the President was justified in appointing Dr. I.S.Yadav as officiating Director? To our mind there are no rules for officiating appointments. It is the discretion of the President to offer the officiating appointment to any person and, more particularly, to a person who is

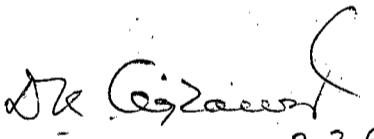
DK *Q3*

(A)

qualified for the post. We are further of the opinion that the Applicant being not possessed of essential qualification for the post of Director, ^{✓ he} has no locus-standi to challenge the same. We do not consider it necessary to dilate the point as urged by the learned counsel for the Applicant that the impugned order dated 11.1.1990 was passed in violation of principles of natural justice inasmuch as opportunity of hearing was not afforded to the Applicant. It would suffice to say that no legal right accrued to the Applicant to hold the officiating appointment. Therefore, no opportunity of hearing was required. The mere offer of officiating appointment does not amount to a promotion order. If so, the impugned order does not amount to reversion of the Applicant. The opportunity of hearing would have been required if the Applicant was to be divested of the right vested ^{✓ in} him. In the circumstances, we are of opinion that this Application has no merit and it deserves to be dismissed.

7. The Application is dismissed without any order as to costs.


MEMBER (A)


MEMBER (J) 23.3.90

Dated: 23.3.1990
kkb.

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW.

INDEX SHEET

CAUSE TITLE O A- 14 of 199 00

Name of the parties

Dr. R. P. Srivastava

Applicant.

Versus.

D. G. I. C.

Respondents.

Part A.B.C.

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15-1-90

(A) CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 14 of 1980 (4)

Deputy Registrar (J)

APPLICANT(S) Dr R. P. Srivastava

RESPONDENT(S) DG, Indian Council of Agricultural Research, N.R.C.

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent ? **Ys**
2. a) Is the application in the prescribed form ? **Ys**
- b) Is the application in paper book form ? **Ys**
- c) Have six complete sets of the application been filed ? **Ys**
3. a) Is the appeal in time ?
 b) If not, by how many days it is beyond time ?
 c) Has sufficient cause for not making the application in time, been filed ? **Ys**
4. Has the document of authorisation Vakalatnama been filed ? **Ys**
5. Is the application accompanied by B.D./Postal Order for Rs. 50/- **Ys**
6. Has the certified copy/copies of the order(s) against which the application is made been filed ? **Ys**
7. a) Have the copies of the documents relied upon by the applicant and mentioned in the application, been filed ?
 b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?
 c) Are the documents referred to in (a) above neatly typed in double space ? **Ys**
8. Has the index of documents been filed and paging done properly ? **Ys**
9. Have the chronological details of representation made and the date of such representation been indicated in the application ? **Ys**
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal ? **No**

AI

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Particulars to be Examined

Endorsement as to result of examination

1. Are the application/duplicate copy/spare copies signed ? Yes

2. Are extra copies of the application with Annexures filed ? Yes

3. a) Identical with the Original ?
b) Defective ?
c) Wanting in Annexures

4. Name _____ phoneno _____ ?

5. Have the file size envelopes bearing full addresses of the respondents been filed ? No

6. Are the given address the registered address ? Yes

7. Do the names of the parties stated in the copies tally with those indicated in the application ? Yes

8. Are the translations certified to be true or supported by an Affidavit affirming that they are true ? NA

9. Are the facts of the case mentioned in item no. 6 of the application ?
a) Concise ?
b) Under distinct heads ?
c) Numbered consecutively ?
d) Typed in double space on one side of the paper ? Yes

10. Have the particulars for interim order prayed for indicated with reasons ? Yes

11. Whether all the remedies have been exhausted. Yes

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:: 2 ::

(A3)

Serial
number
of
order
and date

16.1.90

Brief Order, Mentioning Reference
if necessary

How complied
with and
date of
compliance

Hon'ble Mr. J.P. Sharma, J.M.

Heard.

Issue notice to respondents to show cause
why the petition may not be admitted. Reply
may be filed within four weeks. List the case
for admission on 13.3.1990. Present position
is maintained.

J.M.

rm/

2.3.90

Hon. Justice K. Nath, V.C.

Hon. K. J. Ramam, A.M.

Sir P. R. Khare for the
applicant, Sri R. Sharma for
respondent no. 1 and Sri L. P.
Shukla for respondent no. 2 are
present. Sri Shukla files a
counter affidavit. On the
counter affidavit filed by Sri
Sharma a rejoinder affidavit
has also been filed. Sri Sharma
says that certain points raised
in the rejoinder affidavit
needs clarification.

Be that as it may,
we direct this case to be
listed for final hearing peremptorily
on 19.3.90, to which all the
parties are agreed.

W.D.

R.

A.M.

V.C.

Dinesh/

OR
Notice of 12
S. R. K. Shau
ma etc
on
C. N. 46/4
filed
CA filed today
R. A. filed today
L. 20/2
OK
In this case the
date was fixed on
13.3.90 but the
HC for the affidavit
was filed (M.A.)
hearing date
As ordered by
Hon'ble V.C. the
case has been
listed.

In this case
CA filed on
13.3.90
R. A. filed
on behalf of
No 1 & 2
Case is ready for
hearing on admission
13.3.90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
A L L A H A B A D

CIRCUIT BENCH LUCKNOW

of

TA. NO. 14

19890 (L)

DATE OF DECISION 23.3.90

Dr. R. P. Srivastava PETITIONER

Sri P. V. Verma Advocate for the
Petitioner (s)

VERSUS

Director General, I.C.A.R. RESPONDENT

Sri Ravinder Sharma Advocate for the
Respondent (s)

CORAM :

The Hon'ble Mr. Dr. Agrawal, J.M.

The Hon'ble Mr. K. Obayya, A.M.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether to be circulated to other Benches ?

Dr. Agrawal

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of filing 15-1-90
Date of R. resp. of Past.....

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW

XXXXXX BENCH

O.A.No. 14 of 1990(L)

Dr. Ram Prakash Srivastava

Petitioner

Versus

The Director General Indian Council
of Agricultural Research New Delhi
and another.

Respondents

Compilation-A

Sl. No.	Description of document relied upon	page Nos.
---------	-------------------------------------	-----------

1. Application U/S 19 of C.A.T. Act 1986 14/16
2. Impugned order dated 11th Jan. 1990

Filed today
15/1/90
by
R.P.Srivastava
16/1/90
15/1/90
15/1/90

Dated: Lucknow the

15th day of Jan. 1990

R.P.Srivastava
Applicant

(P)

BEFORE THE ADMINISTRATIVE TRIBUNAL LUCKNOW

BENCH LUCKNOW.

5A 14/90 (C)

Central Administrative Tribunal

Circuit Bench Lucknow

Date of Filing

15-1-90

Date of Receipt by Post.....

h Deputy Registrar(J)

Dr. Ram Prakash Srivastava, aged
about 49 years son of Sri Ram
Late
Ghulam Srivastava resident of
A-601 Indiranagar, Lucknow.

Petitioner

Versus

1. The Director General,
Indian Council of Agricultural
Research, New Delhi.
2. ~~The~~ Dr. I. S. Yadav, adult in age,
father's name not known to the
petitioner Project Coordinator,
All India ~~Fruit~~ ^{Improvement} Fruit India Project
B-217 Indiranagar, Lucknow.

R.P.Srivastava

Respondents

1. Details of the Application

(AO)

.2.

1) Particulars of the order against which the application is made.

Against the Office Order No.52-2/80-Per-III dated 5th 11th Jan. 1990 passed by the respondent No.1 whereby the petitioner has been reverted from the post of the Director Central Institute of Horticulture for Northern Plains,Lucknow and the respondent No.2 has been appointed in place of the petitioner whereby orders issued in letter No.8-7/77-Per.IV dated 27th Dec. 1979 and No.8-9/77 -Per-IV dated 15th May 1986 by the Indian Council of Agricultural Research Krishiv Bhawan New Delhi have been violated.

2. Jurisdiction of the Tribunal.

The applicant declares that the subject matter against which he wants a redress is within the jurisdiction of the Tribunal.

3. Limitation

The applicant further declares that the application is within limitation prescribed in Section 21(3) of the Administrative Tribunal Act, 1985, for the following sufficient reasons.

4. Facts of the Case:

i) That the petitioner had done his Research pertaining to the Mango Crop as such he was awarded Ph.D degree. The petitioner stood appointed as a Research Assistant in the Indian Agricultural Research Institute, New Delhi.

ii) That the petitioner stood promoted to the Scientist grade-II w.e.f. 1976. However, he stood

R.P.Srivastava

transferred to Lucknow in earstwhile Central Mango Research Station from Central Rice Institute, Cuttak in the year 1977. The petitioner stood further promoted to Scientist grade-III w.e.f. 1st of July 1983. It is further clarified that the name of the institute was changed ~~from~~ and the Central Mango Research Station was upgraded to fulfledged institute called as Central Institute for Horticulture for Northern Plains, Lucknow.

iii) That the petitioner is still holding the aforesaid status of Scientist Grade-III. As aforesaid the aforesaid institute was up-graded and is being run with the object of making the research, particularly in respect of mangoes. The petitioner therefore, draws the attention of this Hon'ble Tribunal that the petitioner had done his Research in the aforesaid subject and submitted various Research papers in Mango subject.

iv) That the respondent No.1 by virtue of its decision framed the rules by which it was provided as to who will be the person entitled to be promoted or appointed to the post of the Director of the said institute on the occurrence of the vacancy.

The copy of the said decision dated 27th Dec. 1979 is being annexed as ANNEXURE-1 to this petition.

The reading of the aforesaid rule will show that the Project Coordinator cannot be entrusted with the responsibility to look after the duties of the Director in the latter's absence. It was also stated in the said letter that as the Coordinated Projects have an all India bearing, thus on account of heavy work load upon them the aforesaid responsibility of the Director cannot be thrown on his ~~borders~~ and

RPSrivastava

shoulder and as such such person was debarred from becoming the Director of the institute. The result therefore, was that if the vacancy had arisen on account of the leave of the Director or the deputation or otherwise then one Senior most officer of the institute Headquarter would be entrusted the work of the Director.

v) That the respondent No.1 however, has modified the aforesaid rule by virtue of the order dated 15th May 1986 the copy of which is being annexed as ANNEXURE-2 to this petition. The respondent No.1 by this order modified the aforesaid order dated 27th Dec. 1979 that Project Coordinators/Project Directors when located at the Headquarters of the Institute may also be considered alongwith other Senior Scientists of the Institute for making local arrangements in the absence of Director provided his absence is not for morethan 45 days. From the above it would thus become entitled that the Project Coordinators/Project Directors were made entitled for consideration on the post of Director when the vacancy is not for morethan 45 days. It thus reiterated that the right of consideration was conferred to the Project Coordinators but only for the vacancies which used to be occurred for less than 45 days. This condition was binding for consideration of their names for the post of the Director.

RPSivasankar vi) That the aforesaid rule is still in operation in as much as no further decision has been taken by which the aforesaid two decisions could have been modified. The petitioner therefore, ~~km~~ seeks the leave of this Hon'ble Tribunal to submit that if the

(AB)

Vacancy exists for morethan 45 days then the Project Coordinators could not be taken into consideration and the right will be confined to the Senior Scientists only.

vii) That in the instant case the then Director Dr. K. C. Srivastava retired on 30th Nov. 1977 ^{not} therefore, the vacancy has/arisen on account of his proceeding on leave but the same had arisen on account of the retirement thus the fresh appointment was to be made. During the period the fresh Director was not appointed on regular basis the vacancy was arises and as such the aforesaid rule was applied to and the petitioner, ~~was~~ being the senior most scientist, was conferred with the right of holding the post of Director ~~xxx~~ 26th Nov. 1977 the copy of which is being annexed as ANNEXURE-3 to this writ petition.

viii) That the petitioner accordingly joined the post of the Director in the afternoon of 30th ^{November} ~~June~~ 1987 and maintained his status as Director till 28th Octr. 1988. It may further be submitted that the vacancy had arisen fo morethan 45 days therefore, no ^{Coordinator} project ~~Director~~ was entitled to be considered against this vacancy and as such the respondent No. 2 had no right as a result whereof the petitioner was rightly conferred with the right of officiating as a Director of the institute called as the RPSrivastava Central Institute of Horticulture for Northern plains. The respondent No. 2 also was satisfied with the aforesaid arrangement and he did not make any representation.

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ix) That as submitted hereinabove, the aforesaid post of the Director had fallen vacant on account of the retirement of the then Director as a result whereof an advertisement was made in various news papers inviting the applications from entitled scientists to apply for being considered to the post of the Director. The copy of one of the advertisements published in the news paper is being annexed as ANNEXURE-4 to this petition. In the aforesaid advertisement the educational qualification and other necessary qualifications were specified. The relevant part of the advertisement whereby the educational qualification was shown is also quoted hereunder:

"~~Doctorate Degree in any Agricultural Engineering~~
 * Doctorate in any discipline of Agricultural Sciences."

x) That the aforesaid advertisement also provided that the scientist should have the experience of 7 years as the scientist grade-III thus though the petitioner was educationally qualified but he was not holding the required experience and as such he could not be considered for the said post. However, the petitioner reiterates that he was educationally fully qualified and the said post was open for all the persons who have ~~passed~~ obtained their Doctorate degree in any discipline of Agricultural Sciences.

R.Sivasankar

pursuant
 xi) That ~~pertaining~~ to the aforesaid advertisement one Dr. C.P.A. Ayar stood appointed as the Director of the said institute. The said Director therefore,

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has taken the charge from the petitioner who was the then officiating Director. This charge was taken on 29th October 1988.

xii) That the aforesaid Director C.P.A.Ayar maintained his status upto 13th June 1989 when he again left the said post on his transfer to Indian Institute of Horticulture Research Bangalore.

xiii) That on account of the aforesaid situation the vacancy has arisen thus there was no alternative except to make the appointment on the said post by fresh selection. However, till the fresh regular selection the said post of the Director again fallen vacant and pursuant to the applicability of the aforesaid rule the petitioner, being the senior most scientist, was again appointed as an officiating Director w.e.f. 13th July 1989. The copy of the said order is being annexed as ANNEXURE-5 to this petition.

xiv) That in the aforesaid circumstances the post of the Director has not been fulfilled by way of regular selection/appointment and the vacancy still exists. The petitioner however, was afforded the opportunity of officiating on the said post pursuant to the aforesaid rules/orders. From the above circumstances it is also apparent that the vacancy has arisen for more than 45 days thus the respondent No.2 was not entitled to be considered for being appointed on the said post in the officiating capacity and thus the respondent No.1 has rightly given opportunity to officiate on the said post of the Director till the regular appointment is not made.

Replies due

xv) That the petitioner has come to know that the respondent No.2 ,this time, started to make effort to become Director in the officiating capacity, out of the way by inflicting political influence or otherwise and as such the petitioner submits that the respondent No.2 is the Project Coordinator of All India Coordinated Fruit Improvement Project located at the said institute at Lucknow. The respondent No.2 therefore, for the present purposes will be deemed to be the project Coordinator and as such he was not entitled to officiate as the Director either in the year 1987 or in the year 1989 or even till this date.

xvi) That the petitioner had proceeded on casual leave w.e.f. 11th Jan. 1990 for 4 days on account of the illness of his elder brother. The petitioner, however, has been communicated by his friends working in the said institute that the respondent No.2 has obtained an order/^{pursuant} to which the respondent is attempting to take the charge of officiating Director of the said institute. The petitioner, therefore, also succeeded to get the order ~~which~~ ^{which} has been passed by the respondent No.1 on 11th of Jan. 1990 the copy of which is being annexed as ANNEXURE-6 to this petition.

xvii) That the reading of the aforesaid order would show that the respondent No.2 has been directed to take the charge from the petitioner. It is further provided that the petitioner shall stand reverted from the date he shall handover the charge to the respondent No.2. The petitioner therefore, clarifies to this Tribunal that the petitioner has not yet handedover

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the charge therefore, the petitioner has not yet been reverted. ~~xx~~

xviii) That it is therefore, apparent that the petitioner is attempted to be reverted and in place of the petitioner the advantage is being afforded to the respondent No.2 who is not covered by any of the rule or the decision which the respondent No.1 could have taken in accordance with the principle of natural justice or by way of the rules which the respondent No.1 could have framed in accordance with law. The order passed by the respondent No.1 is therefore, ultravires and is malafide one. It is also submitted that no fault has been shown on the part of the petitioner in the aforesaid letter of appointment of the respondent No.2 nor there was anything which may create public exigency to replace the petitioner from the respondent No.2.

xix) That the petitioner further submits that the aforesaid rule are still in existence and therefore, it will be operative on the parties to this petition. The respondent No.1 therefore, does not have the power to ignore the terms of the said rule and make an order of appointment in favour of the respondent No.2 as a result whereof the petitioner is excluded to have the advantages and the rights which are conferred to him by way of the standing orders and he is put under punishment for no fault on his part.

xx) That , as indicated hereinabove the

Respectfully

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respondent No.2 is not entitled to hold the status as the officiating Director as the vacancy is not confined to less than 45 days because the Director has not proceeded on leave but the vacancy has arisen on account of the situation referred hereinabove. The aforesaid rule also clarifies that the respondent No.2 is the Project Coordinator therefore, having regard to the said rule it is not open for the respondent No.1 to take personal decision for the respondent No.2 to put him on the post of the Director in the officiating capacity. This procedure therefore, appears to be un-precedented. It is thus apparent that the respondent No.2 has not obtained the order in accordance with the rule or the discipline but he has obtained the aforesaid order by virtue of the resources which he has availed by getting political help or otherwise. This method therefore, is also bad.

xxi) That though it is not necessary for the petitioner to make submission but for the purposes of showing bonafide it would be necessary for the petitioner to submit that no such urgency has arisen as a result whereof the respondent No.2 is to be appointed to officiate as a Director of the said institute ~~as well~~ nor there exists any of the circumstances by which the petitioner could have been excluded to hold the status as the Director of the said institute.

R.Sivasankar

AP

xxii) That it may further be submitted that the respondent is continuing to hold the status as a Project Coordinator as the same would be evident on seeing the aforesaid order dated 11th Jan. 1990 but together with that status he has also been directed to hold the status as Officiating Director. This method is also un-fair and un-precedented in as much as the said is already holding the charge which itself is very heavy and his functioning are spread out all over India and only on account of this fact such persons were not allowed to hold the post of the Director as per the order dated 27th Dec. 1979.
 This therefore, shows that this order has been made by the respondent No.1 in favour of the respondent No.2 out of the way ignoring all the existing orders. This order therefore, has been made at the instance of the respondent No.2 and not with the application of the mind by the respondent in the interest of the institute as in this way the working of the institute will also suffer. The said order therefore, cannot be said to be administrative and in the public interest.

5. Grounds for relief with legal provisions

A. Because the Project Coordinator is not entitled to be considered for the post of the Director if the post is vacant for not more than 45 days but in the instant case the post is for more than 45 days as such the order of posting of the respondent No.2 on the post of the Director is absolutely illegal, void and unjustified

R.Srivastava

end 15/4/1986

42.

B. Because the order dated 15th May 1986 by which the condition has been stipulated for ~~max~~ the posting of the Project Director (Court of Law) if the post is vacant for not morethan 45 days has neither been altered or changed and the same is operative thus in the present circumstances since the post is for morethan 45 days the respondent No.1 has no authority or jurisdiction to appoint the respondent No.2 on the post of the Director and that too by reverting the petitioner. This action on the part is absolutely illegal,eroneous and against the standing orders and the rules applicable to the parties to this petition.

C. Because the petitioner was rightly promoted on the post of the Director in the year 1987 and in the year 1989 as per the existing rules thus the reversion of the petitioner from the post of the Director is absolutely against the principle of natural justice and also against the existing rules operative to the parties.

D. Because theref was no fault on the part of the petitioner and he was senior most scientist and also fully qualified ~~as a scientist~~ for the post of the Director, as is evident from the advertisement referred hereinabove thus his reversion without any rhyme or reason ~~was~~ and against the standing orders of the respondent No.1 is erroneous,illegal and malafide one.

(P)

E. Because the petitioner is more experienced for the post of the Director as he has already officiated ~~on~~ ^{November} the said post w.e.f. 30th ~~June~~ 1987 till 28th October 1988 and further this time he has taken the charge of the Director ~~w.e.f. 5th July~~ ^{13th June} 1989 and he is holding the said post till date thus there was no public exigency nor any administrative ground that the respondent No.2 could be posted by reverting the petitioner without showing any rhyme or reason and that too by violating the standing orders of the respondent No.1. The action therefore, on the part of the respondent No.1 is absolutely illegal and unconstitutional. ~~right~~

F. That by the aforesaid order dated 11th Jan. 1990 the Constitutional right of the petitioner has been effected and he has been reduced in rank and the status in order to make room to some other person who is not better qualified than the petitioner. The action therefore, of the respondent No.1 to revert the petitioner and to appoint the respondent No.2 arbitrarily is unconstitutional and bad in law.

G. Because the Project Coordinator was already shouldering the heavy duties and the responsibilities on account of which the said person was not allowed to hold the said charge of the Director by the orders dated 27th Dec. 1979, but in the instant case the respondent No.2 who too is the Project Coordinator has ^{been} assigned the duties

RPSivaselvam

(A2)

of the Director alongwith his existing duties of the Project Coordinator. This is also un-presended and would amount to loss to the institute as a person who is heavily loaded with the responsibility cannot be assumed to discharge the duties of the Director which is a fulpledged charge for the whole time. The aforesaid order therefore, has been passed only to oblige the respondent No.2 and also to put the petitioner under punishment.

H. Because there was no public exigency or fault on the part of the respondent by which the petitioner could be reverted from the post of Director thus the order of the respondent No.1 to revert the petitioner without any rhyme or reason is absolutely bad in law,unjustified and against the principle of natural justice.

I.) Because the aforesaid institute is mainly meant for the research in Mango and since the petitioner has done his Ph.D in Mango thus he is more qualified and experienced person than any other as such his reversion from the post of the Director is absolutely illegal, void and arbitrary besides malafide one.

J) Because the order of reversion of the petitioner and the posting of the ~~Mr.~~ respondent No.2 on the said post is absolutely illegal,invalid, void,without jurisdiction and is based on partialism.

K) Because the respondent No.1 is acting on

Reserves/Leave

R23

behalf of the State within the meaning of Article 12 of the Constitution and as such he cannot act arbitrarily or with malafide or with favouritism. The action therefore, on the part of the respondent No.1 to pass the order dated 11th Jan. 1990 whereby the petitioner has been attempted to be reverted and the respondent No.2 has been attempted to be placed on the post of the Director is absolutely illegal, unconstitutional, biased and based on favouritism.

6. Details of the remedies exhausted.

No remedy has been exhausted except this petition as the petitioner could have no opportunity to avail such remedy because during the period of casual leave the petitioner has been attempted to be reverted and the impugned order has been passed.

7. Whether the matter is pending elsewhere or the same was filed previously.

The matter was not filed previously nor the same is pending elsewhere.

8. Relief Sought:

xx) That in view of the facts stated in para 4 of the petition and the grounds in para 5 it is most respectfully prayed:

a) That the Hon'ble Tribunal may be pleased

RPSivasankar to quash the order dated 11th Jan. 1990 as annexed in annexure-6 to this ~~xxx~~ petition and

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further the petitioner's status as the Director of Central Institute of Horticulture for Northern Plains, Lucknow be not disturbed till the regular selection is made on the said post.

- b) Such other orders or directions be also issued as this Hon'ble court may deem fit and proper in the circumstances of the case.
- c) Cost of the petition be also awarded to the petitioner.

9. INTERIM PRAYER, if any.

That for the facts and the circumstances stated in the aforesaid claim petition it is prayed that the Hon'ble court may be pleased to stay the operation, affect and the implementation of the order dated 11th Jan. 1990 as contained in annexure-6 to the ~~xxx~~ petition and further the petitioner's status be not disturbed till the disposal of the petition or till the regular selection is made for the post of the Director of Central Institute of Horticulture for Northern Plains, Lucknow till the disposal of the petition and such other orders may also be passed as this Hon'ble court may deem fit and proper in the circumstances of the case.

R.Singh Law 10. Bank draft/Postal Order No. ~~02-489823~~

Date of issue 15.1.90

Name of the post office. High Court Bank

Dated: 15/1/90

R.Singh Law
Petitioner

Central Administrative Tribunal
Al diuknow
महोदय

ब अदालत श्रीमान
वादी (मुद्रा)
प्रतिवादी (मुद्रालेह)

का वकालतनामा



Dr Ram Prakash Guptam वादी (मुद्रा)

बनाम

Shreeram Lal Indian Council
of Revenue and Process New Delhi प्रतिवादी (मुद्रालेह)

नं० मुकदमा सन् १९ पेशी की ता० १९ इ०
ऊपर लिखे मुकदमा में अपनी ओर से श्री P.K. Khatri

Admcall, 25 Shuler Nagar एडवोकेट महोदय
+ P.C. Chauhan वकील वकील

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और
लिखे देता हूँ इस मुकदमा में वकील महोदय स्वयं अथवा अन्य
वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य
कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी
जारी करावें और रूपया वसूल करें या सुलहनामा या इकबाल
दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने
हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें
या कोई रूपया जमा करें या हमारी या विपक्ष (फरीकसानी) का
दाखिल किया रूपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती)
रसीद से लेवें या पंच नियुक्त करे - वकील महोदय द्वारा की
गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं
यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी
अपने पैरोकार को भेजता रहूगा अगर मुकदमा अदम पैरवी
में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मे-
दारी मेरी वकील पर न होगी । इसलिए यह वकालतनामा
लिख दिया कि प्रमाण रहे और समय पर काम आवे ।

RPSivasLan
हस्ताक्षर

साढ़ी (गवाह)..... साढ़ी (गवाह).....

दिनांक १८ महीना जून सन् १९९०

BEFORE THE ADMINISTRATIVE TRIBUNAL LUCKNOW

BENCH LUCKNOW.

O.A. No. 14 of 1990(L)

Dr. Ram Prakash Srivastava

Petitioner

Versus

The Director General ,
Indian Council of Agricultural
Research, New Delhi and another.

Respondents

Compilation-B

Annexures

Pages

1. Annexure-1, True copy of order dated 27th Dec. 1979	1
2. Annexure-2, True copy of the order dated 15th May 1986.	2
3. Annexure-3, True copy of the order dated 26th Nov. 1987	3
4. Annexure-4, True copy of the advertisement.	4
5. Annexure-5, True copy of of the order dated July 5, 1989	5
6. Annexure-6, True copy of of order dated Jan. 11, 1990	6

Lucknow the

Signature of the Applicant

day of Jan. 1990

The Registrar CAT, Lucknow

INDIAN COUNCIL OF CULTURAL RESEARCH
KRISHI BHAVAN • NEW DELHI.

No. 8-9/77-Per. IV

Dated the 27th Dec., 1979.

To

The Directors/Project Directors
of all the Research Institutes.

Sub. Guidelines for making local arrangements during the
Director's absence on leave or on deputation-
clarifications regarding.

Sir,

Please refer to the Council's letter of even number
dated the 10th October, 1977 on the above cited subject.
A clarification has been sought whether a Chief Scientist
who has been given a personal scale of Rs. 1800-2250 working
in a Coordinated Project may be entrusted with the
responsibility to look after the duties of the Director in
his absence.

The matter has been examined and it has been decided
by the Controlling Authority that as the Coordinated Pro-
jects have an all India bearing, Project Coordinators/
Project Directors cannot be entrusted with the responsibility
to look after the duties of the Director in the latters
absence. If however, the Chief Scientist is the Head of a
Research Regional Centre, of the Institute he should also
be considered while making local arrangements during
the absence of the Director.

It has also been decided that when the absence of
the Director on leave/deputation etc. does not exceed one
month, one of the seniormost officers of the Institute Head-
quarters only should be entrusted with the current duties
on the Director. It is not necessary to get the incharge
of the sub-station etc. transferred to the Headquarters just
because he happens to be the seniormost in the entire
Institute as it will involve dislocation of work.

Yours faithfully,

Sd/-

R. Srinivasan
(P.V. NARASANKARAN)
DIRECTOR (PERSONNEL)

*Mesut
PC Kaur
1/1*

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN : NEW DELHI

No. 8-9/77-Per.-IV

Dated the 15th May, 1986.

A2S

To

The Directors/Project Directors
of all the Research Institutes.

Subject:- Guidelines for making local arrangements during
the Directors' absence on leave or on deputation -
Clarification regarding.

Sir,

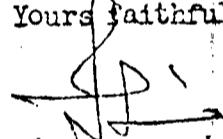
Please refer to the Council's letter of even number dated
the 27th December, 1979 on the above subject. It was clarified in
para 2 of the said letter that Project Coordinator/Project Directors
may not be entrusted with the responsibility of looking after the
duties of the Director in the latter's absence as they have an All
India bearing.

The matter has now been considered afresh and it has been
decided with the approval of the Director-General, ICAR that Project
Coordinators/Project Directors when located at the Headquarters of the
Institute may also be considered along with other Senior Scientists
of the Institute for making local arrangements in the absence of
Director provided his absence is not for more than 45 days.

Consequent on issue of the above instructions, para 2 of
the letter of even number dated the 27th December, 1979 stands
modified to this extent.

These orders will be given effect from the date of issue.

Yours faithfully,


(S.P. RAI)
SECRETARY, ICAR.

Copy forwarded to:-

1. The Secretary, AERB, New Delhi.
2. All PDGs/ADGs/Director(P)/Director(F).
3. P.S. to DG/P.S. to Secretary, ICAR.
4. AS(A)/AS(AR)/AS(AS)/DD(P)/DD(F)/DD(R).
5. All Under Secretaries/SA(R)/SA(V)/SA(M)/D.O.(P).
6. A.O.I/I1/CDN(A&A)/Audit I/II/Per.I/II/III.
7. All Ext. Estt. Sections/All Estt. Sections.
8. Secretary, Official Side, CJSC, ICAR.
9. Secretary, Staff Side, CJSC, ICAR, Headquarter (Shri Bhagwan).
10. Personal Section of Minister(A&RD).

R.S. RAI

FOR SECRETARY, ICAR

*sent via
peier
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(3)

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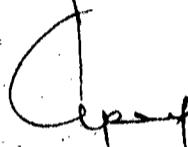
Indian Council of Agricultural Research
Krishi Bhawan, New Delhi-1

F.No.52(2)/87-Per.I Dated the 26th Nov., 1987

OFFICE ORDER

It has been decided with the approval of Director General, ICAR that consequent upon the retirement of Dr. K. C. Srivastava, Director, Central Institute of Horticulture for the Northern Plains, Lucknow with effect from 30.11.1987 (A.N.), Dr. R.P. Srivastava, Scientist S-3 will look after the current charge of the post of Director, Central Institute of Horticulture for the Northern Plains, Lucknow with effect from 1.12.1987 till the post of Director, C.I.H.N.P. is filled up on regular basis through A.S.R.B. or till further orders which ever is earlier. Dr. R.P. Srivastava will exercise all administrative and financial powers delegated to the Director of the ICAR Institutes.

He will not get any extra remuneration for looking after the current charge of the post of Director, C.I.H.N.P., Lucknow.


(K.L. BOKOLIA)
DEPUTY DIRECTOR(P)

Distribution:-

1. The Director, Central Institute of Horticulture for the Northern Plains, Lucknow.
2. Dr. R.P. Srivastava, Scientist S-3, C.I.H.N.P., Lucknow.
3. Per.II/EE.V Section.
4. Guard file.
5. Accounts Officer, C.I.H.N.P., Lucknow.

R.P.Srivastava

Alburt
P. Venkatesh
1/87

Applications are invited for the following posts in Agricultural Sciences and other fields under the different Research Institutes and the Headquarters of the Indian Council of Agricultural Research.

INDIAN AGRICULTURAL RESEARCH INSTITUTE, NEW DELHI

1. Joint Director S-5 (Extension) (One post) Rs.2000-2500 (Pre-revised) at IARI, New Delhi. Age: Below 55 years.

Qualifications Essential: (i) Doctorate in any of the branches basic to Agricultural Sciences but preferably in Agricultural Extension. (ii) At least 12 years' Research/Teaching/Extension experience at post-graduate level, of which 7 years' experience should be at least at S-3 level or equivalent pay including at least 3 years' as Director/Head of Division/Research Project Coordinator/Joint Director/ADG/Head of the Department or an equivalent post in a University in the Professor's scale. (The experience in research/teaching/Extension is to be reckoned from the date the candidate has completed his Master's Degree and will include the period, not exceeding 3 years, spent to obtain Doctorate Degree). (iii) A record of productive research as evidenced by published work.

2. Project Director (S-5) (Water Technology Centre) (One post) Rs.2000-2500 (Pre-revised) at IARI, New Delhi. Age : Below 55 years.

Qualifications Essential: (i) Doctorate Degree in Agricultural Engineering/Agronomy/Soil Science with specialisation in water management/irrigation/drainage. (ii) At least 12 years' Research/Teaching experience at post-graduate level, of which 7 years' experience should be at least at S-3 level or equivalent pay including at least 3 years' as Director/Head of Division/Research Project Coordinator/Joint Director/ADG/Head of the Department or an equivalent post in a University in the Professor's scale. (The experience in Research/Teaching is to be reckoned from the date the candidate has completed his Master's Degree and will include the period not exceeding 3 years spent to obtain Doctorate Degree). (iii) A record of productive research as evidenced by published work.

SUGARCANE BREEDING INSTITUTE, COIMBATORE

3. Director S-5 (One post) Rs.2000-2500 (Pre-revised) at S.B.I., Coimbatore. Age: Below 55 years.

Qualifications Essential: (i) Doctorate degree in any branch of Agricultural Sciences. (ii) & (iii) as in item 2 above.

NATIONAL RESEARCH CENTRE ON MEAT AT INDIAN VETERINARY RESEARCH INSTITUTE, IZATNAGAR.

4. Project Director S-5 (One post) Rs.2000-2500 (Pre-revised) at N.R.C.M. at I.V.R.I., Izatnagar. Age : Below 55 years.

Qualifications Essential: (i) Doctorate in Livestock Production Technology with specialization in Meat Science/Food Science and with specialization in Meat Production Technology. (ii) & (iii) as in

NATIONAL INSTITUTE ON ANIMAL GENETICS, KARNAL

5. Director (One post) Rs.2000-2500 (Pre-revised) (Candidate of outstanding ability may be recommended the higher pay scale of Rs.2500-3000) at N.I.A.G., Karnal. Age : Below 55 years.

Qualifications Essential: (i) Doctorate in Animal Genetics & Breeding. (ii) & (iii) as in item 2 above.

INDIAN AGRICULTURAL RESEARCH INSTITUTE, NEW DELHI

6. Project Director (Agro-Energy Centre) (One post) Rs.2000-2500 (Pre-revised) at I.A.R.I., New Delhi. Age : Below 55 years.

Qualifications Essential: Doctorate in any branch of Agricultural Sciences and Agricultural Engineering or any discipline cognate to agriculture. (ii) & (iii) as in item 2 above.

NATIONAL RESEARCH CENTRE FOR SPICES, CALICUT (KERALA)

7. Director S-5 (One post) Rs.2000-2500 (Pre-revised) at N.R.C.S. Calicut (Kerala). Age : Below 55 years.

Qualifications Essential: (i) Doctorate in any branch of Agriculture/Horticulture.. (ii) & (iii) as in item 2 above.

CENTRAL INSTITUTE OF HORTICULTURE FOR THE NORTHERN PLAINS, LUCKNOW.

8. Director S-5 (One post) Rs.2000-2500 (Pre-revised) at C.I.H.N.P., Lucknow. Age : Below 55 years.

Qualifications Essential: (i) Doctorate in any discipline of Agricultural Sciences. (ii) At least 12 years' Research/Teaching experience at post-graduate level in Horticultural Sciences of which 7 years' experience should be at least at S-3 level or equivalent pay including at least 3 years as Director/Head of Division/Research Project Coordinator /Joint Director/ADG/Head of the Department or an equivalent post in a University in the Professor's scale. (The experience in research/teaching is to be reckoned from the date the candidate has completed his Master's Degree and will include the period not exceeding 3 years spent to obtain Doctorate Degree). (iii) A record of productive research in Horticultural Sciences as evidenced by published work.

CENTRAL INSTITUTE OF BRACKISHWATER AQUACULTURE, MADRAS

9. Director S-5 (One post) Rs.2000-2500 (Pre-revised) (The candidate of outstanding ability may be granted the next higher pay scale of Rs.2500-3000 on the recommendations of the ASRB) at C.I.B.A., Madras. Age : Below 55 years.

Qualifications Essential: (i) Doctorate in Zoology/Fisheries/Marine

CENTRAL INSTITUTE FOR COTTON RESEARCH, NAGPUR

10. Director (One post) Rs.2000-2500 (Pre-revised) at C.I.C.R. Nagpur. Higher pay scale may be recommended by ASRB for specially qualified & experienced candidates. Age : Below 50 years.

Qualifications Essential: (i) Doctorate in any branch of Agricultural Sciences. (ii) At least 10 years' Research/Teaching experience at post-graduate level, of which at least 5 years' experience should be at S-3 level or equivalent pay (the experience in research/training is to be reckoned from the date the candidate has completed his Master's Degree and will include the period, not exceeding 3 years, spent to obtain Doctorate Degree). (iii) Managerial experience of at least 3 years' as Head of the Division/Research Project Coordinator/Head of the Regional Station/Joint Director/Research Project Leader in S-3 level or Head of the Department in a University in the grade of Professor/Associate Professor.

CENTRAL PLANTATION CROPS RESEARCH INSTITUTE, KASARAGOD.

11. Director S-5 (One post) Rs.2000-2500 (Pre-revised) (A person of outstanding ability may be given higher grade of Rs.2500-3000 (pre-revised) on the recommendations of ASRB) at C.P.C.R.I., Kasaragod. Age : Below 55 years.

Qualifications Essential: (i) Doctorate in any branch of Agricultural Sciences. (ii) & (iii) as in item 2 above.

JUTE TECHNOLOGICAL RESEARCH LABORATORIES, CALCUTTA

12. Director S-5 (One post) Rs.2000-2500 (Pre-revised) at J.T.R.L., Calcutta. Age : Below 55 years.

Qualifications Essential: (i) Doctorate in Fibre Technology/Post Harvest Engineering and Technology/Chemical Technology/Applied Chemistry/Applied Physics. (ii) & (iii) as in item 2 above.

CENTRAL TUBER CROPS RESEARCH INSTITUTE, TRIVANDRUM

13. Director S-5 (One post) Rs.2000-2500 (Pre-revised) at C.T.C.R.I., Trivandrum. Age : Below 55 years.

Qualifications Essential: (i) Doctorate Degree in any branch of Agricultural Sciences. (ii) & (iii) as in item 2 above.

NATIONAL RESEARCH CENTRE FOR AGRO-FORESTRY, JHANSI

14. Director S-4 (One post) Rs.1800-2250 (Pre-revised) (A person of outstanding ability may be given higher grade of Rs.2000-2500) at N.R.C.A., Jhansi. Age : Below 50 years.

Qualifications Essential: (i) Doctorate in any branch of Agriculture/Plant Sciences/Forestry. (ii) At least 10 years' experience in research/teaching at post-graduate level in any field related to Agro-forestry system of which at least 5 years' experience should be at S-3 level or equivalent pay (the experience in research/training is to be reckoned from the date the candidate has completed his Master's Degree and will include the period not exceeding 3 years, spent to obtain the Doctorate Degree). (iii) Managerial experience of at least 3 years' as Head of the Division/Research Project Coordinator/Head of the Regional Station/Joint Director/Research Project Leader in S-3 level or holding a Senior Scientist post (S-3) or Head of the Department in a University in the grade of Professor/Associate Professor in the field of transfer of technology/Agricultural Extension.

15. Asstt. Director General (S-4) (United Nations Development Programme) (One post) Rs.1800-2250 (Pre-revised) Higher pay scale may be recommended by ASRB for specially qualified & experienced candidates. Age : Below 50 years.

Qualifications Essential: (i) Doctorate in any branch of Agricultural Sciences. (ii) At least 10 years' Research/Teaching experience at post-graduate level, of which at least 5 years' experience should be at S-3 level or equivalent pay (the experience in research/training is to be reckoned from the date the candidate has completed his Master's Degree and will include the period, not exceeding 3 years, spent to obtain Doctorate Degree). (iii) Managerial experience of at least 3 years' as Head of the Division/Research Project Coordinator/Head of the Regional Station/Joint Director/Research Project Leader in S-3 level or Head of the Department in a University in the grade of Professor/Associate Professor.

16. Zonal Coordinator (Lab to Land) (One post) Rs.1800-2250 (Pre-revised) at Punjab Agricultural University, Ludhiana, under ICAR (HQRS). Age : Below 50 years.

Qualifications Essential: (i) Doctorate in any branch of Agricultural Sciences. (ii) At least 10 years' research/training extension experience at post-graduate level of which at least 5 years' experience should be at S-3 level or equivalent pay (the experience in research/training is to be reckoned from the date the candidate has completed his Master's Degree and will include the period not exceeding 3 years, spent to obtain Doctorate Degree). (iii) Managerial experience of at least 3 years' as Head of the Division/Research Project Coordinator/Head of the Regional Station/Joint Director/Research Project Leader in S-3 level or holding a Senior Scientist post (S-3) or Head of the Department in a University in the grade of Professor/Associate Professor in the field of transfer of technology/Agricultural Extension.

NATIONAL BUREAU OF PLANT GENETIC RESOURCES, NEW DELHI

17. Joint Director S-4 (Tissue Culture Repository) (One post) Rs. 1800-2250 (Pre-revised) at NBPGR, New Delhi. Higher pay scale in S-5 may be recommended by ASRB for specially qualified and experienced candidates. Age : Below 50 years.

Qualifications Essential: (i) Doctorate in any branch of Crop Sciences. (ii) & (iii) as in item 15 above.

NATIONAL RESEARCH CENTRE ON SOYBEANS, INDORE (MP)

18. Director S-4 (One post) Rs.1800-2250 (Pre-revised) at N.R.C.S., Indore (M.P.). Age : Below 50 years.

Qualifications Essential: (i) Doctorate in any branch of Crop Sciences. (ii) & (iii) as in item 15 above.

NATIONAL RESEARCH CENTRE ON SOYBEANS, INDORE (MP)

18. Director S-4 (One post) Rs.1800-2250 (Pre-revised) at N.R.C.S., Indore (M.P.). Age : Below 50 years.

Qualifications Essential: (i) Doctorate in any branch of Crop Sciences. (ii) & (iii) as in item 15 above.

NATIONAL RESEARCH CENTRE ON SOYBEANS, INDORE (MP)

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Qualifications Essential: (i) Doctorate in any branch of Crop Sciences. (ii) & (iii) as in item 15 above.

NATIONAL RESEARCH CENTRE ON SOYBEANS, INDORE (MP)

18. Director S-4 (One post) Rs.1800-2250 (Pre-revised) at N.R.C.S., Indore (M.P.). Age : Below 50 years.

Qualifications Essential: (i) Doctorate in any branch of Crop Sciences. (ii) & (iii) as in item 15 above.

NATIONAL RESEARCH CENTRE ON SOYBEANS, INDORE (MP)

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN : NEW DELHI-1.

No. 52-1/84-Per.I

Dated the 5 July, 1989.

OFFICE ORDER

The President, Indian Council of Agricultural Research is pleased to appoint Dr. R.P. Srivastava, Scientist S-3, Central Institute of Horticulture for Northern Plains, Lucknow as Director, C.I.H.N.P., Lucknow on officiating basis in the pay scale of Rs. 4500-150-5700-200-7300 with effect from the afternoon of 13th June, 1989, till the post is filled up on regular basis or till further orders.

(S. Vasudev)
3789 (S. Vasudev)
Director (P)

Distribution:-

1. Dr. R.P. Srivastava, Director, C.I.H.N.P., Lucknow.
2. Accounts Officer, C.I.H.N.P., Lucknow.
3. DDG(H)/Director (P)
4. Directors/ Project Directors of all the Research Institutes.
5. All Officers including ASRB.
6. All Sections including ASRB.
7. Per.II/EE. V Sections.
8. ADG (CSC)/C.R. Cell/Computer Cell
9. Personal file
10. Guard file.
11. Spare copies (5).

Service book

Medical
Perveen
KAN
18/1

R.P. Srivastava

ANNEXURE NO. 6

6
AB2

(6)

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN : NEW DELHI

F.No. 52-5/89-Per, III

Dated the 16 Jan., 1990

OFFICE ORDER

The President, Indian Council of Agricultural Research, is pleased to appoint Dr. I.S. Yadav as Officiating Director, Central Institute of Horticulture for Northern Plains, Lucknow with effect from the date of his taking over charge in addition to his present duties as Project Co-ordinator until a regular Director joins the position or further orders, whichever is earlier.

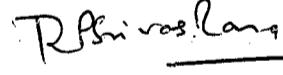
Consequently, Dr. R.P. Srivastava will stand reverted to his parent position as Scientist S-3 (pre-revised) from the date of handing over charge to Dr. I.S. Yadav.



(O.P.KUMAR)
UNDER SECRETARY (K)

Distribution :-

1. Dr. I.S. Yadav, Project Coordinator, C.I.H.N.P., Lucknow.
2. Dr. R.P. Srivastava, S-3, C.I.H.N.P., Lucknow.
3. Director, I.I.H.R., Bangalore.
4. The Accounts Officer, C.I.H.N.P., Lucknow.
5. The Accounts Officer, I.I.H.R., Bangalore.
6. EE-V, Section.
7. Guard file.
8. Personal file.
9. Spare copies (5).



P.K.S
11.1.90


P.K.S.

(R33)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW CIRCUIT BENCH
LUCKNOW

Case No.O.A.No.14(L) of 1990

Dr.R.P.Srivastava

....Petitioner.

Versus

Director General, ICAR and one another...Opp.Parts.

Written Statement on behalf of Respondent No.1,
Dr.N.S.Randhawa, Director General, ICAR, Krishi Bhavan,
New Delhi.

The answering Respondent No.1, most respectfully
submit as follows:-

1. That the contents of para 1 as stated are not admitted. It is denied that the impugned order is violative of the Council's Order mentioned therein.
2. That the contents of Para 2 & 3 need no comments.
3. That in reply to para 4(i), it is submitted that the applicant is M.Sc.(Zoology) and Ph.D. in Entomology.
4. That the contents of para 4(ii) need no comments being matter of record.
5. That in reply to para 4(iii), it is submitted that the applicant was appointed as Scientist S-3 on 1st July 1983 and continuing as such till today. It may further be submitted that the Institute where the applicant is working is called the Central Institute of Horticulture for Northern Plains, Lucknow and the Scientists working in this Institute are required to work on the horticultural crop including Mango.

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6. That in reply to para. 4 (iv), it is stated that the guidelines contained in Annexure-I were further clarified by the respondents vide letter No. 8-9/77-Per.4, dated 15th May, 1986, whereby it was decided with the approval of the Director General, ICAR, that the Project Co-ordinators/Project Directors when located at the headquarters of the Institute may also be considered alongwith other senior Scientists of the Institute for making local arrangement in the absence of Director, provided his absence is not for more than 45 days. It is, however, amply clear that there is no bar under the guide-lines referred to by the applicant himself for the appointment of Project Co-ordinator for being considered alongwith other senior Scientists of the Institute for making arrangement to the post of Director. In the instant case, the respondent No. 2 has been found to be the senior most Scientist and as such, he has been appointed as the Officiating Director of the Institute by the President, ICAR. It may further be submitted that the guide-lines referred to above, have been issued for the guidance of the Directors to make local arrangements during their absence on leave/deputation which does not have any bearing on the powers of the President, ICAR for making appointment of the Directors on officiating basis in any ICAR Institute. It may also be pertinent to mention here that the guide-lines referred to above are merely administrative instructions and have no statutory force and are therefore, not binding on respondent No. 1.

7. That in reply to para. 4 (v), it is submitted that as already submitted herein before in para. 4 (iv), Project Co-ordinators are very much eligible for being appointed as Officiating Director of ICAR Institutes. The contentions of the applicant

(A25)

Contrary to this are misconceived and not in accordance with the facts and circumstances of this particular case.

8. That in reply to para. 4 (vi), (vii) & (viii), it is submitted that consequent upon the retirement of Dr. K.C. Srivastava, the applicant was asked to look after the current charge of the post of Director as a stop-gap arrangement and there were no representations received at that time against this arrangement. However, consequent upon the leaving of the post of the Director by Dr. C.P.A. Iyer, the applicant was appointed as Officiating Director with effect from 13th June, 1989 against which Dr. I.S. Yadav, respondent No. 2 had represented. The representation of Dr. I.S. Yadav, respondent No. 2, was considered and it was decided with the approval of President, ICAR, to appoint Dr. I.S. Yadav as Officiating Director vice Dr. R.P. Srivastava vide order No. F.No. 52-5/89-Per.III, dated 11th Jan., 1990 and he ^{was} ~~was~~ ^{permitted to} assume the charge of the post of Director, CIHNP pursuant to the said order on 12th Jan., 1990 (forenoon) and is effectively discharging the duties of Director since then.

9. That in reply to para. 4 (xi) & (x), it is submitted that the qualifications for the post of Director, CIHNP have been revised with the approval of the governing body of respondent No. 1 and a fresh requisition for the advertisement for the post was sent to the Agricultural Scientists and Recruitment Board and the said post has been advertised on 3rd Feb., 1990. It may further be submitted that on his own admission, the applicant was not having the required experience for the post of the Director when advertised in 1988 and he does not fulfill the experience part of the qualification even now as per the qualifications mentioned in the advertisement dated 3rd Feb., 1990.
(Copy enclosed and marked as Annexure-I)

10. That the contents of para. 4 (xi) & (xii) need no comments being matter of record.

11. That the contents of para. 4 (xiii) need no comments in view of the submissions made herein before.

12. That in reply to para. 4 (xiv), it is submitted that as already mentioned herein before, the post of Director, CIHNP has been advertised and is likely to be filled shortly on regular basis through All India selection. It may be pertinent to point out here that the applicant has deliberately omitted to mention the last sentence of the office order No. F2-51/Per.I, dated 5.7.89 i.e. "till further orders", the absence of which gives altogether a different meaning. The verbatim of the office order is as follows :-

"The President, ICAR, is pleased to appoint Dr. R.P. Srivastava, Scientist S-3, Central Institute of Horticulture for Northern Plains, Lucknow, as Director, CIHNP, Lucknow on officiating basis in the pay scale of Rs. 45-150-5700-200-7300 with effect from afternoon of 13.6.89, till the post is filled up on regular basis or till further orders".

13. That in reply to para. 4 (xv), it is submitted that the applicant has levelled wild allegations which are false and baseless and hence emphatically denied. It is also denied that as Project Co-ordinator, the respondent No. 2 is not entitled to be appointed as Director in view of the submissions already made herein before.

14. That in reply to para. 4 (xvi) & (xvii), it is submitted that pursuant to the order dated 11.1.90, respondent No. 2 was permitted to assume the charge of the post of Director, CIHNP, Lucknow on

(A3)

12.1.90 (forenoon) and he had informed the answering respondent on telephone on the same day followed by a written intimation about the same.

15. That in reply to para. 4 (xviii), it is submitted that Dr. I.S. Yadav, respondent No. 2 being senior most Scientist of the Institute has been appointed as Director, CIHNP, Lucknow vice Dr. R.P. Srivastava by the President, ICAR. His appointment is neither ultravires nor malafide as alleged by the applicant. The seniority of Dr. I.S. Yadav over Dr. R.P. Srivastava is established beyond all doubt as mentioned below :-

Name	Date of appointment	Scientist 3	Scientist 4
		3700-5700 (pre-revised- 1500-2000)	4500-7300 (pre-revised- 1800-2250)
1. Dr. I.S. Yadav	2.3.62	5.5.77	1.1.83
2. Dr. R.P. Srivastava	12.2.64	1.7.83	-

It will thus be seen that the applicant is still in the scale of Rs. 3700/- whereas the respondent No. 1 is in the scale of Rs. 4500/- since 1.1.83

16. That the contents of para. 4 (xix) need no reply in view of the submissions already made in the foregoing paras.

17. That the contents of para. 4 (xx) are denied. Allegations against the answering respondent are false and baseless. The decision to appoint Dr. I.S. Yadav as the Director has been taken keeping in view his seniority and suitability to the post with the approval of the competent authority i.e. President, ICAR, and not by the answering respondent alone.

(A25)

18. That the contents of para. 4 (xii) are denied in view of the submissions made herein before.
19. The contents of para. 4 (xxii) are emphatically denied. It is, however, submitted that the impugned order is bonafide and has been passed after due application of mind and careful consideration of the seniority and suitability of the candidate and without any injustice having been caused to the applicant.
20. The contents of para. 5 of the applicant including the grounds A to K are denied. None of the grounds mentioned is tenable in view of the detailed submissions made in the foregoing paras of this written statement.
21. That in reply to para. 6, it is submitted that the petitioner has admittedly not exhausted the departmental remedies opened to him. The application is therefore premature and the same deserves to be rejected on this ground alone.
22. The contents of para. 7 need no comments.
23. The contents of para. 8 are denied. The petitioner

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(P.S.)

is not entitled to any of the reliefs prayed for by him and the application is devoid of merits and the same is liable to be dismissed with costs.

New Delhi
Feb. 1990

N.S. Randhwa
Dr. N.S. Randhwa
Director General, ICAR
Respondent No. 1

VERIFICATION

I, Dr. N.S. Randhwa, S/o Sh. Makhan Singh, aged about 63 years, working as Director General, Indian Council of Agricultural Research, Krishi Bhavan, New Delhi, do hereby verify that the contents of paras 1 to 21 are true to my knowledge derived from the records and paras 22 and 23 are believed to be true on legal advice and that I have not suppressed any material fact.

New Delhi
Feb. 1990

N.S. Randhwa
Dr. N.S. Randhwa
Director General, ICAR
Respondent No. 1

AGRICULTURAL SCIENTISTS RECRUITMENT BOARD (INDIAN COUNCIL OF AGRICULTURAL RESEARCH) KRISHI ANUSANDHAN BHAVAN, PUSA, NEW DELHI-12.

"The Pioneer", Lucknow, 3/2/90

Applications are invited for the following posts in Agricultural Sciences and other fields under the different Research Institutes and at the Headquarters of the Indian Council of Agricultural Research:

1. **Deputy Director (General Education), I.C.A.R. Headquarters, New Delhi, Rs. 7600/- (One post). Age: Below 55 years.**

Qualifications Essential: i) An eminent Scientist/Teacher having at least 20 years experience of research/teaching/extension education of which at least 8 years should be in the grade of Principal Scientist or an equivalent grade. ii) Good academic record with a doctoral degree in any branch of agricultural or allied sciences. iii) Evidence of substantial contribution to research and scholarship as evidenced by variety, product or technology developed or adopted as result of research; the quality of publication of papers in professional journals of repute; approved recommendations emanating from research or innovations in teaching/educational technology. iv) 5 years experience in co-ordination of agricultural education programmes.

2. **Director, Indian Institute of Sugarcane Research, Lucknow, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: An eminent Scientist with published work of high quality and actively engaged in research/teaching/extension education. ii) Good academic record with a doctoral degree in any discipline relevant to crop sciences. iii) 15 years experience (excluding the period spent in obtaining the Ph.D. Degree subject to a maximum of 3 years) of research/teaching/extension education out of which at least 5 years should be as a Principal Scientist or in an equivalent grade. iv) Evidence of substantial contribution to research and scholarship as evidenced by variety product or technology developed or adopted as result of research; the quality of publication of papers in professional journals of repute; approved recommendations emanating from research or innovations in teaching/educational technology. v) Specialisation in the field of Sugarcane research with proven ability to manage and co-ordinate research activities.

3. **Director, Indian Lac Research Institute, Ranchi, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: As in Item No. 2 above. ii) Good academic record with a doctoral degree in Polymer, Organic, applied or Physical Chemistry or Zoology and/or Entomology or relevant subject. iii) 15 years experience (excluding the period spent in obtaining the Ph.D. Degree subject to a maximum of 3 years) of research/teaching/extension education, industry in the above fields of specialisation, out of which at least 5 years should be as a Principal Scientist or in an equivalent grade. iv) As in Item No. 2 above.

4. **Director, Central Soil & Water Conservation Research & Training Institute, Dehradun, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) As in Item No. 2 above. ii) Good academic record with a doctoral degree in Agriculture/Engineering/related sciences basic to soil and water conservation. iii) As in Item No. 2 above. iv) Evidence of substantial contribution to research and scholarship as evidenced by the quality of publications in professional journals of repute; recommendations emanating from research or innovations in teaching/educational technology. v) Specialisation in Water and established reputation in the area of Soil and Water Conservation and Watershed Management.

5. **Director, National Research Centre on Soyabean, Indore, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) As in Item No. 2 above. ii) Good academic record with a doctoral degree in any field relevant to Crop Sciences. iii) As in Item No. 2 above. iv) As in Item No. 2 above. v) Research, experience and significant contribution in Soyabean/Oilsseeds.

6. **Director, Cotton Technological Research Laboratory, Bombay, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) An eminent Scientist with published work of high quality and actively engaged in research/teaching/extension education with specialisation in Cotton Technology/Fibre Technology/Textile Technology. ii) Good academic record with a doctoral degree in any branch of Agricultural/Basic/Engineering Sciences. iii) As in Item No. 3 above. iv) As in Item No. 2 above.

7. **Director, National Centre for Mushroom Research and Training, Solan, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) An eminent Scientist with published work of high quality and actively engaged in research/teaching/extension education in mushrooms. ii) Good academic record with a doctoral degree in Mycology/Plant Pathology/Microbiology. iii) 15 years experience (excluding the period spent in obtaining the Ph.D. Degree subject to a maximum of 3 years) of research/teaching/extension education in mushroom improvement/Production Technology out of which at least 5 years should be as a Principal Scientist or in an equivalent grade. iv) As in Item No. 2 above.

8. **Director, Central Institute of Agricultural Engineering, Bhopal (M.P.), Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) As in Item No. 2 above. ii) Good academic record with a doctoral degree in Agricultural Engineering/Engineering with specialisation in Farm Machinery & Power. iii) 15 years experience (excluding the period spent in obtaining the Ph.D. Degree subject to a maximum of 3 years) of research/teaching/extension education, and industry from Farm Machinery & Power out of which at least 5 years should be as a Principal Scientist or in an equivalent grade. iv) As in Item No. 2 above.

9. **Project Director, National Research Centre on Meat at Indian Veterinary Research Institute, Izatnagar, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) As in Item No. 2 above. ii) Good academic record with a doctoral degree in Meat Technology/Livestock production & Technology. iii) As in Item No. 2 above. iv) As in Item No. 2 above. v) Specialisation in Meat Processing Technology.

10. **Joint Director (CADRAD), I.V.R.I. Izatnagar, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) As in Item No. 2 above. ii) Good academic record with a doctoral degree in any area related to Animal Health viz. Veterinary Pathology, Microbiology (Bacteriology/Virology/Parasitology/ Epidemiology). iii) As in Item No. 2 above. iv) As in Item No. 2 above. v) Specialisation in Disease Diagnostics.

11. **Director National Research Centre for Spices, Calicut, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) An eminent Scientist in Horticulture/Plantation Crops with published work of high quality and actively engaged in research/teaching/extension education. ii) Good academic record with a doctoral degree in any branch of agricultural sciences. iii) 15 years' experience (excluding the period spent in obtaining the Ph.D. Degree subject to a maximum of 3 years) of research/teaching/extension education in Horticulture/Plantation Crops out of which at least 5 years should be as a Principal Scientist or in an equivalent grade. iv) As in Item No. 2 above.

12. **Director, Central Potato Research Institute, Shimla, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) An eminent Scientist in Horticulture with published work of high quality and actively engaged in research/teaching/extension education. ii) As in Item No. 11 above. iii) 15 years' experience (excluding the period spent in obtaining the Ph.D. Degree subject to a maximum of 3 years) of research/teaching/extension education in Potato/Tuber Crops/Vegetable crops out of which at least 5 years should be as a Principal Scientist or in an equivalent grade. iv) As in Item No. 2 above.

13. **Director, Indian Institute of Horticultural Research, Bangalore, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) As in Item No. 12 above. ii) As in Item No. 11 above. iii) 15 years' experience (excluding the period spent in obtaining the Ph.D. Degree subject to a maximum of 3 years) of research/teaching/extension education in horticultural crops out of which at least 5 years should be as a Principal Scientist or in an equivalent grade. iv) As in Item No. 2 above.

14. **Director, Central Institute of Horticulture for Northern Plains, Lucknow, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) As in Item No. 12 above. ii) As in Item No. 11 above. iii) As in Item No. 13 above. iv) As in Item No. 2 above.

15. **Director, National Research Centre on Cashew, Pudur, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) As in Item No. 11 above. ii) As in Item No. 11 above. iii) As in Item No. 11 above. iv) As in Item No. 2 above.

16. **Project Director, Project Directorate on Vegetables (Location yet to be decided), Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) An eminent Scientist in Horticulture/Olericulture with published work of high quality and actively engaged in research/teaching/extension education. ii) As in Item No. 11 above. iii) 15 years' experience (excluding the period spent in obtaining the Ph.D. Degree subject to a maximum of 3 years) of research/teaching/extension education in vegetable crops, out of which at least 5 years should be as a Principal Scientist or in any equivalent grade. iv) As in Item No. 2 above.

17. **Director, Central Research Institute for Dryland Agriculture, Hyderabad, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) As in Item No. 2 above. ii) Good academic record with a doctoral degree in any branch of Agriculture and related Sciences. iii) As in Item No. 2 above. iv) As in Item No. 2 above. v) Specialisation in the area of rainfed Farming Systems and relevant experience cognate to research in rainfed agriculture.

18. **Joint Director (Research), I.A.R.I., New Delhi, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) As in Item No. 2 above. ii) Good academic record with a doctoral degree in any field of agricultural sciences or related discipline. iii) As in Item No. 2 above. iv) As in Item No. 2 above. v) Experience in research programme planning, coordination and management.

19. **Joint Director-cum-Officer-in-Charge, Indian Veterinary Research Institute, Bangalore, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) As in Item No. 2 above. ii) Good academic record with a doctoral degree in Veterinary. iii) As in Item No. 2 above. iv) As in Item No. 2 above. v) Specialisation in Virology, especially on vaccine development.

20. **Assistant Director General (Centre-State-Cooperation), I.C.A.R. Headquarters, New Delhi, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) As in Item No. 2 above. ii) Good academic record with a doctoral degree in any discipline of agriculture or allied sciences. iii) As in Item No. 2 above. iv) As in Item No. 2 above. v) Experience in monitoring and coordination of research programmes in agriculture.

21. **Assistant Director General (PIU), I.C.A.R. Headquarters, New Delhi, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) As in Item No. 2 above. ii) Good academic record with a doctoral degree in any field of agricultural sciences. iii) As in Item No. 2 above. iv) As in Item No. 2 above. v) Experience in coordination of the work relating to formulation, implementation and monitoring of research projects.

22. **Assistant Director General (National Agricultural Research Project) (NARP-II), I.C.A.R. New Delhi, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) As in Item No. 2 above. ii) Good academic record with a doctoral degree in any branch of agriculture or related science. iii) As in Item No. 2 above. iv) As in Item No. 2 above. v) Experience in management, monitoring and coordination of agricultural research projects.

23. **Assistant Director General (Plan Implementation and Monitoring), I.C.A.R. New Delhi, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) As in Item No. 2 above. ii) Good academic record with a doctoral degree in any branch of agriculture and allied science. iii) As in Item No. 2 above. iv) As in Item No. 2 above. v) Experience in coordination, monitoring and evaluation of Agricultural Research Projects.

24. **Assistant Director General (Home Science), I.C.A.R. Headquarters, New Delhi, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) An eminent Scientist in Home Science with experience in educational management/teaching/research/extension education in any branch of Home Science. ii) Good academic record with doctoral degree in any branch of Home Science. iii) As in Item No. 2 above. iv) Evidence of substantial contribution in teaching/research/extension education as evidenced by published work. v) Experience in co-ordination and management of Home Science/research/or extension education.

25. **Assistant Director General (Animal Science Education), I.C.A.R. New Delhi, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) An eminent scientist with published work of high quality. ii) Good academic record with a doctoral degree in Dairy/Veterinary/Animal Science/Fisheries Sciences or in any branch of animal sciences. iii) As in Item No. 2 above. iv) As in Item No. 2 above. v) Experience in co-ordination and management of Veterinary/Animal Science educational programmes.

26. **Assistant Director General (Education), I.C.A.R., Hqrs., New Delhi, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) As in Item No. 2 above. ii) As in Item No. 11 above. iii) 15 years' experience (excluding the period spent in obtaining the Ph.D. Degree subject to a maximum of 3 years) of research/teaching/extension education, out of which at least 5 years should be as a Principal Scientist or in an equivalent grade. iv) Evidence of substantial contribution in Education/Extension Education as evidenced by published work. v) An agricultural educationist/scientist with experience in educational management/teaching/research/extension education.

27. **Project Coordinator (Utilisation of Animal Energy) & Principal Scientist (Farm Machinery & Power), Central Institute of Agricultural Engineering, Bhopal, Rs. 4500-7300. (One post). Age: Below 50 years.**

Qualifications Essential: i) As in Item No. 2 above. ii) Good academic record with a doctoral degree in the Agricultural Engineering/Engineering with specialisation in Farm Machinery and Power. iii) 13 years' experience (excluding the period spent in obtaining the Ph.D. Degree subject to a maximum of 3 years) of research/teaching/extension education, out of which at least 3 years should be as a Principal Scientist or in an equivalent grade. iv) As in Item No. 2 above.

Se as a Principal Scientist or in an equivalent grade. iv) As in Item No. 2 above. Experience in design research relating to Energy use in Agriculture.

28. **Public Relations Officer 'Auxiliary', I.C.A.R., New Delhi, Rs. 3000-4500. (One post). Age: Below 35 years.**

Qualifications Essential: i) At least good Second Class Degree. ii) Proficiency in English. iii) At least five years' experience in newspapers, publicity, public relations organisations or Government Department handling this type of work. iv) Proven ability to organise control and co-ordinate, writing and editing activities.

29. **Business Manager, 'Auxiliary', I.C.A.R. Hqrs, New Delhi, Rs. 3000-4500. (One post). Age: Below 45 years. (Relaxable for Government Servants) (Reserved for S.C.)**

Qualifications Essential: i) Degree of a recognised University in an Ar Science or Commerce, preferably in Agriculture. ii) At least five years' experience in responsible managerial capacity, preferably in a publishing house standing or a corresponding organisation under Government. iii) Should be thoroughly conversant with organising sales and distribution of publications cost accounting method advertising and publicity. (Qualifications relaxable ASRB's discretion in the case of candidates otherwise well qualified).

30. **Assistant Business Manager, 'Auxiliary', I.C.A.R. Headquarters, New Delhi, Rs. 2200-4000. (One post). Age: Below 35 years.**

Qualifications Essential: i) Degree of a recognised university in Ar Science or Commerce, preferably in Agriculture. ii) About 5 years' experience of organising sales, sale promotion of publications, handling advertisements in large publishing house of repute.

31. **Engineer (Mechanical), (T-7) Indian Veterinary Research Institute, Izatnagar, Rs. 3000-4500. (One post). Age: Below 35 years. (Reserved for SC)**

Qualifications Essential: i) Three years' Diploma/Bachelor's degree in T. field of Mechanical/Agricultural Engineering or equivalent qualifications in relevant field. ii) At least five years experience in Mechanical/Agricultural Engineering.

Note: In fields where the diploma course available in the country is only 3 years, the minimum qualification will be two years Diploma instead of the years diploma.

32. **Instrument Engineer (T-7) (Electrical/Electronic), Central Potato Research Institute, Shimla, Rs. 3000-4500. (One post). Age: Below 45 years.**

Qualifications Essential: i) Three years' Diploma/Bachelor's degree Electrical/Instrumentation Electronic Engineering. ii) At least five years experience in maintaining and servicing of scientific equipments, in a reputed scientific or/and instrument manufacturing service organisation.

Note: As in Item No. 31 above.

33. **Lab. Technician, (T-7) Indian Institute of Horticultural Research, Bangalore, Rs. 3000-4500. (One post). Age: Below 45 years.**

Qualifications Essential: i) Three years' Diploma in Computer Science. Bachelor's Degree in Computer Science or Computer Applications in Agriculture. ii) Minimum of five years' experience in software development and computer management.

Note: As in Item No. 31 above.

34. **Ground Superintendent (T-7) Indian Institute of Horticultural Research, Bangalore, Rs. 3000-4500. (One post). Age: Below 45 years.**

Qualifications Essential: i) Bachelor's degree in Agriculture/Horticulture. ii) Seven years experience in the management of a Horticultural Experiment Station.

IMPORTANT NOTE:-

i) The posts of D.D.G. (Edn.), A.D.G.(PIU), A.D.G.(PI&M) and Joint Director (CADRAD), advertised earlier vide ASRB's advertisement No. Item 1 of 1/89, item 12 of 2/88, item 5 of 3/88 and item 1 of 4/88 respectively, stand withdrawn. **Only fresh applications will be considered against the instant advertisement.**

Explanation for the purpose of educational qualifications & respect of Scientific Posts. An A.R.S. Scientist inducted/recruited in a particular discipline shall be deemed to have acquired the requisite qualifications in the relevant subject.

iii) No age relaxation for ICAR Employees in respect of 'Auxiliary' posts of Public Relations Officer (ii) Business Manager and (iii) Assistant Business Manager appearing at S.No. 28 to 30.

CLOSING DATE FOR RECEIPT OF APPLICATIONS IN AGRICULTURAL SCIENTISTS RECRUITMENT BOARD OFFICE IS 19TH MARCH, 1990

For candidates from abroad and in the Andaman and Nicobar Islands, Lakshadweep, Minicoy and Amindivi Islands, State Union Territories in the North Eastern Region, Ladakh Division of J&K State, Arunachal, Pung Sub-district of Chamba, Lahul & Spiti districts of Himachal Pradesh last date will be 2nd April, 1990.

GENERAL INSTRUCTIONS:-

1. For application forms, please write to the Secretary, AGRICULTURAL SCIENTISTS RECRUITMENT BOARD, KRISHI ANUSANDHAN BHAVAN, PUSA, NEW DELHI-110012. Request for forms among specify Advt. No. 1/90, Name of the post and Item number and should be accompanied by a self addressed unstamp envelope (23x10cms size).

2. Separate application with separate fee is required for each post.

3. Application forms complete in all respects should reach office of the ASRB together with the application fee of Rs. 8/- (No fee for SC/ST candidates) in the form of Crossed Indian Postal Order drawn in favour of the SECRETARY, INDIAN COUNCIL OF AGRICULTURAL RESEARCH by the closing date. Applications received after the closing date will not be entertained. IN CASE A CANDIDATE ANTICIPATES DELAY IN FILING OF HIS APPLICATION THROUGH PROPER CHANNEL, HE MUST SEND AN ADVANCE COPY OF THE APPLICATION ALONGWITH THE FEE, WHICH MUST REACH THIS OFFICE ON OR BEFORE THE CLOSING DATE.

4. Candidates abroad may apply in plain paper and send their applications together with an International Postal Order/Bank Draft covering the application fee drawn in favour of the SECRETARY, INDIAN COUNCIL OF AGRICULTURAL RESEARCH, so as to reach the office of the ASRB by the closing date. In countries where regular commercial channels are not available the candidates can deposit the application fee in local currency with the Indian Missions/Posts abroad, who in turn, will issue on R.B.I. draft in favour of SECRETARY, ICAR, NEW DELHI.

5. Only the candidates belonging to SC/ST would be considered against the respective reserved posts. As such General candidates NEED NOT APPLY against the reserved posts.

6. Crucial date for determining the age limit of candidates for each post will be the closing date for receipt of applications from candidates in India. There will be no maximum age limit for ICAR Employees. Relaxation in age is allowed to SC/ST persons to the extent permissible under the rules.

7. The prescribed Essential Qualifications are minimum and possessing of same does not entitle candidates to be called for interview. Where the number of applicants is large, the Board may restrict the number of candidates for interview to a reasonable limit on the basis of qualifications and experience higher than the minimum prescribed in the Advt.

8. For all T-7 posts and other Non-Scientific positions, a screening test may be conducted by the Board, to be followed by an interview.

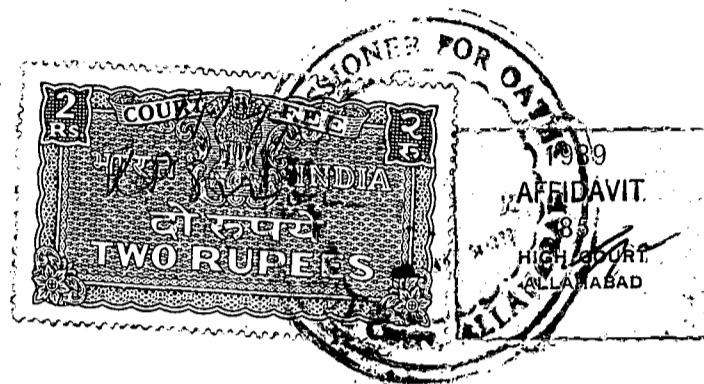
9. T.A. Contribution will be admissible for those called for interview as per ICAR Rules.

10. If required, candidates must appear for personal interview.

11. Higher initial pay may be recommended by the ASRB for specially qualified and experienced candidates for all the posts.

BEFORE THE ~~XXX~~ ~~XXX~~ CENTRAL ADMINISTRATIVE
TRIBUNAL LUCKNOW BENCH LUCKNOW.

Claim Petition No. 0A No. 14 of 1990 (C)



R.P. Srivastava

Applicant

Versus

The Union of India and
others.

Opp. Parties

REJOINDER AFFIDAVIT

(In reply to the written statement
filed on behalf of the opp. party No. 1)

I, R.P. Srivastava, aged about 49 years
son of Sri Ram Ghulam Srivastava R/O A-601 India Nagar Lucknow
do hereby on solemn affirmation state as under:

1. That the reply of the aforesaid written
statement is being given on oath in the shape
of the affidavit and as such the deponent is the
applicant in the above noted petition. The
deponent has read the written statement filed
on behalf of the opposite party No. 1. The
deponent thus puts the relevant material for
the satisfaction of this Hon'ble Tribunal. Under
these circumstances only the relevant paragraphs

R.P. Srivastava



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are being answered.

2. That in reply to para 6 of the written statement the deponent draws the attention of this Hon'ble Tribunal to the effect that there exists a distinction between the Project Coordinator and the ~~Executive~~ Director. The word coordinator appears to have been made having regard to the dictionary meaning and not otherwise. The word coordinator thus is made for specific purposes of coordinating the work and not for all the functioning including the administrative functioning. It is regretted to say that the opposite party No.1 has attempted to show that the circular made by it would not amount to be a rule or principle. The relevant circulars have nowhere provided that the violation of the terms provided therein shall be at the liberty of the opposite party "o.1 or the other officers. It may be submitted that ~~where~~ the circulars were made specifying therein the powers to the opposite party No.1 to make the appointment and for that purposes it has also been provided as to which class shall be entitled to hold such status. In the instant case the reading of the relevant circulars specifically provides that the Project Coordinators shall be entitled to be considered for the post of the officiating Director in the event the said post is vacant for a period not more than a period of 45 days. However, when such post falls vacant for more than 45 days then in that event the said post will be filled up by the Senior Most Scientist only. It is un-precedented



R. Bhuvaneswari

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on the part of the opposite party No. 1 to urge before this Hon'ble Tribunal that the guidelines does not bind it to have the regard of the orders issued by it. This type of assertion made by the opposite party No. 1 creates a feeling amongst the employees/officers to commit the breach of the circulars which may be issued by the opposite party No. 1 only on the grounds that there exists no provision under the circular by which the person may not commit the breach thereof. It is therefore, submitted that once the circulars have been made and the opposite party No. 1 is the State within the meaning of Article 12 of the Constitution then in that event ~~then~~ these circulars cannot be violated at the desire of any authority.

3. That in reference to para 8 of the written statement it may be submitted that if there exists any of the representation made by Dr. I.S. Yadav then in that event the respondent No. 1 should have taken the responsibility to firstly obey and give regard to the terms of the circulars and the guidelines made by it and secondly when, if at all, it was felt to interfere with the rights of the deponent who was holding the status of the Director then in that event the Principle of Natural Justice should have been followed and the opportunity should have been afforded to the deponent as well. It is believed and asserted that there existed no representation in accordance with the existing rules and the guidelines but the approach seems to have been made out of the



DR Srinivas Rao

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way to get the privilege without any proper rule, guidelines or the orders. The order therefore, made in favour of Dr. I. S. Yadav is without any reference or the ground. The allegations, therefore, made by the opposite party No. 1 are non-existent. It is submitted that if Dr. I. S. Yadav was entitled to hold such status then in that event he could not make the representation at this stage in as much as the deponent also held the status of the officiating Director earlier and at that time no such alleged representation or objection was made. The deponent also draws the attention of this Hon'ble Tribunal that when the question has arisen, earlier, as to who should be appointed as the officiating Director then the then Director has sent a reference by the letter dated 28th of October 1987 the copy of which is being annexed as ANNEXURE-R-A-1 to this rejoinder affidavit. The reading of the said letter will show that the seniority of different persons was shown, including Dr. I. S. Yadav in the capacity of the Project Coordinator and other persons in the capacity of scientists. In reference to the above letter the opposite party No. 1 took the decision in favour of ^{Dr. R. P. Srivastava} ~~the scientist~~ for the said post of the officiating Director in the light of the above mentioned circulars and Dr. I. S. Yadav was excluded for such post. In these circumstances the opposite party No. 1 thus has ~~not~~ no ground to take a stand contradictory to its own decision.



R. Srivastava

April

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4. That in reply to para 9 of the written statement the only clarification is that for the purposes of officiating Director no experience is provided or needed therefore, the ground taken by the respondent No. 1 does not have any force.

5. That with reference to para 12 of the written statement it is no doubt true that in all the letters of appointment the word till further order is used but that does not mean that the respondent No. 1 shall have a liberty to make an illegal and invalid order. The word has been used for the purposes that if the selection would be made to the post of the Director then in that event the officiating Director shall not be entitled to hold such status notwithstanding the fact that he worked as a Director for a good time.

6. That with reference to para 13 of the written statement the deponent submits that ~~xxx~~ the deponent has not made any wild allegations but he has correctly shown the truth which will be apparent by the material which is put hereunder.

7. That the contents of para 14 of the written statement are emphatically denied. The reading of the said letter dated 11th Jan. 1990 does not provide that Dr. I. S. Yadav ~~xxx~~ would assume the charge automatically but the reading of the said letter positively provides the circumstances and the condition when he will take the charge. The relevant part of the



R. S. Srivastava

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of the said letter is quoted hereunder:

" The President, Indian Council of Agricultural Research, is pleased to appoint Dr. I. S. Yadav as the Officiating Director, Central Institute of Horticulture for Northern Plains, w.e.f. the date of his taking over charge in addition to his duties as Project Coordinator until a regular ^{full} Director joins the post or further orders, whichever is earlier.

Consequently Dr. R. P. Srivastava will stand reverted to his present position as scientist S-3 (pre-revised) from the date of handing over the charge to Dr. I. S. Yadav. "

The attention therefore, is drawn that the power would be conferred to Dr. I. S. Yadav w.e.f. the date he takes over the charge. The charge was to be handed over by Dr. R. P. Srivastava, the deponent and therefore, he will not assume to have reverted from the date of the order but from the date on which he hands over the charge. The meaning therefore, given by the opposite party No. 1 is of course with the object to mis-lead this Hon'ble Tribunal. Apart from this the reading of the aforesaid order clarifies the submission of the deponent that such order is made with the only object that the person shall be entitled to officiate till the regular appointment is made.


R. Srivastava
The said order was made on 11th Jan. 1990
then in that event it happened to be un-precedented
that the terms of the order would be violated

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though alleged telephonic message in the forenoon of the following day. The deponent believes that the opposite party No. 1 ordinarily having regard to the procedure and customs adopted by it does not act in such a manner except in the case of Dr. I. S. Yadav who was afforded benefit out of the way. It may also be submitted that neither the said letter was despatched or communicated to the concerned persons, including the person who has to make the compliance thereon. In any view of the matter it is not open for the opposite party No. 1 to urge before it that the terms of the said order is to be modified pursuant to the oral discussion or by the oral order.

8. That the contents of para 17 of the written statement are emphatically denied. In view of the fact stated above Dr. I. S. Yadav could not take over the charge and did not take over the charge. The order is malafide and baseless. In the instant case no departmental remedy is open for the deponent. In any view of the matter when the opposite party No. 1 has dealt with the deponent in such a manner which is prejudicial to him then in that event there exists no remedy- nor there was time for such remedy.

9. That as indicated hereinabove the order was passed in favour of Dr. I. S. Yadav out of the way. The deponent draws the attention of this Hon'ble Tribunal that vide a letter dated 25.1.90 the opposite party No. 1 has conferred the right to Dr. I. S. Yadav to get the written statement prepared by his own counsel for getting it signed on behalf



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of ~~the~~ it. The copy of the said letter is being annexed as ANNEXURE R-A-2 to this affidavit.

This letter was pasted in the office at different places in order to show as to what extend Dr.I.S. Yadav has the privilege of favour from the higher authorities. The deponent believes that if the opposite party No.1 is impleaded as one of the opposite parties then for maintaining the fairness the powers should not be conferred to any of the person relating to which the dispute has arisen between the different officers/employees. The letter further shows that this petition was not presented before this Hon'ble Tribunal on 12th Jan. 1990 but the same date claims to have ~~been~~ been referred by Dr.I.S. Yadav either on the assumption that he had succeeded to pass an order in violation of the rules; therefore, the deponent would be approaching the Tribunal and if it is shown to be the clerical mistake then in that event the clarification would be that Dr.I.S. Yadav did not function and did not take over the charge as a Director on 12th Jan. 1990 and further the said letter for the first time was prepared on 25th Jan. 1990 but it was attempted to be ~~own~~ back dated. It is also clarified that ~~the~~ the official record will show that Dr.I.S. Yadav had gone to Delhi from 17th to 19th Jan. 1990 therefore, such letter was not needed to be addressed.



R.Srinivasan

10. That having regard to the aforesaid circumstances it would therefore, appear that the circular which is the rules has been violated by

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by the opposite parties for which there exists no classification before this Hon'ble Tribunal.

Dated: Lucknow the

R.P.Singh
Deponent

19/4th day of Feb. 1990.

Verification

I, the above named deponent do hereby verify that the contents of paras of the above affidavit are true to the best of my personal knowledge and those of paras of the same affidavit are believed by me to be true. That no part of this affidavit is false and nothing material has been concealed; so help me God.

Signed dated and verified this the day of 19/4
Feb. 1990.

R.P.Singh
Deponent

I identify the deponent who has signed before me and who is known to me personally.

B.R. Singh
by D.K. Khan
Advocate

Solemnly affirmed before me on 19-2-90
At 11-10 A.M./P.M. by Sri R.P. Singh
the deponent who is identified by
Sri B.R. Singh & P.K. Khan.

Advocate of High Court of Judicature at
Allahabad, Lucknow Bench, Lucknow.

R.P.Singh

I have satisfied myself by examining the deponent who understands the contents of this affidavit and which have been read over and explained by me.

R.P.Singh
JATIYATI COMMISSIONER
High Court, Allahabad
Lucknow Bench
887125

19-2-90

CENTRAL INSTITUTE OF HORTICULTURE FOR NORTHERN PLAINS,
B-217, INDIRA NAGAR, LUCKNOW-226016

No.F.4-41/87-Estt-

Dated: 28.10.1987

To

The Secretary,
ICAR, Krishi Bhawan,
New Delhi 110001

Sub: Making arrangement for the position of
Director consequent upon superannuation
of Dr. K.C. Srivastava on 30.11.1987-Reg.

Sir,

Dr. K.C. Srivastava, Officiating Director, CIHNP, Lucknow will be retiring from service w.e.f. 30.11.1987 after attaining his age of superannuation. The position of the Director in the grade of S-5, Rs.2000-2500 has been created vide Council's letter No.13(31)/85-EE.VII dated 15.12.1986 under VII Five Year Plan. The post has been advertised by the ASRB and the date of interview is to be fixed. In the circumstances, it is stated that necessary officiating arrangements for the position of the Director are required to be made till the post is filled on regular basis. The following senior scientists are in S-3 grade working at this Institute according to seniority;

Sl. No	Name & Designation	Entry into ICAR service	Date of appointment/ induction in	
			S-3 Grade	S-4 grade (personal)
1.	Dr. K.S. Yadav, *. Scientist S-3(Hort) S-4(Personal) Project Coordinator	2.3.62	5.5.77	1.1.83
2.	Dr. R.P. Srivastava, Scientist S-3(Ento)	12.2.64	1.7.83	
3.	Dr. S.K. Kalra Scientist S-3(Hort.) Indo-Us-Project	15.5.78	1.1.84	

Contd...p/2.

(RS9)

It is requested that necessary orders in the matter may kindly be conveyed so that officiating arrangement consequent upon the superannuation of the present incumbent are made accordingly.

Yours faithfully,

Sd/-

DIRECTOR

No.F.1-4(4)/87-Estt/ 21/3 Dated: 7.11.1987

Copy forwarded to Under Secretary EE.VII, ICAR,
Krishi Bhawan, New Delhi-110001, with a request
to convey council's decision in the matter at an
early date.

 7.11.87
DIRECTOR



डा० एन. एस. रंधावा
महा निदेशक
भारतीय कृषि अनुसंधान परिषद

DR. N. S. RANDHAWA
Director General
Indian Council of Agricultural Research



155 Anex - RA-2
Phone : 382629 (Off.)
383164 (Resi.)
सचिव, भारत सरकार
कृषि अनुसंधान और शिक्षा विभाग (कृषि मंत्रालय)

Secretary, Govt. of India
Department of Agricultural Research & Education
(Ministry of Agriculture)
Krishi Bhawan, New Delhi-110 001

D.O.No.25(2)/90-Law

Dated the 25 January, 1990.

Dear Dr. Yadav,

With reference to your letter No.PA/Dir/90/8359 dated 12.1.1990, you are advised to prepare a draft reply through your advocate on my behalf as Director General, ICAR, Respondent No.I. Please incorporate all the facts and send the same to me for signature to be filed in the CAT at the earliest possible.

With regards,

Yours sincerely,

(N.S. Randhawa)

Dr.I.S. Yadav,
Officiating Director,
Central Institute of Horticulture for
Northern Plains,
B-217, Indira Nagar,
P.O. Ram Sagar Mishra Nagar,
LUCKNOW-226 113.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

O.A. No. 14 of 1990

Dr. R.P. Srivastava Petitioner

Versus

Union of India & others Respondents

Written statement on behalf of
respondent No.2.

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1. That para 1 as stated is denied. The order dated 11.1.1990 has been passed by the President, Indian Council of Agricultural Research who is the competent authority and the order is, therefore, validly passed. The President, who is a necessary party, has not been impleaded in the above application and as such the application is not maintainable for non joinder of necessary party and deserves to be rejected.

2. That paras 2 and 3 need no reply.

3. That the contents of para 4 (i) are not true. The petitioner has passed his M.Sc. in Zoology and he had never been a student of Agriculture or Horticulture in under graduate or post graduate level while Mango comes under horticultural crops. As such to say that the petitioner has done his Ph.D. in Mango is to mislead the Hon'ble Tribunal. However, the

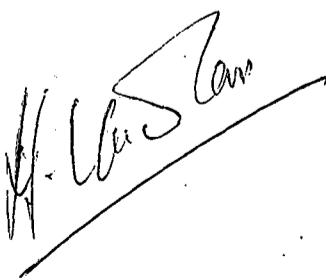


petitioner has done his Ph.D. in Entomology from IARI New Delhi on a Pest of Mango.

4. That the contents of para 4 (ii) need no reply.

5. That the contents of para 4 (iii) that the petitioner is still holding the status of Scientist Grade 3 in the scale of Rs. 3700-5700 are admitted but the respondent No.2 has the status of Scientist Grade 4 in the same Institute in the scale of Rs. 4500-7300. As far as research is concerned each and every scientist of the Institute is doing research on horticultural crops and submitting research papers. The petitioner is basically a Senior Scientist of Entomology discipline while the respondent No.2 is a Principal Scientist of horticultural discipline.

6. That the contents of para 4 (iv) are denied. Regarding to entrusting the charge of the Director on occurrence of the vacancy certain guidelines have been issued by the Council which the petitioner has shown in Annexures I & II. The respondent would like to submit that these guidelines issued from the Council are for the compliance of the Director of their respective Institute for making local arrangements, while they are on leave or on deputation. As regards the period longer than the period quoted in the aforesaid annexure, the Council reserves the right for making the arrangement of an officiating Director. As far as Indian Council of Agricultural Research is concerned, the matter of entrusting the charge is done on the basis of seniority from among the available scientific



staff in the Institute. The petitioner has misled the Hon'ble Tribunal by saying that Project Coordinator should not be given the charge of an officiating Director. In ICAR Institutes, many Project Coordinators are holding the charge of officiating Director in their respective Institutes. In this connection it is pointed out that in Lucknow in Indian Institute of Sugarcane Research, under ICAR, Dr. S.C. Srivastava the Project Coordinator Sugarcane has been entrusted to hold the charge of Director w.e.f. 7.6.1989 which clearly contradicts the petitioner's stand.

7. That the contents of para 4 (v) are denied. As already stated in para 6, these guidelines are to be followed by the Directors at the time of their proceeding on leave or on deputation. As such these guidelines do not debar the President, Indian Council of Agricultural Research, to make officiating appointment pending regular appointment. Hence the claim of the petitioner that if the post cannot be filled up on regular basis within a given time, that is, 45 days then the senior Scientist, i.e., the petitioner becomes entitled to be appointed as officiating Director to the exclusion of a senior officer or scientist such as respondent No.2 is wholly misconceived and legally untenable.

8. That the contents of para 4 (vi) are again the repetition of paras (iv) and (v) and hence denied.

9. That the contents of paras 4 (vii) and (viii)

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as stated are not admitted. During 30th November, 1987, when the vacancy arose on account of the retirement of the then officiating Director Dr. K.C. Srivastava, the respondent No.2 was preoccupied with same foreign assignments as a member of high level delegation of the Ministry of External Affairs, Government of India. As such being No.2 in the seniority the petitioner got the opportunity to take over as officiating Director. Moreover the post of Director on regular basis was already advertised to be filled within a short time. A representation at that time would not have been dealt within that short period. In the present situation representation has taken more than 6 months for the decision.

10. That the contents of paras 4(ix) and 4(x) as stated are not admitted. The petitioner has kept the Hon'ble Tribunal in the dark by not stating the fact that the qualifications for the post of Director have now been modified vide letter No.8-1/89-per.IV dated 8th November, 1989. Keeping in view the introduction of UGC pay package for Scientist of ICAR the Council has formulated the model qualification and experience for the post of Director. As the petitioner did not fulfil the qualification for the post of Director he was not even called for interview held for this post, while the respondent No.2 fulfilled the said qualifications. The petitioner still does not fulfil the prescribed qualifications as he is 3rd class post graduate in Zoology (1962) from the Lucknow University, passed with compartmental in B.Sc.

H. U. S. Khan

(Zoology, Botany, Chemistry) after failing twice in 1958 and 1959 from the Lucknow University. While the qualification for the post says that one should have good academic record, i.e., Ph.D. with second class Master degree or high second class Master degree or second class Master degree with 1st class in graduation. The petitioner moreover is a scientist Grade III (Senior Scientist) while for the post of Director of the Institute one should be a Scientist Grade IV (Principal Scientist) at least for five years. As already stated, the respondent No.2 is a Principal Scientist since 1983. The petitioner thus does not fulfil the requisite qualification even now. A photostat copy of the letter dated 8.11.1989 laying down qualifications is filed as Annexure No. B-1 to this written statement.

Annexure B-1

11. That the contents of para 4 (xi) need no reply.
12. That in reply to para 4 (xii) it is submitted that the respondent No.2 was still the senior most after Dr. C.P.A. Iyer and as such he was always given the charge of the Director. The petitioner was placed below respondent No.2 at No.3 in seniority and never got the charge in the absence of Dr. Iyer and in the presence of respondent No.2.
13. That the contents of para 4 (xiii) are denied. The petitioner took over from Dr. C.P.A. Iyer on 13.7.1989 in the absence of respondent No.2. It was



a consequence of political manipulation on the part of the petitioner and the files dealing with his case bypassed senior related officers of Indian Council of Agricultural Research. It is conspicuous by the order of July, 1989, that he was not only given the opportunity of officiating Director but was also given the higher grade without approval of the competent authority which was later on admitted as a mistake due to oversight by ICAR in their files.

14. That the contents of para 4 (xiv) are mere repetition of para xiii and hence denied. The claim that the order dated 5th July, 1989, states that the petitioner will officiate on the said post of the Director till the regular appointment is not made is deliberately false and misleading. A reading of last lines of the aforesaid order clearly says 'till the post is filled up on regular basis or till further orders' meaning thereby that the President of ICAR reserves the right to change the officiating Director at any time.

15. That the contents of para 4 (xv) are denied. As already stated the appointment of the petitioner was made in the absence of respondent No.2 when he was out on tour to Manipur for exploration of Mango germplasm. Just a few days before the joining of the petitioner as officiating Director in 1989, Dr. S.C. Srivastava, Project Coordinator located at IISR Lucknow was made the officiating Director and similarly in many of the Institutes of ICAR such arrangements have

M. V. S. Rao

been made from time to time. In the instant case the respondent No.2 made a representation to the Vice President and President of the Council to get justice. A photostat copy of the representation dated 1.7.1989 is filed as Annexure No. B-2 to this written statement.

Annexure B-2

16. That in reply to para 4 (xvi) it is stated that the petitioner on 9th January, 1990, was on official tour to ICAR Headquarters, New Delhi, to attend a meeting scheduled on 11th January, 1990 (Annexure PA/Dir./90/7950) while at the Headquarters, on 10th January, 1990, he came to know that the orders are being issued in favour of the respondent No.2. So he immediately left the Headquarters for Lucknow without attending meeting and submitted leave application after coming over to Lucknow. The order dated 11.1.1990 was sent to his residence for compliance along with the copy of the letter dated 12.1.1990 stating that respondent No.2 has assumed charge of the post of Director, Central Institute of Horticulture for Northern Plains, on 12th January, 1990 (PA/Dir./90/8359-64) and copies were also sent to the office for record and information of the Administrative Officer and Asst. Finance and Accounts Officer. The petitioner is deliberately misleading the Hon'ble Tribunal about the joining of respondent No.2. The news of the joining of the respondent No.2 also appeared in news dailies viz. The Times of India, Swatantra Bharat, Nav Bharat Times, Pioneer and Dainik Jagran on 14.1.1990. Thus the petitioner deliberately misled

H. U. S. DM

this Hon'ble Tribunal about the joining of the respondent No.2. The respondent No.2 also informed the higher authorities at the ICAR Headquarters vide letter No.PA/Dir./90/8359-64 dated 12.1.1990 along with the charge assumption certificate and informed on telex as well as on telephone. In response to the telephonic permission obtained from the higher authorities at ICAR respondent No.2 also addressed the scientists as Director in the evening of 12th January in the presence of two Asstt. Director Generals of ICAR, i.e., Dr. G.L. Kaul and Dr. Ramphal. A photostat copy of the letter dated 12.1.1990 is filed as Annexure Annexure B-3 to this written statement.

17. That para 4 (xvii) as stated is misconceived and is denied. It is stated that the petitioner having knowledge of the order dated 11.1.1990 went on leave. The respondent No.2 in terms of the said order assumed charge as officiating Director on 12.1.1990 and accordingly submitted the charge certificate to the competent authority and brought the fact of his assuming charge to the knowledge of the superior authorities through telex. The petitioner, however, continued to be absent and respondent No.2 continued to function and discharge his duties on the post of Director. While on leave, the petitioner filed the above application by suppression and mis-statement of facts. It is stated that the respondent No.2 was continuously functioning as Director from 12.1.1990.

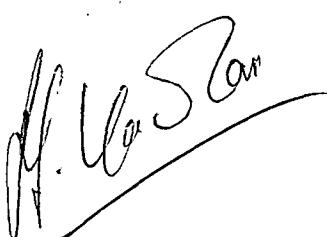
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18. That para 4 (xviii) is denied. The respondent No.2 is admittedly senior to the petitioner. His substantive post is Scientist Grade S-4 in the scale of Rs.4500-7300 while the petitioner is working as Scientist S-3 in the scale of Rs.3700-5700. Thus respondent No.2 is senior to the petitioner in service and according to rules he, by virtue of his seniority, is entitled to act as officiating Director. Moreover the post of regular Director is the promotional post from the post of Scientist Grade S-4. The respondent No.2 cannot, therefore, be relegated to work under his junior. Contrary averments made in para under reply are denied.

19. That para 4(xix) as stated is denied. It is reiterated that respondent No.2 was validly appointed as officiating Director by the President who is the authority competent to make the said appointment. Moreover the President has not been impleaded as a party in the present application although he is a necessary party. Non joinder of the President as a necessary party renders the above application not maintainable and the same is liable to be dismissed on this ground alone.

20. That para 4 (xx) as stated is misconceived and is denied. For the facts and circumstances already indicated above, the respondent No.2 by virtue of his seniority and in accordance with the rules is entitled to work as officiating Director till a regular selection on the post is made. The petitioner, on the other hand, is not legally entitled to supersede the respon-



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dent No.2 being his junior in the matter of an officiating arrangement. Moreover the respondent No.2 is fully eligible on the basis of his seniority and qualifications for regular appointment on the post of Director while the petitioner is not eligible as he does not fulfil the prescribed qualifications and also because he does not possess 5 years' working experience on the post of scientist Grade S-4 (Principal Scientist). Contrary averments made in para under reply are vague and misleading and hence denied.

21. That para 4 (xxi) as stated is denied. The respondent No.2 being senior to the petitioner is legally entitled to be appointed as officiating Director till a regular selection on the post is made. The petitioner has no legal right to supersede the respondent No.2 on the post in question.

22. That para 4 (22) as stated is misconceived and is denied. For the facts and circumstances stated above, respondent No.2 is entitled to be appointed as officiating Director. He is continuously working on the post since 12.1.1990 to the entire satisfaction of the authorities. The averments made in para under reply are wholly untenable, vague and misleading and are, therefore, denied.

W. M. S. J. S. O. M.

23. That grounds A to K are legally untenable. The respondent No.2 is advised to state that the above application is not maintainable on the grounds stated in para 5 of the application and is liable to be dismissed.

(A6)

24. That para 6 as stated is denied. It is submitted that the petitioner has not exhausted the departmental remedy open to him.

25. That para 7 needs no reply.

26. That para 8 is denied. The petitioner is not entitled to any of the reliefs claimed and the application is liable to be dismissed with costs.

27. That in reply to para 9 it is stated that as the respondent No.2 had already assumed charge as officiating Director on 12.1.1990 and the present application was filed by suppression and misrepresentation of material facts the interim order dated 16.1.1990 confirms the position of respondent No.2 as continuing to function as officiating Director and as such respondent No.2 is continuing to function on the post of officiating Director to this date.

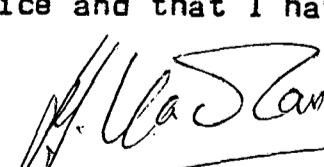
Verification

I, Dr. I.S. Yadav, aged about 51 years, son of late Heera Singh Yadav, Director of Central Institute of Horticulture for Northern Plains (ICAR), resident of B 217, Indira Nagar, Lucknow, do hereby verify that the contents of paras 1 to 22 are true to my personal knowledge and those of para 23 are believed to be true on legal advice and that I have not suppressed any material fact.



Date : 22/2/1990.

Place : Lucknow.



Signature of Respondent No.2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

O.A. No. 14 of 1990

Dr.R.P.Srivastava Petitioner
Versus
Union of India & others Respondent

A67

Annexure B-1

IMMEDIATE

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN : NEW DELHI

No. 8-1/89-Per. IV

Dated the 8th November, 1989.

To

(1) The Directors/Project Directors/OSDs of the Research Institutes, Project Directorates & National Research Centres of the ICAR.
(2) The Deputy Secretary(Administration), ICAR, Krishi Bhavan, New Delhi.

all

Subject:- Introduction of UGC Pay Package for Scientists of the ICAR - Formulation of the Model Qualifications/Experience for Scientists and Science Coordinators under ICAR system - Decision regarding.

.....

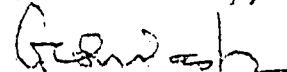
Sir,

Consequent upon the introduction of UGC Pay Package for Scientists in the ICAR system, the question of prescribing Model Qualifications/Experience for Scientists and Science Coordinators based on the qualifications laid down under the UGC system has been under consideration of the Council. The matter has been considered in depth and it has been decided to prescribe the Qualifications/Experience for various categories of posts of Scientists/Science Coordinators under ICAR system as shown in the attached 'Annexure'.

2. You are accordingly requested to take immediate action to send the requisitions of the vacant positions to ICAR Headquarters for filling up the posts by the ASRB.

3. The receipt of this letter may kindly be acknowledged.

Yours faithfully,



(G.C. SRIVASTAVA)
SECRETARY, ICAR

Copy forwarded for information & necessary action to:

1. Secretary, ASRB, New Delhi (with 5 spare copies)

Contd/.....2.

STATEMENT SHOWING THE DETAILS OF MODEL QUALIFICATIONS AND EXPERIENCE PRESCRIBED FOR VARIOUS CATEGORIES OF POSTS OF SCIENTISTS/SCIENCE COORDINATORS CONSEQUENT UPON THE ADOPTION OF UGC PAY PACKAGE FOR SCIENTISTS UNDER I.C.A.R. SYSTEM

Sl. No.	Designation & scale of the post.	Model Qualifications & Experience prescribed for the post.	Remarks
1.	2.	3.	4.
1.	<u>Scientist</u> (Rs.2200-75- 2800-100- 4000).	Master's Degree in the relevant subject with good academic record.	I.C.A.R. Institutes conduct Research and basic requirements for this purpose is a Master's Degree. As such the qualification in respect of Engineering/ Technological posts has been upgraded.
		<u>EXPLANATION</u> For determining "Good Academic Record", the following criteria shall be adopted:-	
		(i) A candidate holding a Ph.D. Degree should possess at least a second Class Master's Degree; or	
		(ii) A candidate without a Ph.D. Degree should possess a high second Class Master's Degree and second Class in the Bachelor's Degree; or	
		(iii) A candidate not possessing Ph.D. Degree but possessing second Class Master's Degree should have obtained first Class in the Bachelor's Degree.	

Contd/....2.

1. 2.

3.

4.

- (ii) A candidate without a Ph.D. Degree should possess a high second Class Master's Degree and second Class in the Bachelor's Degree; or
- (iii) A candidate not possessing Ph.D. Degree but possessing second Class Master's Degree should have obtained first class in the Bachelor's Degree.

3. PRINCIPAL SCIENTIST

(Rs.4500-150-5700-
200-7300).

- (i) An eminent Scientist with published work of high quality actively engaged in research/teaching/extension education.
- (ii) Good Academic Record with a doctoral Degree in the 10 years /relevant experience (excluding the subject period spent in obtaining the Ph.D. Degree subject to a maximum of 3 years) in research/teaching/extension education provided that at least three years is as a Senior Scientist or in an equivalent grade.

EXPLANATION

An A.R.S. Scientist inducted/recruited in a particular discipline shall be deemed to have acquired the requisite qualification in the relevant subject.

- (iii) Evidence of substantial contribution to research and scholarship as evidenced by variety product or technology developed or adopted as result of research, the quality of publication of papers in professional journals of repute and innovations in teaching/extension education.

1. 2. 3. 4.

(v) Relative specialisation and relevant experience cognate to the job requirement (to be specified for the respective post).

5. DIRECTORS OF ICAR INSTITUTES (OTHER THAN IARI/IVRI/NDRI/CIFE/NAARM)
PROJECT DIRECTORS/Joint DIRECTORS (IARI/IVRI/NCRI) AND ASSTT. DIRECTORS
GENERAL

(i) An eminent Scientist with published work of high quality and actively engaged in research/teaching/extension education.

(ii) Good Academic Record with a doctoral degree in the relevant subject.

EXPLANATION

(Rs. 4500-150-5700-
200-7300)

An ARS Scientist inducted/recruited in a particular discipline shall be deemed to have acquired the requisite qualification in the relevant subject.

(iii) 15 years experience (excluding the period spent in obtaining the Ph.D. Degree subject to a maximum of 3 years) of research/teaching/extension education, out of which at least 5 years should be as a Principal Scientist or in an equivalent grade.

(iv) Evidence of substantial contribution to research and scholarship as evidenced by variety product or technology developed or adopted as result of research, the quality of publication of papers in professional journals of repute, approved recommendations

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

O.A. No. 14 of 1990

Dr.R.P.Srivastava Petitioner
Versus
Union of India & others Respondent

(P21)

To

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

THROUGH: Director General Indian Council
of Agricultural Research and Officiating
Director'Central Institute of Horticulture
for Northern Plains, Lucknow'.

SUB : C.I.H.N.P. appointment of Director-Regarding.

Sir,

As per ICAR Order No.52-1/84 Per I dated 1.6.1989
Dr.R.P.Srivastava has been given the chance to officiate
on the Director's post untill a regular Director joins or
till further Orders. Against this decision of ICAR, I
wish to submit my representation for consideration by the
Vice President.

This appointment is a consequence of transfer of
Dr.C.P.A.Iyer the regular Director of Central Institute of
Horticulture for Northern Plains, Lucknow to Bangalore
even before his completion of his tenure as per the selection
made by the ASRB in 1988. Pending readvertisement of the
Vacancy, Dr.R.P.Srivastava, S-3(Ento.) has been appointed
to officiate as Director. This decision has over looked
my claim to be considered for the Director ship of the
Institute.

I wish to submit the following points for your
highest consideration.

A. I have been in S-3,cader from 1977 to 1983 and
I am working as Project Coordinator from 1984
and have been given S-4, cader from 1.1.1983. But
Dr.R.P.Srivastava is much junior to me he was
assessed for S-3 from July,1983 and at the time
of his appointment he is in the pay Scale of
Rs. 3700-5700 while I am placed as a Principal
Scientist with a pay Scale of Rs. 4500-7300(Basic
Rs. 5400). Hence it is clear that he is far junior
to me.

B. My holding of the post of Project Coordinator
should not be considered as a disqualification.
In a sister Institution of ICAR, located at
Lucknow itself Dr.S.C. Srivastava,Project Coordinator
has been given the officiating charge of the Director
of Indian Institute of Sugar Cane Research,Lucknow
just a few days before. It is not know why a
departure has been made in the case of Central
Institute of Horticulture for Northern Plains,
Lucknow, over looking my claim.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

O.A. No. 14 of 1990

Dr.R.P.Srivastava Petitioner
Versus
Union of India & others Respondent

APR

29/9/89

To,

The president,
India Council of Agricultural Reserch,
Krishi Bhawan,
New Delhi-1

Sub:- Appointment of officiating Director at C.I.H.N.P.
Lucknow.

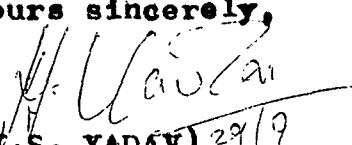
Through:- Proper Channel

Sir,

With reference to above, I want to bring to your kind notice and for highest consideration by your good self that I had represented to the Vice President of the council against the ICAR order No. 52-1/84 per I dated 1.6.89, appointing Dr. R.P. Srivastava to the post of Director in officiating capacity. Till today no action has been taken by the council on this representation (Copy attached). Personal quieries made at various levels, many a time, did not evoke any action so far. This had lead to frustation and mental depression with the result that I had to be hospitalized and was on leave for two weeks thereafter. The delay on the part of the council in deciding the case shows that some irregularities might have been committed by the council while issuing the order of Dr. R.P. Srivastava over looking my seniority and is causing mental anxiety to me.

Under these circumstances I would request your honour to kindly look into the case and accord the justice due to me by personally intervening in the matter.

Yours sincerely,


(I.S. YADAV) 29/9

PROJECT CORDINATOR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

O.A. No. 14 of 1990

Dr.R.P.Srivastava Petitioner
Versus
Union of India & others Respondent

RS
RP

PA/Dir/90/8359-664
12.1.1990

Annexure B-3

To

The Director General,
ICAR, Krishi Bhawan,
New Delhi-110001.

Sir,

With reference to the Council's Office Order No.52-5/89-Per.III, dated 11th January, 1990, I have assumed the charge of the post of Officiating Director, Central Institute of Horticulture for Northern Plains, Lucknow, in the forenoon of 12th January, 1990.

I am enclosing herewith charge assumption certificate, in quadruplicate, for countersignature and further necessary action at the Council.

Thanking you,

Yours faithfully,

S.I/-

Encl:a/e

(I.S. Yadav)
OFFICIATING DIRECTOR

Copy to Shri O.P. Kumar, Under Secretary (K), ICAR, Krishi Bhawan, New Delhi-110001, alongwith a copy of charge assumption certificate.

S.I/-
(I.S. Yadav)
OFFICIATING DIRECTOR

Copy also to the following alongwith charge assumption certificate and an attested photo copy of ICAR Office Order as stated below mentioned above.

1. Dr. R.P. Srivastava, Scientist S-3(pre-revised), CIHNP, Lucknow. He may be requested to hand over all the articles/documents in his possession relating to the post of Director.
2. Admin. Officer, CIHNP, Lucknow.
3. Asstt. Fin. & Accounts Officer, CIHNP, Lucknow.
4. Service Book

O/C

(I.S. Yadav)
OFFICIATING DIRECTOR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

O.A. No. 14 of 1990

Dr.R.P.Srivastava Petitioner
Versus
Union of India & others Respondent

CENTRAL INSTITUTE OF HORTICULTURE
FOR NORTHERN PLAINS, (ICAR)
B-217, INDIRA NAGAR,
LUCKNOW

CERTIFICATE OF TRANSFER OF CHARGES

Certified that I have in the forenoon of
12th January, 1990, assumed the charge of the post
of Officiating Director, Central Institute of
Horticulture for Northern Plains, Lucknow.

Signature

Name : Dr. I.S. YADAV,

Designation: OFFICIATING
DIRECTOR

Dated: 12.1.1990

Station: Lucknow

In the Central Administrative Tribunal
बायदालत श्रोमान *Union of India vs. L. P. Srivastava* महोदय

AP 5

वादी (मुद्दई)
 मुद्दई (मुद्दालेह)

का

वकालतनामा

O A M 14 of 1990

R. P. Srivastava --- Applicants

by
 Union of India बनाम — Respondents
 & Others प्रतिवादी (रेस्पान्डेन्ट)

नं० मुद्दमा सन पेशी की ता० १९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री L.P. Shukla, Advocate

c-700 Manager Lucknow

वकील

एडवोकेट महोदय

को अपना वकील नियुक्त करके (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाब देही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रूपया बसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकद्दमा उठावें या कोई रूपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रूपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी। मैं यह भी स्वीकार करता हूं कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को भेजता रहूंगा। आगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

Accepted

Chandraprasad

हस्ताक्षर

साक्षी (गवाह) ————— साक्षी (गवाह) —————

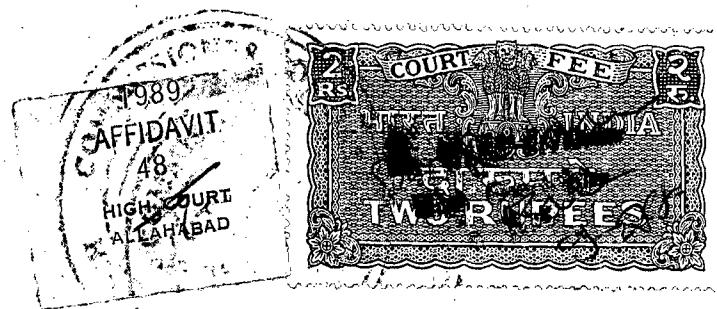
दिनांक —————

महीना ————— सन् १९ ————— ई०

BEFORE THE ADMINISTRATIVE TRIBUNAL LUCKNOW
BENCH LUCKNOW.

XXXXXX XXXX XXXX XXXX XXXX XXXX

D.A. No. 14161 of 1990(L)



Dr. Ram Prakash Srivastava

Petitioner

Versus

The Director General
Indian Council of Agricultural
Research New Delhi and another.

Respondents

REJOINDER AFFIDAVIT

(to the counter affidavit filed by
the respondent No. 2) ~~dkx~~



R. Srivastava

I, Dr. Ram Prakash Srivastava, aged about 49 years
^{late} son of Sri Ram Ghulam Srivastava resident of A-601
Indiranagar, Lucknow do hereby on solemn affirmation
state as under:

1. That the deponent is the petitioner in the
above noted case and as such is fully conversant

APP

.2.

with the facts deposed hereunder. The deponent has read the contents of the counter affidavit filed by the respondent No.2 and has fully understood the contents thereof. The deponent before giving the parawise reply of the said counter affidavit draws the attention of this Hon'ble court towards the facts and the developments which took place before & after the passing of the interim order by this Hon'ble court/Tribunal.

A. That the deponent as per the existing circulars/orders of the respondent No.1 was promoted as the Director Central Institute for Horticulture for Northern Plains,Lucknow in officiating capacity in the year 1987 and subsequently when the same situation had arisen the promotion of the deponent was made in the year 1989 in the same capacity. These promotions were fully based on the existing Orders issued by the respondent No.1 from time to time. The relevant circulars/Orders issued in this regard have already been annexed alongwith the application filed by ~~xxxx~~ the deponent before this Hon'ble Tribunal.

B. That the deponent proceeded on casual leave w.e.f. 11th of Jan.1990 till 16th Jan.1990 availing the public holidays of 13th and 14th Jan. 1990. This leave was taken by the deponent on account of the illness of his elder brother. The deponent during this period of leave came to know that the respondent No.2 has manipulated the things and tried to get an order for becoming the officiating Director of the said institute.



R.Srivastava

RJD

In violation of the rules on the subject under which, respondent No.2 should not have been appointed as officiating Director.

Which was necessary before respondent No.2 should assume charge in terms of the order itself which he had managed to serve in his favour.

It may be stated this Hon'ble tribunal's order was delivered by the deponents to the Administrative Officer for having shown to respondent No.2 and the Administrative Officer actually handed over the order to respondent No.2.

The respondent No.2 succeeded to get an order issued by the respondent No.1 dated 11th of Jan.1990 in which it was mentioned that the deponent shall stand reverted from the date he shall handover the charge to the respondent No.2. The deponent could succeed to get the copy of the aforesaid order through his friends.

C. That the deponent feeling aggrieved against the aforesaid order which was issued by the respondent No.1 in violation of the rules on the subject under which respondent No.2 could not have been appointed as officiating Director and ignoring that the officiating arrangement had already been made under orders issued by itself, prefered an application before this Hon'ble Tribunal. This Hon'ble Tribunal however, was pleased to grant the interim relief to the deponent to the effect that the status shall be maintained. The deponent was the Director of the said institute at the relevant time and had not handover the charge of the post of Director which was necessary before respondent No.2 could assume charge in terms of the



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(APR)

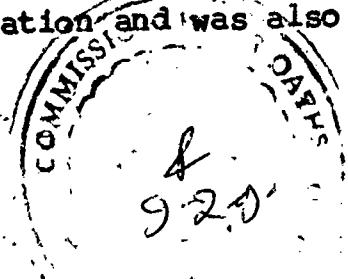
order itself which he had managed to secure in his favour. Thus on passing the aforesaid order by this Hon'ble Tribunal dt. 16.1.90 the deponent, after expiry of casual leave on 16.1.90 started, in routine working as Director without any hurdle and hinderence in the working as Director by any one. It may be started that this Hon'ble Tribunal's order was delivered by the deponent to the Administrative Officer for having shown to respondent No.2 and the Administrative Officer actively handed over the order to respondent No. 2. The deponent is still continuing to act as the Director and he has cleared a number of files and passed various orders by exercising the administrative and financial powers which are conferred to the Directors. The deponent submits that if this Hon'ble Tribunal wishes then it can summon the record of the aforesaid institute which will show that during this period i.e. after the passing of the aforesaid interim order by this Hon'ble Tribunal, the deponent disposed off various files and passed various orders in about 100 files/cases.

That respondent No.2 left for Delhi on 17.1.90 and reached on 23.1.90 when suddenly on 23rd of Jan.1990 when the deponent reached his office and entered into the room of the Director, he found respondent No.2 along with a number of antisocial elements and holigans present in the room and pointed rifle and gun towards him. The respondent No.2 not only terrorised not only the deponent but the other official/employees of the said institute and directed employees to accept him the director of the said Institute.

The deponent under these circumstances quite the room out of fear and lodged F.I.R. on the same day i.e. 23rd of Jan. 1990. The copy of which is being annexed as ANNEXURE-R-1 to this rejoinder affidavit. However the deponent continued to work as the Director from the lab as the financial powers were vested with him and respondent No.2 though otherwise sat in the Director's room and pretexed to be the director. The deponent seeing the scene of holiganism in the campus of the institute again lodged on FIR on 27.1.90 (ANNEXURE-R-2).

C That the respondent No.2 came to know that deponent has lodged the aforesaid reports in the Police station and was also fearful about his

2 P.S. vs. L. A.



(P.G)

Criminal action committed by him and that too being a Government servant and as such in order to save himself from any arrest or police action he filed an application before the court of IIn A.C. Judicial King Magistrate Lucknow wherein he falsely complained of harassment by the Police so as to stall any action by the Police and has prayed that the Hon'ble court may call for a report and he may be taken into custody. The copy of the said application dated 24th of Jan. 1990 is being annexed as ANNEXURE-R-3 to this rejoinder affidavit. A bare reading of this application would show that this application was moved on 24th of Jan. 1990 the next day of his committing the criminal action.

F. That the deponent submits that the respondent No.2 has alleged in his counter affidavit that he has taken the charge of the Director of his own on 12th of Jan. 1990. The deponent in this regard submits that the order issued by the respondent No.1 and impugned in the claim petition itself shows that the deponent shall be deemed to have been reverted when the hands over the charge of the post of Director. The deponent was on leave since 11th of Jan. 1990 till 16th of Jan. 1990, the day this Hon'ble Tribunal passed the interim order thus the deponent could not be deemed to have handedover the charge nor he could be deemed to have been reverted from the post of the Director. The deponent further reiterates that he has never signed any charge certificates of handing over the charge

R.B.Srivastava

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nor has ~~sixty six days~~ counter signed any of the charge certificate of taking over by any authority including the respondent No.2.

G. That the deponent submits that as per the procedure and the existing practice the orders of this type are endorsed to the Administrative Officer of the said institute who issues necessary order for transfer of charge and then the charge certificate is filled up and signed and counter signed by the authorities concerned. In the case of the Director the counter signature is done by the Administrative Officer. The deponent submits that the aforesaid order dated 11th of Jan. 1990 was issued by the respondent No.1 in collusion with the respondent No.2 and no copy of the said order was issued or endorsed to the Administrative officer. This factual position may be ascertained by going through the aforesaid order which has already been annexed alongwith the claim petition.

H. That the deponent reiterates that in the aforesaid matter the proper procedure was not adopted nor the existing practice was followed. The deponent in order to satisfy this Hon'ble Tribunal submits that the above practice and the procedure was followed in the case of the deponent when he was appointed as a Director in the year 1987 and in the year 1989 in the officiating capacity. The deponent annexes herewith the orders dated ~~xx~~ 30.11.87 and 13.6.89 to show that prior taking over the charge the orders to this effect were issued by the Administrative Officer. The copies of the aforesaid orders are annexed as ANNEXURES-R-4 and 5 to this rejoinder affidavit. The deponent has already stated



R Phivs Law

(PZ)

that the Administrative Officers for the transfer of the charge is made by the Administrative Officer on the basis of the orders issued by the respondent No.1 but in the instant case neither the respondent No.1 endorsed the copy of the order dated 11th of Jan. 1990, impugned in the claim petition, to the Administrative Officer nor the orders were issued by the Administrative Officer to the effect that the deponent should handover the charge and the respondent No.2 should take over the charge. This will show the un-usual practice and procedure adopted by the respondents in the instant case.

I. That the deponent further draws the attention of this Hon'ble court that when the charge is taken over the charge certificate is counter signed by the Head of Office and in the case of the Director and otherwise the Administrative Officer is deemed to be the Head of the Office and he counter signs the charge certificate. The deponent in order to show that the charge certificate is ^{TeAR} counter signed annexes herewith the proforma of charge certificate as ANNEXURE-R-6 to this rejoinder affidavit. The deponent's charge certificate were signed by the said authority. However, in the instant case the respondent No.2 alleged to have taken over the charge on 12th of Jan. 1990 but the same was not counter signed by any authority. This shows the unusual practice and the procedure adopted by the respondents which cannot be accepted to be legal and proper.



R. Bhavaslan

J. That in order to further satisfy this Hon'ble Tribunal ~~that~~ that the respondents have adopted improper and illegal method to allegedly put the

(Signature)

.8.

respondent No.2 on the post of the Director submits that after taking over and handing over of the charge a report is sent to the Director (Personnel) of the respondent No.1 indicating therein the position ,aforesaid. This report is sent by the Administrative Officer. This report was sent in the case of the deponent when took over the charge from Dr.C.P.A.Aayar, the then out going Director. The copy of such letter dated 13.7.89 is being annexed as ANNEXURE-7 to this rejoinder affidavit. However, in the instant case of the respondent No.2 no such report was sent by the Administrative Officer. This shows the fact that the things were manipulated.

K. That the deponent submits that the respondent No.2 himself brought the aforesaid impugned order from Delhi and on the day when the deponent was on leave issued an order of his own from the P.A camp of the Director and stated therein that as per the order of the respondent No.1 dated 11th of January 1990 the respondent No.2 is assuming the charge of the post of Officiating Director, Central Institute of Horticulture for Northern Plains,Lucknow. The copy of the said letter is being annexed as ANNEXURE-8 to this ~~next~~ rejoinder affidavit.

A bare reading of the aforesaid order would show that the respondent No.2 has assumed the charge of his own and issued the order from his own camp number and not from the office mainly meant for all these purposes. This shows the malafide and improper and illegal method of assuming the charge by the respondent No.2 and he cannot be deemed to



R.P.Sivaswamy

have assumed the charge. The deponent further in order to show the high handedness and the improper and malafide practice adopted by the respondent No.2 annexes herewith the copy of the Charge certificate filled by the respondent No.2 allegedly whereby of his own he/assumed the charge of the Director as ANNEXURE-R-9 to this writ petition. A bare perusal of the aforesaid charge certificate will show that the charge was assumed of his own and neither it was counter signed by any authority nor the column of counter signature was shown in it. This all shows the manipulation to the effect that the ~~ex~~ respondent No.2 could claim that he has taken over the charge though he cannot take over the charge unless the orders of the respondent No.1 are complied with in full and the proper procedure of taking over the charge is adopted. The assertion therefore of the respondent No.2 to the effect that he has taken over the charge on 12th of Jan. 1990 is misconceived and wrong.



R. Bhavasana

L. The deponent submits that the deponent after the above development where on the one hand lodged a F.I.R. on 23rd of Jan. 1990 he on the other hand also wrote a letter to the respondent No.1 on 23rd of Jan. 1990 and submitted therein that the deponent was continuing to hold the charge of the Director but the respondent No.2 is also claiming to be the Director. A request was made to clarify the situation and the position. The copy of the said letter dated 23rd of Jan. 1990 is being annexed as ANNEXURE-10 to this writ petition. The deponent however, could not receive

(P)

any reply from the respondent No.1 whose officers are seems to be hands in gloves with the respondent No.2. The deponent then again sent another letter dated 25th of Jan. 1990 with reference to his previous letter and again sought ~~the~~ the clarification of the position. The copy of the aforesaid letter dated 25th of Jan. 1990 is being annexed as ANNEXURE-11 to this writ petition. The deponent again this time, could not receive any intimation from the respondent No.1 then he again sent ~~the~~ ^{and 4.2.90} a telegram dated 24.1.90 and stated therein that the situation is tense and the respondent No.1 should interfere in the matter. The copy of the said telegram is being annexed as ANNEXURE-12 to this rejoinder affidavit. A bare perusal of the aforesaid telegram would further show that the deponent has communicated to the respondent No.1 to the effect that the respondent No.2 is terrifying the staff members to accept him as a director on gun point. This telegram too could not yield any result and on the other hand the respondent No.1 attempted to help the respondent No.2 out of the way.

M. That the deponent further reiterates that the respondent No.1 has been influenced by the respondent No.2 and the respondent No.1 is attempting to help the respondent No.2 out of the way ignoring all the existing rules and the orders. The respondent No.1 in its effort to help the respondent No.2 wrote a letter to the respondent No.2 on 25th of Jan. 1990 which gives the reference of the letter dated 12.1.90 when there was no



R.Prasad

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• 11.

dispute nor any litigation was in existence. The interim order was ~~filed~~ granted by this Hon'ble Tribunal on 16th of Jan. 1990. The deponent has not filed any claim petition on 12th of Jan. 1990 before this Hon'ble Tribunal or before any other authority. However, the above letter shows that the respondent No.1 has directed the respondent No.2 to prepare a draft reply through his advocate on behalf of the Director General, ICAR the respondent No.1. The copy of the aforesaid letter is being annexed as ANNEXURE-13 to this rejoinder affidavit. A further perusal of the aforesaid letter would show that the respondent No.1 where on the one hand attempted to quote a wrong reference in his effort to help the respondent No.2 it on the other hand tried to help the respondent No.2 out of the way and the counter affidavit has been directed to be prepared in collusion with the respondent No.2. This shows the clear collusion with the respondent No.1 and the respondent No.2.

N. Th^t the deponent submits that despite all efforts the respondent No.1 has been in-active in the matter and instead of clarifying the position continued to help the respondent No.2 out of the way and kept on pending the letters and the telegram sent by the deponent in this regard. The situation has become so bad that ~~many employees~~ has also sent a telegram to the respondent No. wherein it was clearly stated that situation tense.



R. Bhavesh

(P)

Scientist life in danger. Kindly intervene.

This telegram also went un-attended and instead of intervening in the matter and clarifying the position with reference to its order dated 11th of Jan. 1990 it continued to help the respondent No.2 which cannot be done by the respondent No.1 being the State within the meaning of Article 12 of the Constitution. ~~The copy of the aforesaid telegram is also being annexed as Annexure 14 to this rejoinder affidavit.~~

O. That from the above it would be apparent that the respondents have acted in a very improper and illegal manner and the respondent No.2 cannot be deemed and accepted to be the Director of the aforesaid institute when the deponent is continuing to hold the charge of the Director. The deponent submits that he is holding the charge of the Director and he has not been served with any of the copy of alleged assumption of charge by the respondent No.2 nor he has been debarred by any authority, including the respondent No.1, to act as a Director pursuant to the interim order passed by this Hon'ble Tribunal or otherwise. It is further submitted that the Account of the Institute is governed and operated by the Director of the institute and the deponent in his capacity as a Director has been operating the Account. The deponent submits that in the institute the three persons are authorised to sign to operate the account i.e. Mr.P.N.Singh, Assistant Accounts and Finance Officer, ~~MaxxMaxxSinghxxAx~~ Mr. S.K.Saxena,



R.Singh

The Drawing and Disbursement Officer (appointed by the deponent) and the deponent. The account could be operated by any of the two signatories amongst the aforesaid three persons. The deponent in his capacity as a Director has drawn the pay for the month of the January of the staff working in the institute and as such his capacity as a Director is still in tact and it could not be twisted by any self styled Director or by any ~~xx~~ illegal or improper order. The deponent further submits that one Dr. G. C. ^{Sinha} ~~Singh~~, so called head of the office, appointed by the respondent, No. 2 wrote a letter to the State Bank of India which is having the account of the institute and submitted in his letter that the respondent No. 2 is the Director of the Institute and said Dr. G. C. Sinha has attested the signature of the respondent No. 2. The Bank authorities however, have refused to accept the respondent No. 2 to be the Director and allowed the deponent to operate the account alongwith other two persons. However, now the situation has become further tense and it is apprehended that if the respondent No. 2 is not restrained in his illegal activities then the pay for the month of Feb. 1990 may ~~not~~ be delayed and serious problems may create.



R.P.Singh

8 P. That from the above it would be apparent that the deponent is still continuing to be the Director and the respondent No. 2 is attempting illegally to grab the office of the Director with the collusion of the respondent No. 1. The deponent now gives the parawise reply of the counter affidavit submitted by the respondent No. 2.

(A)

1(ii) That the contents of ~~xxk~~ para 1 of the counter affidavit are misconceived. The respondent No.2 is not at all the Director of the institute and the deponent is officiating as the Director as will be evident from the facts shown in the aforesaid paragraphs. The deponent denies the contents of para under reply.

2) That the contents of para 2 of the counter affidavit are wrong and as such are denied. The deponent is Scientist in the aforesaid institute but his ~~xxk~~ pay in new pay scales has not been fixed so far. The deponent submits that the pay scales have been revised and the pay scales given in para under reply are not correct. It is also wrong that the deponent joined in the year 1977 as Scientist S-2. The fact of the matter is that the deponent has joined as Scientist grade-II on 30th of August 1976 and was promoted as Scientist S-3 on 1st July 1983. The details given about the basic pay of the deponent ~~xx~~ are also false and mis-guiding as the deponent's pay has not been fixed in the revised scale so far. The deponent however, has no knowledge about the in respect of details of salary etc. ~~given by~~ the respondent No.2 and as such the same are not accepted.

3.) That the contents of para 3 of the counter affidavit are also misconceived. There arises no question of seniority and juniority in the instant matter. The working of the deponent and the respondent No.2 are different. The respondent No.2 is not entitled to become officiating Director of the said institute pursuant to the

R.Sivasankar



the order and the rule of ICAR which are contained in order No.8-9/77-Per-IV dated 27th Dec. 1979 and No.8-9/77-Per-IV dated 15.5.86.

The deponent submits that the deponent has made clear cut assertion in the claim petition that the respondent No.2 was not entitled to violate the terms of the rule which was ~~xxk~~ issued by the respondent No.1. The deponent was and is entitled to officiate as an officiating Director and the action on the part of the respondents is thus illegal and unjustified besides arbitrary and malafide. The allegations, therefore, made in para under reply are denied.

4. That the contents of para 4 of the counter affidavit are also misconceived. The rule and the orders are very clear that the seniormost Scientist of the Institute shall be given the post of the officiating Director in case the vacancy is for morethan 45 days. The respondent No.2 however, could be considered for the said post in case the vacancy is for lessthan 45 days. The deponent submits that in the instant matter the vacancy is for morethan 45 days and as such the claim of the respondent No.2 does not exists and the respondent No.1 itself has not ~~wix~~ altered or amended the aforesaid rule /orders. The claim of the respondent No.2 therefore, to become the Director is illegal and against the standing orders. The respondent No.1 also could not issue any order contrary to its own orders. The order impugned in the claim petition thus is absolutely illegal .

5. That the contents of para 5 of the counter



R.P.Suresh

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affidavit are also misconceived and wrong. The deponent has already submitted in the claim petition and also in the foregoing paragraph of this rejoinder affidavit that the order was issued by the respondent No.1 in favour of the respondent No.2 with malafide intention and also ~~with~~ by entertaining the influence of the respondent No.2. The deponent submits that in the orders and the rules nowhere the qualification has been prescribed for acting as an officiating Director. In the said rules only the word Senior Most Scientist has been used. The word Coordinator has also been used but for the vacancies less than 45 days. In the instant case therefore, the respondent No.2 has no claim to officiate on the post of the Officiating Director. denied. The contents of para under reply are therefore,

6. That the contents of para 6 of the counter affidavit are misconceived and the same are denied. The respondent No.1, the Director General has no power to frame its own rule and procedure unless the same is accepted by the Governing body of the I.C.A.R. and the President of the I.C.A.R. The last guidelines, rule issued with the concurrence of the Governing body of the ICAR and the President was issued on 15th of May 1986 and thereafter no such rules or the orders have been issued in this respect; thus the assertions made by the respondent No.2 in para under reply are incorrect and mis-guiding.

7. That the contents of para 7 of the counter affidavit are also misconceived. The orders are complied with in full and not partly or line to



R. Bhavuslava

to line. The deponent submits that it will be an amazing situation if any person comply with a line which is in favour of any person ~~is~~ without having into consideration the further lines or the matter which is co-related to each other and with which reference the aforesaid line has been mentioned. The deponent submits that the order dated 11.1.90 was not complied with ~~was~~ by the respondent No. 2 as there ~~was~~ specifically mention that the deponent shall stand reverted from the date when he handovers the charge. The deponent has never handedover the charge of the post of Director and as such he cannot be deemed or assumed to have left the charge or handedover the charge and in such a situation the respondent No. 2 cannot be deemed to have taken the charge of the Director as the post of the Director was not and is not at all ~~is~~ vacant.

8. That the contents of para 8 of the counter affidavit are malafide and ambiguous. The deponent submits that the news published in the news paper cannot be accepted to be a fact nor the same can be taken into consideration for taking any official action unless there is something in writing in accordance with the rules and the regulation prescribed for the said purpose. The publication of news in the paper further shows the malafide action on the part of the respondent No. 2. The deponent further submits that the news could be published by any person or the authority but the same could not be deemed to be the order of the superior authority or any authority. The deponent further submits that during the period when the respondent No. 2 claimed to have assumed the charge of his own



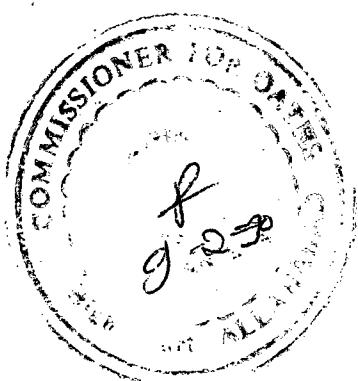
18.

the deponent was on leave and he has not handedover the charge to anyone. The deponent was never informed nor communicated anything at his house about the handing over the charge by the Administrative Officer who is authorised and vested with the power to issue such order and to get the charge transferred. The deponent was also not informed by any other authority for the assumption of alleged charge of his own by the respondent No.2. The assertions therefore, made in para are not accepted.

9. That the contents of para 9 of the counter affidavit are emphatically denied. The respondent No.2 has not acted as a Director in the officiating Director but at the most he could act as an acting Director in the absence of the Regular or officiating Director. The deponent has not annexed anything concrete in support of his assertions. The annexures annexed alongwith the counter affidavit as Annexure-6 and A-7 are also not any ~~mark~~ document to justify the working of the Respondent No.2 to act as a fulfledge Director. He has not practically discharged any duty as a Director. All such duties were and are being discharged by the deponent, as would be evident from the facts disclosed in the foregoing paragraphs.

Rejoinder

10. That the contents of para 10 of the counter affidavit are misconceived and the same are denied. The deponent has given all the relevant facts in para 1 to the rejoinder affidavit which will show that the deponent



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was officiating and is officiating as a Director of the said institute. The deponent was one of signatories ~~as~~ for operation of the Account. The pay of the staff for the month has also been drawn by the deponent. The assertion made by the respondent No.2 is also contrary to the assertion made by him in his dated 12.1.1990 which is endorsed to the deponent(though not served to him as yet) in which it has been cleared stated that the deponent is requested to handover all the articles/documents in his possession relating to the post of the Director. This itself shows that the respondent No.2 has requested the deponent to handover the charge but in para under reply the respondent No.2 has stated that there was nothing with the deponent to handover to the answering respondent on 12.1.1990. The stand therefore, taken by the respondent No.2 is contradictory and as such the allegations made in para under reply are emphatically denied. Answer R-14



11. That the contents of para 11 of the counter affidavit are emphatically denied being wrong and misconceived. The deponent never handedover the charge to any person, including the respondent. Nor he left the post of the Director. As per the impugned order the deponent reversion cannot be deemed unless he handedover the charge. The Hon'ble Tribunal passed the interim order maintaining the situation of 16.1.90. On the said date the deponent was the Director and he continued to function as the Director and passed a number of orders which would be evident from the records of the office and which may be summoned by this

R. Srinivasan

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Hon'ble Tribunal, if necessary to ascertain the factual position. ~~xxx~~

12. That the contents of para 12 of the counter affidavit are misconceived. The deponent submits that ~~xxx~~ while the deponent was on leave the impugned order dated 11th of Jan. 1990 was obtained by the respondent No.2 ~~and the leave was~~ and the leave was till 16th of Jan. 1990. Under these circumstances ~~the respondent~~ ~~xxx~~ there was no occasion to inform the respondent No.2 as he was no more Director during the aforesaid period. This Hon'ble Tribunal after giving due hearing and in the interest of natural justice passed the interim order in favour of the deponent. The deponent thus, as usual, on return from leave continued to discharge his duties as the Director and at no point of time the charge of the Director was left or handedover by the deponent. The deponent, as already stated above, has written a number of letters and telegram for the clarification of the position and the order dated 11th of Jan. 1990 but the matter was kept pending and instead the respondent No.1 is helping the respondent No.2 out of the way as is evident from the letter dated 25th Jan. 1990 already annexed to this rejoinder affidavit in which the respondent No.2 has been directed to get the counter affidavit prepared on behalf of the respondent No.1. This shows the clear collusion in between the respondents. The respondent No.2 is pasting the aforesaid order on the notice board and distributing the



RPSwastha

copies thereof to different officials/scientist to show that the respondent No.1 is favouring him and as such he should be accepted to be the Director. Such type of ~~xx~~ letters however, could not confer any power or authority to the respondent No.2 to become the Director of the said institute. The assertions therefore, made in para under reply are denied.

13. That the contents of para 13 of the counter affidavit are misconceived and as such are denied. The deponent submits no orders becomes self operative unless it is put to operation as per the rules and procedure prescribed. The deponent submits that the assertions made by the respondent No.2 to this effect are ambiguous. The deponent submits for the illustration purposes that if any body is succeeds any examination and become entitled to be appointed then he cannot be deemed to have been appointed unless the appointment letter is not ~~xx~~ issued and he puts his joining and the same is accepted in accordance with rules. The deponent further submits that the aforesaid order was not even served upon the petitioner officially nor the ~~xx~~ deponent was reverted by any of the authority. The impugned order itself shows that the reversion would take place when the deponent would hand over the charge. This was not done. The assertions therefore, made by the respondent No.2 are misconceived. The deponent though referred the matter to the respondent No.1 but nothing was communicated in reply thereto nor



RPSivaswami

the deponent was reverted by any order. The assumption therefore, made by the respondent No.2 that the deponent has been reverted is baseless and without any foundation. The case law cited in para under reply does not apply ~~as~~ in the instant case as the deponent has never handedover the charge nor has left the post of the Director nor he could be deemed to have left the charge of the Director. The deponent is still working as the Director as would be evident from the records maintained in the office.

14. That the contents of para 14 of the counter affidavit are misconceived and the same are denied. There was no occasion and time to avail the alternative remedy as the deponent was attempted to be reverted on his joining to the office and after handing over the charge. It is also relevant to mention that the deponent is only officiating as the Director and the advertisement for the regular post has already been made. If the deponent would have attempted to approach the respondent No.1 then it was bound that his legal rights would have been snatched with the lapse of time as the respondent No.1 would have slept over the papers as it is being done presently by it in respect of the letters and telegram sent by the deponent on 23rd of Jan. 1990 and onward. The deponent however, submits that he has every right to approach this Hon'ble Tribunal to seek necessary relief in the aforesaid circumstances.

R. Bhaveshwar



15. That the contents of para 15 of the counter

affidavit are misconceived and wrong. The deponent thus denies the assertions made in para under reply. The deponent submits that the respondent No.2 has submitted his counter affidavit in detail. However, if any further assertions are made by any other counter affidavit then the same will be ~~exp~~ duly replied. The interim order was passed by this Hon'ble court when the deponent was continuing to be the Director and as such the same should be maintained and the deponent be deemed to ~~remain~~ be continuing to be the Director. The facts shown in the foregoing paragraphs, particularly in para 1 of this rejoinder affidavit, would clearly show that the deponent continued to discharge his duties as the Director and the respondent No.2 has forcibly attempted to disturb the working of the Director who may be directed not to interfere with the working of the Director till the regular Director joins.

16. That it needs mention that the notice was also issued to the respondent No.1. The respondent No.1 however, has not filed any counter affidavit so far. However, as per its instruction it is apparent that the respondent No.1 has passed the order out of the way to please the respondent No.2. It is also apparent that the respondent No.1 has not only illegally helped the respondent No.2 but has also further authorised him to get the counter affidavit prepared which may be sworn by the respondent No.1 which fact would be evident from the letter dated 25th of Jan. 1990 which has already been annexed to this rejoinder affidavit.



R.P.Srivastava

17. That the attention of this Hon'ble Tribunal is also drawn towards the fact that the work coordinator should be given a dictionary meaning. The coordinator is only appointed to coordinate the concerned department/branches/institute but not for discharging the functioning of the administrative side. The respondents therefore, are not authorised to give a different meaning just opposite to the dictionary meaning. It is unfortunate that the respondent No.1 has passed the impugned order ignoring the rules framed by it itself. The orders therefore, passed by the respondent No. 1 in its letter 11th of Jan. 1990 are illegal and are liable to be quashed.

18. That under the above circumstances the Hon'ble Tribunal be pleased not only to confirm the aforesaid interim order but respondent No.2 be further directed to stop sitting in the Director's room or show to act as Director and also not to interfere with the working of the deponent as the Director of the aforesaid institute and further impugned order dated 11th Jan. 1990 be quashed.



Dated: Lucknow the

9/16 day of Feb. 1990

R. Sivanesan
Deponent

R. Sivanesan

VERIFICATION

The the deponent above named do hereby verify that the contents of paras 11-16 of the rejoinder affidavit are true to the best of my personal knowledge and those of paras 17 & 18

(APD)

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of the same rejoinder affidavit arebelieved by me to be true. That no part of this affidavit is false and nothing material has been concealed; so help me God.

Signed dated and verified this the 9/4
day of Feb. 1990.

R.P.Singh
Deponent

I identify the deponent who has signed before me and who is known to me personally

B.R.Khatri
c/o P.R.Khatri

Advocate

Solemnly affirmed before me on 9-2-90
At 10.10 A.M./P.M. by Sri Ram P. Singh
the deponent who is identified by
Sri B.R. Khatri c/o P.R. Khatri
Advocate of High Court of Judicature at
Allahabad, Lucknow Bench, Lucknow.

I have satisfied myself by examining the deponent who understands the contents of this affidavit and which have been read over and explained by me.



R.P.Singh
R.P.Singh
DATA COMMISSIONER
H.C. Court, Allahabad
Lucknow Bench
48175
9-2-90



Anex-R-1

Phone : 71196/72676
Telex : 535/359
Gram : MANGOREARCH

AI01

केन्द्रीय उत्तर मंदानी उद्यान संस्थान

CENTRAL INSTITUTE OF HORTICULTURE FOR NORTHERN PLAINS

No. FA/190

Dated: 23.1.90

वी-२१७, इन्दिरा नगर,
B-217, Indira Nagar,
दाकखाना : राम सागर मिश्रा नगर
P. O. Ram Sagar Mishra Nagar,
लखनऊ-२२६ ०१६ (उ. प्र.)
Lucknow-226 016

सेवा में,

श्रीमान स्टेशन इन्चार्ज
गाजीपुर थाना
इन्दौरनगर, तरनऊ।

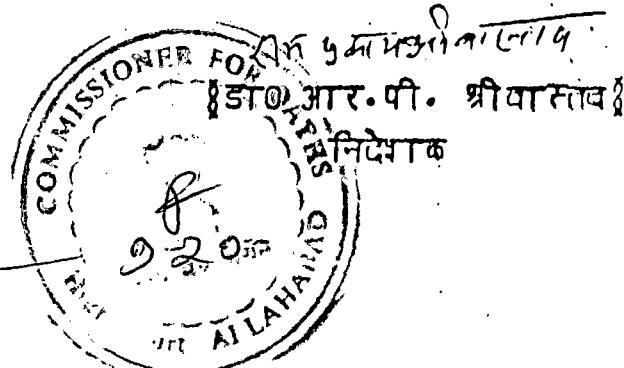
महोदय,

आपको सूचित करना चाहता हूँ कि रोज की शांति आज जब मैं उपने कमरे में १० बजे प्रातः गया, उस समय इस संस्थान में प्रयोजना समन्वयकर्ता डॉ आई.एस. पादव मेरेहै पर बैठे थे और उनके सामने १० व्यक्ति बाहर के बैठे थे, जो रायफल लिये थे। मुझे देखकर वह लोग मेरे और लपके और रायफल मेरी ओर तान ली। परिस्थिति को देखते ही मैं वहां से बगर कुछ लौले बाहर भाग गया और बाहर देखने पर मैंने पाया कि गेट के बाटर घार गाड़िया दो अम्बेस्डर तथा दो मारुति थे उनमें भी बाहर के लोग बैठे थे। तथा दोनों अम्बेस्डर कारों में रायफल की नली बाहर निकली थी। स्थिति को भाष कर मैं उच्चर अपनी लैंड में बैठ गया।

बाहर से आये व्यक्ति मेरा नाम लेकर मुझ टूट रहे थे। मैं किसी प्रकार से बदकर थाने में यह रिपोर्ट लिखाने आया हूँ।
मुझ अपनी जान आली थी (नताई)

कृपया इस एफ.आई.आर. को दर्ज कर लें एवं उधित कर लें।

महोदय,



R. P. S. Mishra

23/1/90



Annex - R - 2

Phone : 71196/72676
Telex : 535/359
Gram : MANGOSEARCH

PL-2

केन्द्रीय उत्तर मैदानी उद्यान संस्थान
CENTRAL INSTITUTE OF HORTICULTURE FOR NORTHERN PLAINS

दृन्यार्जुन,
गाजीपुर धाना,
इन्दौर नगर,
लखनऊ।

सेवा में,

बी-२१७, इन्दिरा नगर,
B-217, Indira Nagar,
डाकघासा : राम सागर मिश्रा नगर
P. O. Ram Sagar Mishra Nagar,
लखनऊ-२२६ ०९६ (उ. प्र.)
Lucknow-226 016
A/c. P.A. - 90
D.L. - 27.1.90

आपको दिनांक 23.१.९० को डा० आर्ड० स० यादव द्वारा किये गये निदंसीय कार्य के विषय में लिख युक्त हूँ जिसमें उन्होंने बाहर से गुण्डे बुलाकर सभी को धमकाया था। इसी संदर्भ में आपको सूचित करना चाहता हूँ कि डा० आर्ड० स० यादव ने उसी दिन से निदेशक का कमरा हथिया लिया है और वह प्रार्थना करने पर भी उल्ली नहीं कर रहे हैं।

जैसा आपको मालूम है कि प्रार्थी ने दिनांक 16.१.९० को सेन्ट्रल एडमिनिस्ट्रेटिव फ्रिवूनेल से स्टे ले लिया है। और इस पद पर कार्य कर रहा था। अयानक 23.१.९० को गुण्डा-गर्दी करके डा० यादव ने कब्जा किया तथा सभी कर्मचारियों को डरा धमका रहे हैं। उनके अराजकता सभी भी कार्यालय में आकर धमकी देते हैं। इससे वातावरण दूषित हो रहा है। आपसे निवेदन है कि हमारी यह रिपोर्ट दर्ज कर लें तथा हमारा कमरा खाली करवा दें। डा० यादव को यह निर्देश भी दें कि वह बाहर के लोगों को बुलाकर कार्यालय में धमकी न दें। आपको फिर कहना चाहूँगा कि हमारी जान माल का खतरा है।

उल्लिखित कार्यवाही हेतु प्रस्तुत है।

मवदीय,

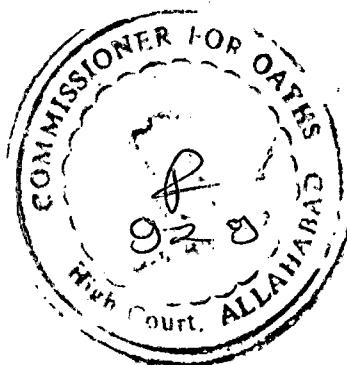
२० जून १९९० श्रीवास्तव

आर०पी० श्रीवास्तव
निदेशक

संलग्नकः

१. एफ.आर्ड०आर० की प्रति
२. स्टे की कापी

R. Bhuvaneswari



In the Court Of Judicial Magistrate, Lucknow

Annex - R-3
Alobi

State

V/S

Dr. I.S. Yadav, Director,

C.I.H.N.P.

s/o Sri H.S. Yadav

Office at B-217, Indra Nagar
Lucknow

.....Applicant

P.S. Gazipur

Distt. Lucknow

Application for calling report from P.S Gazipur

Sir,

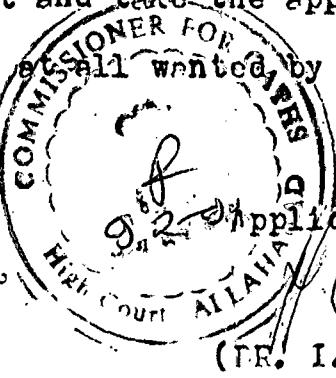
The applicant most humbly submits as under :

1. That the applicant is a reputed person, employed as Director in a Central Govt. Department.
2. That the applicant is unnecessarily being harrassed by the police of P.S. Gazipur.
3. That the applicant is ready to surrender before this Hon'ble Court if he is at all wanted by the police of P.S. Gazipur, Lucknow in any case.

WHEREFORE, it is, most humbly prayed that this Hon'ble Court may kindly be pleased to call for a report and take the applicant into custody if he is at all wanted by the police in any case.

Lko

Dt. 24.1.90



Anex-R-4
A105

CENTRAL INSTITUTE OF HORTICULTURE FOR NORTHERN PLAINS,
B-217, INDIRA NAGAR, P.O. RANASIGAR MISHRA NAGAR, LUCKNOW- 16

NO. F. 1-4(4)/87-Estt- 975-95

Dated 30.11.87

OFFICE ORDER

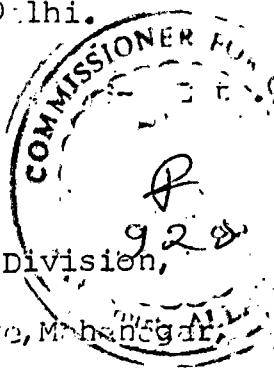
Consequent upon the superannuation of Dr. K.C. Srivastava, Director, C.I.H.N.P., Lucknow, with effect from 30.11.87 (A.N.), Dr. R.P. Srivastava, S-3(Ento.), C.I.H.N.P., Lucknow, will look after the current charge of the post of Director, CIHNP, Lucknow, with effect from 1.12.87 without any extra remuneration till the post of Director, C.I.H.N.P., is filled up regular basis or till further order whichever is earlier. Dr. R.P. Srivastava, will also exercise all the administrative and financial power delegated to the Director of the ICAR Institutes.

This has the approval of the ICAR conveyed vide their letter No. 32(2)/87-Per.I Dated 26.11.87.

27/11/87
ADMINISTRATIVE OFFICER

DISTRIBUTION:

1. Dr. R.P. Srivastava, S-3(Ento.) CIHNP, Lucknow.
2. Dr. K.C. Srivastava, Director, C.I.H.N.P., Lucknow.
3. Deputy Director General (Hort), I.C.I.R., New Delhi.
4. Deputy Director (P), I.C.I.R., Krishi Bhawan, New Delhi.
5. Under Secretary, EEvII, ICAR, Krishi Bhawan, New Delhi.
6. All the Sectional Heads.
7. Incharge Raibareilly Road Campus.
8. Incharge PHT Section (Dr. S.K. Kalra, S-3)
9. Vigilance Officer/ Security Officer.
10. Technical Cell
11. The Executive Engineer, CPWD, Lucknow, Central Division, Aliganj, Lucknow.
12. Divisional Engineer, Mohanagar Telephone Exchange, Mohanagar, Lucknow.
13. Asstt. Accounts Officer, CIHNP, Lucknow.
14. Jr. Garden Supdt. Rohankhera Farm
15. Supdt. (Accounts), CIHNP, Lucknow, with the request that action for shifting of Residential telephone of Dr. K.C. Srivastava, Director, may please be taken immediately.
16. P.A. to Director.
17. Guard File (Estt).
- 18.



Anex - R - 5

A106

GENERAL INSTITUTE OF HORTICULTURE FOR NORTHERN PLAINS,
B-217, INDIRA NAGAR, P.O. RAMJAGAR MIDDAY MEAL, LUCKNOW-16

File No. 2-227 (1)/88-Sett.

Dated 13.6.89

OFFICE ORDER

On the authority of I.C.A.O. Office Order
No. 52-1/84-Per.I dated 1.6.89 Dr. C.P.A. Iyer, Director,
Central Institute of Horticulture for Northern Plains,
Lucknow, is hereby relieved with effect from 13.6.89 (e.m.)
to join Indian Institute of Horticultural Research,
Bangalore. Dr. R.P. Srivastava, Principal Scientist,
C.I.H.R., Lucknow, is appointed as Director, C.I.H.R.,
Lucknow, on officiating basis in the pay scale of
Rs. 4500-150-5700-200-7300 with effect from the date of
his taking over the charge.

Dr. C.P.A. Iyer will not be entitled to transfer
I.A./D.A. etc. as his transfer to Indian Institute of
Horticultural Research, Bangalore is on his own request.

R Phindra

ADMINISTRATIVE OFFICER &
HEAD OF OFFICE

DISTRIBUTION:

1. Dr. C.P.A. Iyer, Director, CIHNP, Lucknow.
2. Dr. R.P. Srivastava, Principal Scientist, CIHNP, Lucknow,
with the request to take over the charge from
Dr. C.P.A. Iyer, Director, CIHNP, Lucknow.
3. Director, I.I.H.R., Bangalore.
4. Asstt. Finance & Accounts Officer, CIHNP, Lucknow.
5. Drawing & Disbursing Officer.
6. Supdt. (Accounts).
7. Service Book.
8. Personal File Part.I
- Spare



BHARTIYA ANUSANDHAN PARISHAD
 INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN, NDW DELHI-110001

CERTIFICATE OF TRANSFER OF CHARGE

Certified that I have in the forenoon/afternoon
 of this day made over/received charge of the post of...
 in Grade
 of the Agricultural Research Service.

Signature

Name (In Block letter)

Designation: _____

Date:

Station

Countersigned by

(To be signed by the Head of Office)

Date:

Station

Signature

Designation

R. Bhavilal



फा. नं. 2-227/18/00-तथा. 2850-55

B. 7. 89

लेखा द्वा.

निवेशक [कार्यालय],
भारतीय कूपीज अनुसंधान परिषद्,
कूपीज भवन,
नया दिल्ली-110001

दिव्याः डा. ए. ए. ए. अमृपर, निवेशक, कूपीज उत्तर मेदानी उद्यान तत्थान,
लखनऊ; के वर्धमार मुक्ति के तन्त्रम् द्वे।

मदोवध,

भारतीय कूपीज अनुसंधान परिषद्, नया दिल्ली, भारत भारतीय विद्यालय
ग्रामेश्वर नं. 52-1/84-कार्यालय-1 दिनांक 1.6.89 में निर्दिष्ट निर्देशों के
उत्तर पर डा. सी. पी. ए. अमृपर, जो निवेशक के पदभार ते दिनांक 13.6.89
[विवरान्वय] से युक्त छर दिव्या नया दिल्ली एवं ग्राम ग्रन्थालय में
दिनांक 13.6.89 [विवरान्वय] के निवेशक, कूपीज उत्तर मेदानी उद्यान तत्थान,
लखनऊ, जो पद भार ग्रहण कर लिया है। डा. सी. पी. ए. अमृपर के पदभार ग्रहण की
दोनों तथा डा. राम प्रकाश गोपालताव के निवेशक पद पर पदभार ग्रहण करने की
रिचोर्ट जी सद-सद्गुपी शुभार्थ प्रेक्षा है।

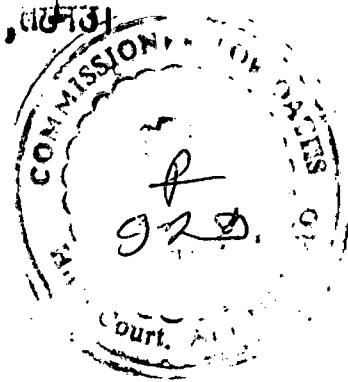
मदोवध,

375/5/21/22

ग्राम ग्रन्थालय सद
भारतीय अध्ययन

राज्यालय: उपरोक्ता

1. उपरोक्त वित्त सद लेहा ग्रन्थालय, के.ह. मे.ह. स. लखनऊ।
2. ग्राम ग्रन्थालय ग्रन्थालय, के.ह. मे.ह. तत्थान, लखनऊ।
3. ग्रन्थालय लेहा।
4. डा. आर.पी. ग्रीष्मात्तव, जी लेहा ग्रन्थालय।
5. डा. आर.पी. ग्रीष्मात्तव जी अधिकारी विद्यालय लखनऊ।



PL681

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN : NEW DELHI

F.No.52-5/89-Per,III

Dated the 11th Jan., 1990

OFFICE ORDER

The President, Indian Council of Agricultural Research, is pleased to appoint Dr. I.S. Yadav as Officiating Director, Central Institute of Horticulture for Northern Plains, Lucknow with effect from the date of his taking over charge in addition to his present duties as Project Co-ordinator until a regular Director joins the position or further orders, whichever is earlier.

Consequently, Dr. R.P. Srivastava will stand reverted to his parent position as Scientist S-3 (pre-revised) from the date of handing over charge to Dr. I.S. Yadav.



(O.P.KUMAR)
UNDER SECRETARY (K)

Distribution :-

1. Dr. I.S. Yadav, Project Coordinator, C.I.H.N.P., Lucknow.
2. Dr. R.P. Srivastava, S-3, C.I.H.N.P., Lucknow.
3. Director, I.I.H.R., Bangalore.
4. The Accounts Officer, C.I.H.N.P., Lucknow.
5. The Accounts Officer, I.I.H.R., Bangalore.
6. EE-V Section.
7. Guard file.
8. Personal file.
9. Spare copies (5).

P.K.S
11.1.90

R.P.Srivastava



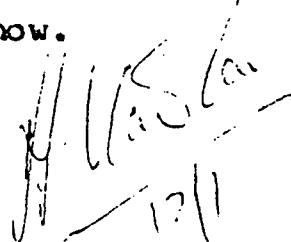
Anex-2-9
Atto

~~Annex A~~

CENTRAL INSTITUTE OF HORTICULTURE
FOR NORTHERN PLAINS, (ICAR)
B-217, INDIRA NAGAR,
LUCKNOW

CERTIFICATE OF TRANSFER OF CHARGES

Certified that I have in the forenoon of
12th January, 1990, assumed the charge of the post
of Officiating Director, Central Institute of
Horticulture for Northern Plains, Lucknow.

Signature 

Name : Dr. I.S. YADAV,

Designation: OFFICIATING
DIRECTOR

Dated: 12.1.1990

Station: Lucknow

R. P. Sinha



Annex-R-10

III

PA/90

123.1.90

To

The ~~Business~~ Secretarial

I.C.A.R. New Delhi

Sir

With reference to this office letter no. even dated 17.1.90 sent to the Council under Speed post for issuing instructions to this office with reference to the C A T at Lucknow order dt. 16.1.90, it is to inform you that Dr. I. S. Yadav, Project coordinator (F) on 23.1.90 for -esq in protection of a number of outsider gunnman / R. blemen has occupied the room of the Director at C I H M P and it has created a panic and terrifying atmosphere in the organization. Even to the extent that the Gunnman were moving in the office from room to room to terrify the staff of the Institute.

Sir, with respect to the C A T decision, I
request you to kindly send us clear cut instructions
so that normal functioning of the Institute as well
discharging of my duties from the room of the Dir.
can be restored. I may emphasised that I had not
handed over the charge of the office of the Director
to Dr. I. S. Yadav in view of the C A T order dt 16.1.90
along Another copy of C A T order dt 16.1.90 along with my
application dt 15.1.90 before the Hon'ble Court C A T is ready
for your kind perusal and issue of clear cut instruction

Röhrwachse



to all concerned including Dr. Yadav in the public interest and for honoring the orders of the Hon'ble C.A.T.

In case the council does not pass on the clearcut instructions within 2 days, I shall be left with no alternative except to request the Hon'ble Court for Contempt of Court.

A very immediate action is solicited.

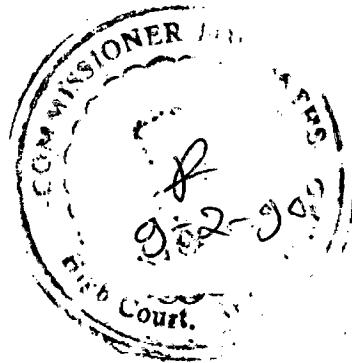
I shall appreciate if a Senior person from the administration is sent here to review the situation.

Yours faithfully

R.P. Sivastava

(Dr. R. P. Sivastava)

R.P. Sivastava





ICAR

Annex - R-11

Phone : 71196/72676
Telex : 535/359
Gram : MANGOSEARCH

PLB

केन्द्रीय उत्तर मंदानी उद्यान संस्थान

CENTRAL INSTITUTE OF HORTICULTURE FOR NORTHERN PLAINS

No. PA/90

Dated : 25.1.90

वी-२१७, इंदिरा नगर,
B-217, Indira Nagar,
डाकखाना : राम सागर मिश्रा नगर
P. O. Ram Sagar Mishra Nagar,
लखनऊ-२२६०९६ (उ. प्र.)
Lucknow-226 016

To,

Director General,
ICAR, Krishi Bhawan,
New Delhi.

Sir,

In continuation to my earlier letter no. PA 90 dated 23.1.90 regarding the activity of Dr. I.S. Yadav, Project Coordinator of this Institute. Now on gun point Dr. I.S. Yadav is ^{ref} presuming the Adminstration to accept him as ^{W.e.f} Director ~~23.1.90~~. People are terrorized by antisocial elements, hence the work is standstill. Dr. Yadav is asking staff members to bring files by force & giving them threatening for bad consequences. Staff members are terrorized.

You are requested to send clear cut orders in view of CAT decision.

Any delay in your part shall be problematic in running the institute.

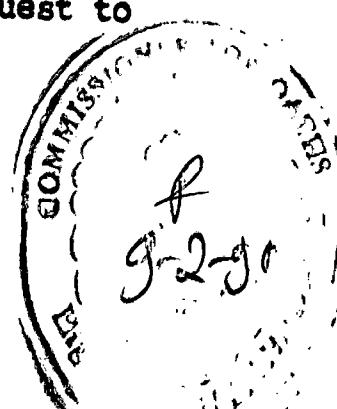
Yours faithfully,

R.P.Srivastava

(R.P. Srivastava)
DIRECTOR

Copy to secretary ICAR New Delhi with the request to clarify the position.

R.P.Srivastava



AIAC

P/A)

भारतीय डाक-तार विभाग
INDIAN POSTS AND TELEGRAPHS DEPARTMENT
अंतर्राष्ट्रीय तार / अंतर्राष्ट्रीय डाक

24 - 90 411 x - 0 1 200

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सेवा अनुदेश
S.I.शब्द
Words

Date-stamp

DIRECTOR GENERAL
ICAR KRISHIBHAWAN
NEW DELHI

DOTOR. I. S. YADAV PROJECT COORDINATOR.
TERRIFYING STAFF MEMBERS TO ACCEPT HIM
AS DIRECTOR ON GUN POINT. GUNMAN STILL
MOVING IN THE ~~LABORATORY~~ STAFF FEARING
LIFE INSECURE. INTERVENE. GIVE CLEAR
CUT INSTRUCTION.

R. P. SRIVASTAVA
DIRECTOR.

(मालक/From)

भेजने वाले के हस्ताक्षर/Sender's Signature

RPSrivastava

भार से न भेजा जाए
Not to be telegraphed

नाम/Name - Dr. R. P. Srivastava, Director

पता/Address - C 1 H N P, B-217 India Nagar LK0.

MGIPAH - 10 P. & T. / 82 - 24-4-82 - 5,00,00,000.

(28-4-74 MI)

RPSrivastava



(A)

दूर संचार विभाग
DEPARTMENT OF TELECOMMUNICATIONS
अन्तर्राजीय तार/Inland Telegram

Annex-R-12 (b)

AHS

—या निर्देश (जैसे जवाबी सरकारी, वधाई) Service Indication (e. g. Reply Paid, State Greetings)	प्रभार Charges ₹०/Rs. १०/P.	(भारतीय तार अधिकारियम और निवारों के बधान पारेषण के लिए प्रस्तुत। तार सेना भग होने से इस तार का पारेषण या वितरण प्रभावित होने पर उससे उत्पन्न होने वाली या उसके परिणाम स्वरूप किसी हानि शाति या नुकसान की सति-पूर्ति देने के लिए सरकार विम्पेदार नहीं है।) Presented for transmission subject to Indian Telegraph Act & Rules. The Government is not liable to make compensation for any loss, injury or damage arising or resulting from any failure of service affecting transmission or delivery of this telegram).	नेत्रने के व्यापार Sent Particulars 105	तारीख मानुष 31.01.1990
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पूँजी तारघर
Office of Origin

तारीख
Date

सेवा अनुदेश
S. I.

शब्द
Words

सेवा में/To

Dr. N. S. RANDHAWA
DIRECTOR GENERAL
AGRISOC NEW DELHI

KINDLY RECALL TWENTYTHIRD AND TWENTYFIFTH
JANUARY, TELEGRAM TWENTYFOUR JANUARY 90
POSITION STILL WORSE. REQUEST IMMEDIATE INTERVENTION
AND CLEAR INSTRUCTIONS BY TELEX

R. P. SRIVASTAVA
DIRECTOR MANGOSEARCH
(प्रेषक/From)

मेजरे वाले के हस्ताक्षर/Sender's Signature

R. P. Srivastava

तार से न भेजा जाए
Not to be Telephered

नाम/Name

Dr. R. P. Srivastava

पता/Address

C I HNP B-217 India Nagar Lucknow

S. K. Printers Lko

R. P. Srivastava



डा० एन. एस. रंधावा
महा निदेशक
भारतीय कृषि अनुसंधान परिषद

DR. N. S. RANDHAWA
Director General
Indian Council of Agricultural Research



Phone : 382629 (Off.)
383164 (Resi.)
सचिव, भारत सरकार
कृषि अनुसंधान और शिक्षा विभाग (कृषि मंत्रालय)

Secretary, Govt. of India
Department of Agricultural Research & Education
(Ministry of Agriculture)
Krishi Bhawan, New Delhi-110 001

D.O.No.25(2)/90-Law
Dated the 25 January, 1990.

Dear Dr. Yadav,

With reference to your letter No.PA/Dir/90/8359 dated 12.1.1990, you are advised to prepare a draft reply through your advocate on my behalf as Director General, ICAR, Respondent No.I. Please incorporate all the facts and send the same to me for signature to be filed in the CAT at the earliest possible.

With regards,

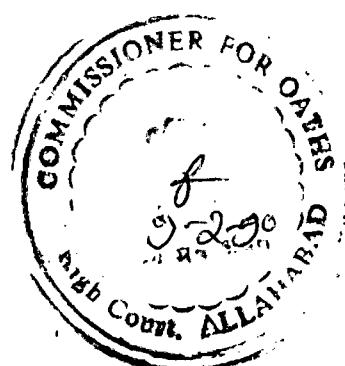
Yours sincerely,

N.S. Randhawa

(N.S. Randhawa)

Dr.I.S. Yadav,
Officiating Director,
Central Institute of Horticulture for
Northern Plains,
B-217, Indira Nagar,
P.O. Ram Sagar Mishra Nagar,
LJCHNCV-223 113.

R Phindra



YD/IR/90/S 15/1/90
1.1.1990

~~SECRET~~

Anex-R-14

To

AIY

The Director General,
ICAR, Krishi Bhawan,
New Delhi-110001.

Sir,

With reference to the Council's Office Order No.52-5/89-Ref.III, dated 11th January, 1990, I have resumed the charge of the post of Officiating Director, Central Institute of Horticulture for Northern Plains, Lucknow, in the forenoon of 12th January, 1990.

I am enclosing herewith charge assumption certificate, in quadruplicate, for countersignature and further necessary action at the Council.

Thanking you,

Yours faithfully,

S.I/-

(I.S. Yadav)
OFFICIATING DIRECTOR

Enclos/a

o/c

Copy to Shri O.P. Kumar, Under Secretary (K), ICAR, Krishi Bhawan, New Delhi-110001, alongwith a copy of charge assumption certificate.

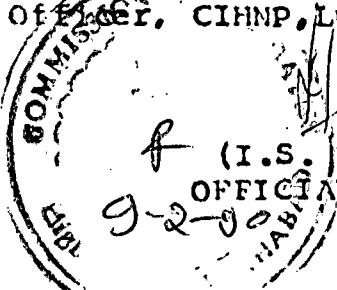
S.I/-

(I.S. Yadav)
OFFICIATING DIRECTOR

Copy also to the following alongwith charge assumption certificate and an attested photo copy of ICAR Office Order as ~~stated above~~ mentioned above.

1. Dr. R.P. Srivastava, Scientist S-3(pre-revised), CIHNP, Lucknow. He may be requested to hand over all the articles/documents in his possession relating to the post of Director.
2. Admin. Officer, CIHNP, Lucknow.
3. Asstt. Fin. & Accounts Officer, CIHNP, Lucknow.
4. Service Book

o/c



f (I.S. Yadav)
OFFICIATING DIRECTOR
9-2-90
o/c

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
SITTING AT LUCKNOW.

O.A. No. 14 of 1990

Dr. Ram Prakash Srivastava

Applicant

Versus

The ~~Maxxaxxx~~ Director
General, Indian Council of
Agricultural Research, New
Delhi and others.

Respondents

P.T.
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WRITTEN ARGUMENTS

(On behalf of the applicant)

My Lord,

The above petition arises out of an order which is annexure-6 to the petition. The reading of the order clarifies in para 2 thereof that the petitioner shall be reverted as scientist S-3 from the post of the Director. The respondent No.2 was appointed as Project Director.

POINTS OF GROUNDS

The respondent No.2 is the Project ^{not} Coordinator and is/in the service of the Institute

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of Indian Council of Agricultural Research; therefore, when the vacancy has arisen in the unit the institute at Lucknow then the respondent No.2 being the co-ordinator had no right to get himself appointed as the Director which is the highest post in the unit for the employees of the unit and not with reference to the co-ordinator.

This submission is relied upon by reading the rule-2 of the rules of the Societies referred before Your Lordship. The rule 2(i) and 2(k) may be read together. The Director has been defined to mean the person appointed under the provisions of these rules and the byelaws of the council. It is however, clarified that such person shall be the Director of an institute of the I.C.A.R. The Co-ordinator is referred in rule 2(k) which emerges out of the constituent unit of the Society. It is clarified that the Co-ordinated Projects are administered by the society. It is also submitted that the respondent No.2 himself has clarified the fact in his representation Annexure-A-1 to the affidavit. The reading whereof will show that his grievance was only that the post of the Director should be filled up and not otherwise. Page-4 of the documents annexed to the aforesaid Annexure-A-1 shows the relevant words ~~on~~ ^{on} the right hand side which are quoted hereunder:

"The position of Joint Directors, Project Co-ordinators etc. are unique to the I.C.A.R. system. They are required to be ~~the~~ national leaders in their respective specialised fields and provide leadership to research/teaching/

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extension education, Therefore, it is necessary that qualification and experience in respect to these posts should be higher than those for principal scientist.

Accordingly the qualification and experience of these posts has been kept higher."

Sir,

It is therefore, clarified that the Project Coordinator has been found to be distinct one than the scientist of the institute, the Unit. They were found to be the national leaders in their respective specialised fields. It was therefore, submitted before Your Lordship that they belong to a different category and a distinct project of which they happen to be the coordinator and not the part of the unit, the institute in question. They therefore, are vested with no right to claim themselves to function as a Director for time being in the event such vacancy has arisen. It is respectfully submitted that fresh appointment to the post of the Director by virtue of selection would be distinct one in as much as the Project Coordinator is specialised in the national field but even if he desire then he can apply for his appointment to be the considered amongst other applicants but for officiating purposes he is not entitled to unless he belong to the same unit as senior most amongst the scientist of the unit alone. Otherwise he will continue to be the Project Co-ordinator which should also be given a dictionary meaning. The purpose is only to co-ordinate and not to discharge all functioning of the unit, including the administrative one.

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The second point which was urged before this Hon'ble Tribunal was that for the purposes of filling up the officiating vacancy to the post of the Director the initial circular was made by virtue of Annexure-1 to the petition. The reading whereof will show that this was the decision taken by the Society which is has clarified that the same was pursuant to the decision taken by the Controlling Authority. This order has further clarified that Co-ordinated Project has an All India bearing; therefore, the Project Coordinator/Project Director cannot be entrusted with the responsibility to lookafter the duties of the Director in the absence of the Director of the institute, the unit. This further clarified by another annexure-2 to the petition and the copy of which was forwarded to all concerned officers, including the Secretary of the Society. It was again reiterated that the Project Co-ordinator and the Directors may not be entitled to officiate or considered for the said post except when the vacancy is not for morethan 45 days. This order further shows that this decision was taken with the approval of the Director General of I.C.A. which is highest authority amongst all the scientist in employment with the society. The functioning of the Director General is also given in the rules quoted hereinabove and the copy whereof has also been delivered to this Hon'ble Tribunal. In the instant case it is clear that the vacancy is for morethan 45 days and as such the respondent No.2 who is the Project Coordinator cannot be considered for officiating appointment.

Thirdly the appointment of the petitioner was made twice. Earlier order was passed on 26th of

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November 1987 and the other order was passed on 25th of July 1989. This order was dated 5th July 1989 which is annexed a annexure-5 to the petition. The reading of the aforesaid order dated 5th July 1989 clearly shows that the order was made pursuant to the order of the President of the Society. The order further shows that the petitioner was promoted in the pay scale of Rs. 4500-7300. The consequence therefore, is that the ~~subm~~ applicant stood promoted in the officiating capacity.

The respondents have attempted to show that the impugned order was made by the President pursuant to the representation which the respondent No.2 had made. The attention is being drawn towards the fact that the representation or the appeal could only be preferred by such person who may be aggrieved with the decision taken against him. In the instant case the respondent No.2 itself has annexed annexure-A-1 in which he has shown the pay scale of principal scientist at internal page-3 column 8. The principal scientist was under the pay scale of Rs. 4500-7300/-. The attention therefore, is drawn that it the page No.5 shows the pay scale of the Director of the I.C.A.R. which includes the pay scale for Project Director, the Joint Director etc. The pay scales are the same i.e. 4500-7300. This pay scale was afforded to the petitioner on the basis of adhoc promotion notwithstanding the fact that the respondent No.2 used to take the same pay scale pursuant to the then existing status i.e. the Project Coordinator. The submission therefore, is that the respondent No.2 has suffered no loss

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as he was already getting the same pay scale to which the petitioner was attempted to be promoted pursuant to the circulars quoted hereinabove. The submission is that if the respondent No.2 has suffered no loss then he could not be deemed to be aggrieved and as such neither the representation was maintainable nor the appeal could be heard. The only ground which can be taken therefrom is that the respondent No.2 related to the national field but he wanted to become the Director of the unit of the institute at Lucknow. The result therefore, is that though he had the national capacity as Coordinator but he wanted to turn round and to rule over the unit which power is not vested and not created in the society. The President therefore, was also vested with no power to allow this appeal or the representation which also maintains the silence.

The impugned order is malafide as the respondent No.2 has attempted to assume the charge with malafide intention for which two materials would satisfy this Hon'ble Tribunal. It is alleged that there was a joint meeting on 11th Jan. 1990. The same day the order was made. The following day the Director General has received a communication from the respondent No.2 that the petitioner had filed a petition and the counter affidavit is to be filed by the respondent No.1. The attention therefore, is being drawn towards the Annexure-R-13 to the rejoinder affidavit filed by the petitioner in reply to the counter affidavit of the respondent No.2. It is strongly that the petitioner has presented the petition on 15th Jan. but 1990/prior thereto there existed a presumption

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by the respondent No.2 that such a petition would be filed for which the respondent No.1 also agreed and directed the respondent No.2 to get the counter affidavit prepared. This functioning therefore, does not amount to be bonafide.

The second submission to this point is that the respondents have attempted in their counter affidavit and the written statement that the aforesaid two circulars appeared to be guidelines but they have not at all challenged them ~~xxx~~ that the said decision ~~xxx~~ was not issued by the controlling authority. In this way they have not answered that the decision was not taken up by the controlling authority rather it has been pressed by the respondents that it stood to be the circular but according to them there exists no prohibition to the President to pass an order ~~xxx~~ over and above it. It is submitted that the circulars and the orders are issued to follow as the rule and if they are to be changed then contradictory circulars are issued but in the instant case the above circulars were not over ruled thus there is vested no power with the President to ignore or setaside the decision which is the rule of the society and is binding over all the authorities of the society. It may also be submitted that no example has been cited that such decision used to be taken by the President pursuant to the representations therefore, in the instant situation it used to be unusual and as such it is said that such decision is ~~xxx~~ to think as not bonafide. It is also submitted ~~xxx~~ to what extent the representation could be made and the alleged relief could be granted at the choice of the respondent No.2 who neither suffered any loss nor was entitled to be posted to the said post.

A125

It is therefore, submitted that by the impugned order the petitioner has suffered loss as he stood reverted putting him to pecuniary loss but the respondent No.2 had suffered no loss but his representation was made with the only object that he does not desire the petitioner to be promoted for the time being in his officiating capacity. With all respects it is submitted that this is not fair approach ~~as~~ except the sadistic approach which ordinarily is not to be encouraged.

ANSWER TO THE ARGUMENTS OF THE RESPONDENTS

It has been said that the petitioner is not entitled to be appointed as a Director as he does not fulfil the qualification. The relevant reliance has been made to the advertisement dated 3rd Feb. 1990. This advertisement does not relate to the officiating arrangement nor it applies with retrospective effect i.e. the date on which the petitioner stood appointed in officiating capacity. The question of appointment on the regular basis is not the subject matter in dispute therefore, there can be no assumption that if the respondent No.2 holds a higher status, the Principal Scientist over and above the Director then he wants to come down and therefore, ~~as~~ he should only be afforded the advantage that the petitioner should not be promoted to officiate as the Director and he should also be promoted to discharge two duties for which he is paid salary as a Project Coordinator.

With reference to the rulings the attention is invited that all such decisions only lays down a law that the person shall not be entitled to claim the right of the officiating post but all the

decisions of the Supreme Court lays down that if this order relate in reversion and a punishment out of way then the right is vested with the aggrieved person to have the right to that effect. In the instant case the factual position has been shown that this dispute was build up by the respondent No.2 with the only object that he should be conferred with the two rights to discharge the duty as a result whereof the petitioner should not get the right and the advantages of the time being promotion pursuant to the circulars issued by the Society. This is un-fair and therefore, it touches with the right of the petitioner and thus it amounts to a punishment to the petitioner. The reasoning has to be there on account of which the impugned order was passed and the due opportunity of being heard ought to have been given to the person who is attempted to reduce in rank. However, in the instant case the impugned order was only passed at the instance of the respondent No.2. No reasons have been given in the impugned order nor the petitioner has been afforded any opportunity to protect his right. The order therefore, is punitive and malafide one apart from void. The petitioner further reiterates that the respondent No.2 does not want any relief but only wants to put the petitioner under punishment. No such punishment of reduction in rank could be inflicted on any person without ~~any~~ providing any proper opportunity to the person concerned. The said view has also been up held by the Hon'ble Supreme Court in ~~Rxx~~ case R.S.Sial Vs. State of U.P. (1976) 3-SCC 11, 114 1974 SCC(L&S) 501, A.I.R. 1974 SC 1317. The relevant portion of the said judgment is quoted

A129

hereunder:

"Protection to officiating and temporary Government Servants under Art. 311.

Officiating and temporary Government servants are also entitled to the protection of Article 311 as permanent Government Servants if the Government takes action against them by meting out one of the punishment i.e. dismissal, removal and reduction in rank."

From the above thus it would be apparent that the impugned order was passed with malafide intention without affording any opportunity to the petitioner and also contrary to existing rules and the circulars without any jurisdiction. The said impugned order thus is liable to be quashed.

(R.K. Khare)
Advocate

Dated: 21st March 1990. Counsel for the petitioner

AP28

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH

C.M. Application No. 46 of 1990 (4)

Dr. I. S. Yadava Respondent No. 2

Inre:

O.A. No. 14 of 1990 (4)

Dr. R. P. Srivastava ... Petitioner.

Versus

Union of India and others Respondents.

APPLICATION FOR RECALLING THE INTERIM ORDER
GRANTED ON 16.1.1990

The answering respondent no. 2 in the above noted case most respectfully begs to submit as under:-

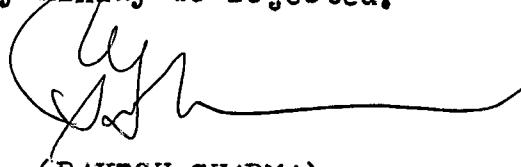
That for the facts and reasons stated in the accompanying affidavit it is expedient and necessary in the interest of justice that the interim order dated 16.1.1990 passed by this Hon'ble Tribunal may kindly be recalled.

P R A Y E R

WHEREFORE, it is most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to recall the interim order passed by this Hon'ble Tribunal on 16.1.1990 and the interim relief application preferred by the petitioner may kindly be rejected.

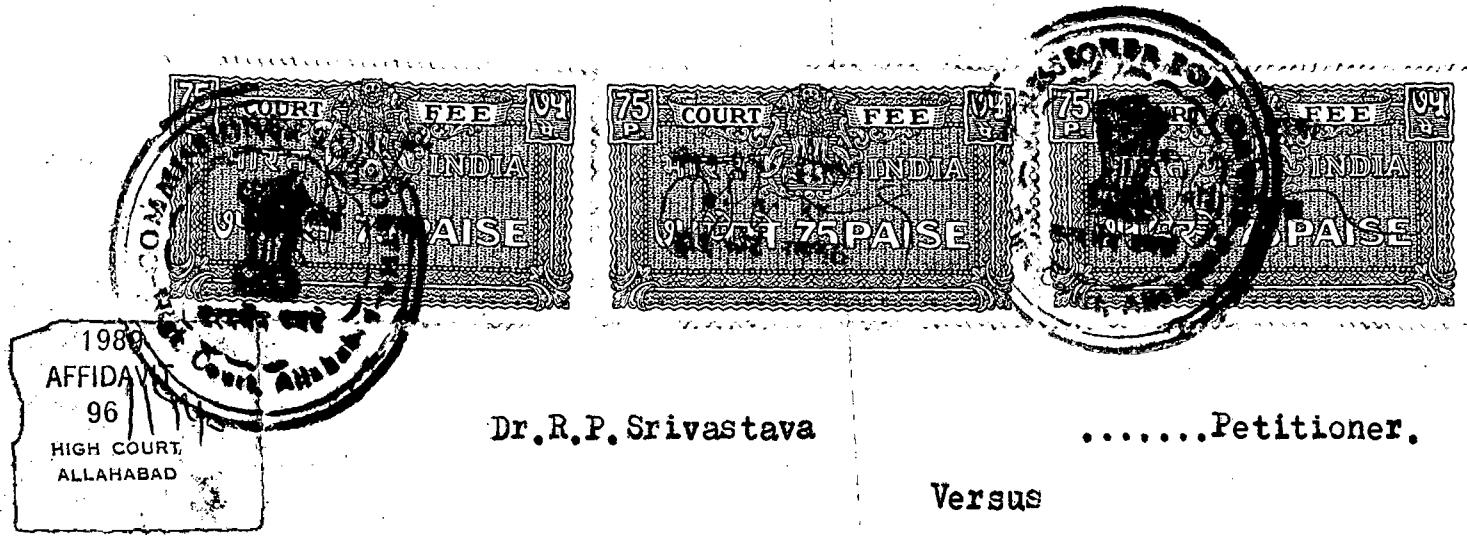
Lucknow Dated:

January 29, 1990.


(RAKESH SHARMA)
ADVOCATE
COUNSEL FOR THE RESPONDENT NO. 2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH

O.A. No. 14 of 1990.



Dr. R. P. Srivastava

.....Petitioner.

Versus

Union of India and others.

...Opp. Parties.

Affidavit in support of application for recalling
the interim order dated 16.1.1990.

I, Dr. I. S. Yadava, aged about 51 years,
son of Sri H. S. Yadava, Director of Central
Institute of Horticulture for Northern
Plains (ICAR), B-217, Indira Nagar, Lucknow,
the deponent, do hereby solemnly affirm and
state as under:-

1. That the deponent is working as Director of Central Institute of Horticulture for Northern Plains, Lucknow. He has been impleaded as respondent no. 2 in the present case. The deponent is adversely affected by the continuance of the ex-parte interim order granted in this case on 16.1.1990.



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2. That the petitioner is a Scientist Group-S-III working in the pay scale of Rs.3700-5700 in the Central Institute of Horticulture for Northern Plains, Lucknow (hereinafter referred to as CIHNP). He joined as Scientist Group S-II in the year 1977 and he was subsequently promoted in July, 1983 as ^{Senior A} Scientist Group S-III in the above said pay scale. The petitioner is still working as Senior Scientist Group S-III and getting Rs.4200 per month in the Institution.

W. C. S. J. S.
The answering respondent no.2 joined the organization Institute as a Scientist Group S-II in the year 1972 i.e. five years before the entry of the petitioner in the ~~Organization~~ ^{grade A}. The answering respondent was promoted as Scientist Group S-III in the pay scale of Rs.3700-5700 in the year 1977 (while the petitioner was promoted as Scientist Group S-III in July, 1983 in the pay scale of Rs.3700-5700). The answering responder was further promoted as a Scientist Group S-IV on 1.4.1984 in the pay scale of Rs.4300-7300. For the last 7 years the answering respondent is continuing as ³ ~~Principal~~ ^{5th} Senior Scientist Group S-IV and getting higher pay scale of Rs.4700-7300. At present the basic pay is Rs.5400 per month.

3. That the above facts made it clear that the answering respondent is much senior, qualified, experience— than the petitioner in the Organization. The post of Director in the Institute(CIHNP) is a selection post filled through direct recruitment from amongst the



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eligible candidates applying for the post all over the country.

4. That in July, 1989 one Dr. C.P.A. Iyar left the Institute and the post of Director fell vacant. Since this appex the post of Director cannot be ^{filled} un-filled. Some administrative arrangement had to be made. According to the practice of Organization the senior most officer of the Institute has to be given charge of the post to look after the duties, functions, and responsibilities of the post of Director. The President, Indian Council of Agricultural Research, the competent authority appointed the petitioner on the post of Director of 5.7.1989. ^{There} were clear terms and conditions stipulated in the order that this appointment was to continue till the post of Director is filled up on regular basis or till further orders. It is relevant to mention here that Sri R.P. Srivastava was not senior most qualified, experienced and suitable person to be given charge of the post of Director. This was an administrative mistake which was subsequently corrected. At the relevant time ^{i.e. A} on 5.7.1989 the answering respondent was the senior most officer in the Institute. He was fully qualified, experienced and suitable to hold the post of Director. He was ought to have been given the charge of the post of Director but unfortunately, he was not appointed on the said post.



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5. That the answering respondent represented to the President of Council (ICAR) New Delhi for ~~done~~ ^{done} correcting this mistake which was ~~corrected~~ by issuing an order of appointment on 5.7.1989 appointing Sri R.P. Srivastava as Director of the Institution. The Council has reviewed the matter at length after ~~going~~ going through the material on record. The deponent has come to know that the Council has found that the answering respondent was the senior most officer who was to be appointed as Director. According to the latest circular issued on 8.11.1989 the answering respondent is fully qualified, experienced and suitable to be appointed or to hold the charge of the post of Director. In the light of qualification, experience etc. provided in the said circular dated 8.11.1989 the petitioner ~~is~~ ^{is} not qualified, experienced, suitable and fit to hold the post of Director. He does not possess good academic record as he has poor academic record and does not have basic agriculture qualification to hold the post of Director. He does not have the requisite experience to be posted as Director as he does not come in the field of eligibility meant for filling of the post of Director. A photo stat copy of the circular dated 8.11.1989 is being annexed herewith as Annexure No. A-1 to this counter affidavit.



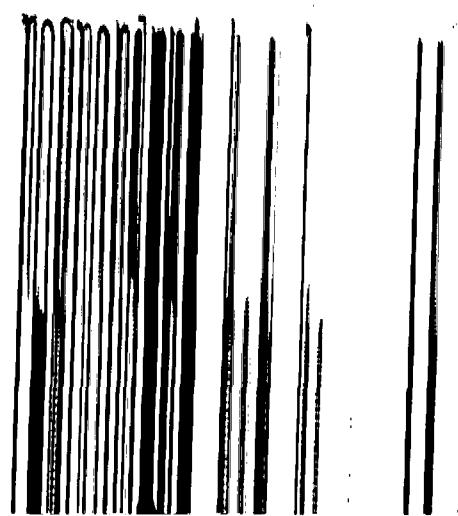
6. That the Council after reviewing the whole matter and applying uniformity of the Rules and procedure has reverted the petitioner on his substantive post of Senior Scientist Group S-III. Wrong dealt to the answering respondent was undone by correcting the

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administrative mistake. The answering respondent has been appointed on the post of Director in the Institution vide order dated 11.1.1990.

7. That in compliance of the order of appointment dated 11.1.1990 the answering respondent has assumed the charge of the post of Director(CIHNPL, Lucknow) in the forenoon on 12.1.1990. He is discharging his duties, functioning and responsibilities of the post of Director since 12.1.1990. The order dated 11.1.1990 has already given effect and executed and implemented on 12.1.1990. A photo stat copy of the charge certificate is being annexed herewith as Annexure No. A to this affidavit. The copy of the charge certificate was sent to all the concerned officers including the petitioner Dr. R.P. Srivastava. It has been approved by the Council(ICAR, New Delhi), also. The photo stat copies of the concerned documents are being annexed herewith as Annexure Nos. A-3 and A-4 with this affidavit.

8. That in local newspaper being published from Lucknow, the news regarding taking over charge of the post of Director(CIHNPL) by the answering



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administrative mistake. The answering respondent has been appointed on the post of Director in the Institution vide order dated 11.1.1990.

7. That in compliance of the order of appointment dated 11.1.1990 the answering respondent has assumed the charge of the post of Director(CIHNPL, Lucknow) in the forenoon on 12.1.1990. He is discharging his duties, functioning and responsibilities of the post of Director since 12.1.1990. The order dated 11.1.1990 has already given effect and executed and emplimented on 12.1.1990. A photo stat copy of the charge certificate is being annexed herewith as Annexure No. A-1 to this affidavit. The copy of the charge certificate was sent to all the concerned officers including the petitioner Dr. R.P. Srivastava. It has been approved by the Council(ICAR, New Delhi), also. The photo stat copies of the concerned documents are being annexed herewith as Annexure Nos. A-3 and A-4 with this affidavit.

8. That in local newspaper being published from Lucknow, the news regarding taking over charge of the post of Director(CIHNPL) by the answering respondent has been widely published. A photo stat copy of the news item published on 14.1.1990 in local newspaper 'Times of India, Nav Bharat Times, Swatantra Bharat, Dainik Jagran and Pioneer' is being annexed herewith as Annexure No. A-5 to this affidavit.



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9. That since 12.1.1990 the answering respondent has discharging his duties, functioning and responsibilities of the post of Director, CIHNP. He has issued administrative instructions to his subordinates, sanctioning and has passed several administrative orders in the capacity of Director. Copies of some of the orders issued by the deponent are being annexed herewith as Annexures No. A-6 and A-7 to this affidavit.

10. That in view of above it is amply clear that the answering respondent has assumed the charge of the post of Director on 12.1.1990. It is relevant to mention here that in the Institute powers of Drawing and Disbursing by the Drawing and Disbursing Officer, accounts kept by the Accounts Officer and general administration is looked after by the Administrative Officer. These senior officers of the Institute who look after the respective functions interested to them, the financial and other powers also exercised by the above said officers in their sections. In view of these facts there was nothing with Dr. R. P. Srivastava to hand over to the answering respondent on 12.1.1990. Just assuming the charge of the post of Director it was done by the answering respondent on 12.1.1990. However, it is most respectfully submitted that the petitioner despite the notice and communication of the order dated 11.1.1990 was avoiding to attend the office at Lucknow. The petitioner had knowledge of the fact that the answering respondent had taken over charge of the post of Director.



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11. That since this Hon'ble Tribunal has been pleased to pass an interim order on 16.1.1990 that the present position as it stood on 16.1.1990 is to be maintained. The answering respondent has submitted the facts before this Hon'ble Tribunal that he had already assumed the charge of the post of Director on 12.1.1990. He is Director of the Institute working as such since 12.1.1990. This position is to be taken into of by this Hon'ble Tribunal. Sri R.P. Srivastava has ceased to be Director in forenoon of 12.1.1990. He became senior scientist Group S-III in the pay scale of Rs.3700-5700 on 16.1.1990 when the order of this Hon'ble Court was passed.

12. That the petitioner ~~when~~ without serving the answering respondent a copy of the petition (while the answering respondent was available at Lucknow) approached this Hon'ble Tribunal and has obtained an ex-parte interim order behind the back of the answering respondent. The deponent is adversely effected by the continuance of the ex-parte order. The petitioner comes to the office and creates confusion. He is trying deliberately to defy the orders passed by this Hon'ble Tribunal to maintain the present post/status-quo in the matter. The answering respondent is still working as Director of the Institution and is discharging duties, functioning and responsibilities of the said post since 12.1.1990. This position cannot be altered or changed by any person. The petitioner has failed to prove a prima facie case. The balance of convenience certainly lies in favour of the answering respondent. He would suffer irreparable loss and injury if the ex-parte interim order is not vacated. The petitioner is



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only Scientist Group S-III and he has been asked to work on his substantive post. Under the Service Rules and policy of the Council he is not even qualified, experienced and suitable to hold the post of Director.

13. That the order has been duly sent, communicated to the petitioner on 11.1.1990. The order was self operative w.e.f. 4.1.1990, there was nothing left to be stayed or undone on 16.1.1990 when the interim order was obtained by the petitioner. The order of reversion has already taken effect, executed and implemented on 12.1.1990. The law is settled on this point. This Tribunal may kindly be pleased to peruse the following cases on this subject:-

1. 1974(1)(SC) SLR State of Punjab Vs. Balbir Singh
2. 1976(SC) SLR State of Punjab Vs. Khem Ram
3. 1974(1) SLR(BB) Calcutta High Court H. S. Butalia Vs. State and others.

14. That the petitioner has not exhausted the statutory and mandatory departmental remedy open to him. Without first exhausting the departmental remedy and waiting for a reasonable time for disposal of his appeal, the petitioner has approached this Hon'ble Tribunal. The petition is liable to be dismissed on this ground alone.



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15. That the answering respondent received a copy of the petition on 17th January, 1990 only. He could not have sufficient reasonable time to file a detailed written statement/counter affidavit and reply to the application filed by the petitioner. The respondent reserves his right to file detailed counter affidavit within the prescribed time. However, the above submissions made in this affidavit may kindly be treated as preliminary objections to the stay application filed by the petitioner. In view of the above submissions it is amply clear that the application for stay/interim order has already become infructuous on 16.1.1990. This Hon'ble Tribunal may kindly be pleased to take the above ~~exception~~ submissions and may kindly recall the stay order granted on 16.1.1990 and dismiss the application for stay/interim relief filed by the petitioner.

Lucknow Dated:

January 22, 1990


20/1/90
Deponent.

Verification

I, the abovenamed deponent do hereby verify that the contents of paras 1, 2, 3 to 12, 15 of this affidavit are true to my personal knowledge, & those of paras _____ of this affidavit are believed to be true while the contents of paras 13, 14 of this affidavit are based on legal advice. No part



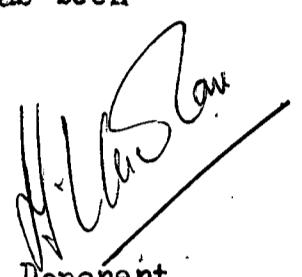
ALSO

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of it is false and nothing material has been concealed, so help me God.

Lucknow Dated:

January 20, 1990


Deponent.

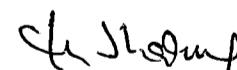
and personally known to
I identify the deponent who has signed before
me.




ADVOCATE

Solemnly affirmed before me on 22.1.90 at 3.45 PM
by Dr. J. S. Teekwari the deponent who is identified
by Sri Shashi Prakash, Advocate, High Court, Lucknow Bench
Lucknow.

I have satisfied myself by examining the deponent that
he has understood the contents of this affidavit which
have been read out and explained by me.


Marikesh Sharma 
OATH COMMISSIONER
High Court, Allahabad
Lucknow Bench
9611840
22.1.90

AX-A1

ASR

IMMEDIATE

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN : NEW DELHI

8.11.89.

No. C-1/89-Per. IV

Dated the 8th November 1989

To

(1) The Directors/Project Directors/OSDs of the Research Institutes, Project Directorates & National Research Centres of the ICAR.
(2) The Deputy Secretary(Administration), ICAR, Krishi Bhavan, New Delhi.

all

Subject:- Introduction of UGC Pay Package for Scientists of the ICAR - Formulation of the Model Qualifications/Experience for Scientists and Science Coordinators under ICAR system - Decision regarding.

Sir,

Consequent upon the introduction of UGC Pay Package for Scientists in the ICAR system, the question of prescribing Model Qualifications/Experience for Scientists and Science Coordinators based on the qualifications laid down under the UGC system has been under consideration of the Council. The matter has been considered in detail and it has been decided to prescribe the Qualifications/Experience for various categories of posts of Scientists/Science Coordinators under ICAR system as shown in the attached 'Annexure'.

2. You are accordingly requested to take immediate action to send the requisitions of the vacant positions to ICAR Headquarters for filling up the posts by the ASRB.

3. The receipt of this letter may kindly be acknowledged.

Yours faithfully,

(G.C. SRIVASTAVA)

(G.C. SRIVASTAVA)
SECRETARY, ICAR

Copy forwarded for information & necessary action to:
1. Secretary, ASRB, New Delhi (with 5 spare copies)

Contd/.....



Annexure

ANNEXURE

STATEMENT SHOWING THE DETAILS OF MODEL QUALIFICATIONS AND EXPERIENCE PRESCRIBED FOR VARIOUS CATEGORIES OF POSTS OF SCIENTISTS/SCIENCE COORDINATORS CONSEQUENT UPON THE ADOPTION OF UGC PAY PACKAGE FOR SCIENTISTS UNDER I.C.A.R. SYSTEM

Sl. No.	Designation & scale of the post.	Model Qualifications & Experience prescribed for the post.	Remarks
---------	----------------------------------	--	---------

1.	2.	3.	4.
----	----	----	----

1. Scientist (Rs.2200-75-2800-100-4000).

Master's Degree in the relevant subject with good academic record.

EXPLANATION

For determining "Good Academic Record", the following criteria shall be adopted:-

(i) A candidate holding a Ph.D. Degree should possess at least a second Class Master's Degree; or

(ii) A candidate without a Ph.D. Degree should possess a high second Class Master's Degree and second class in the Bachelor's Degree; or

(iii) A candidate not possessing Ph.D. Degree but possessing second Class Master's Degree should have obtained first Class in the Bachelor's Degree.

Y. V. S. Rao

Contd/.....



AMU

- 3 -

3.

4.

- (ii) A candidate without a Ph.D. Degree should possess a high second Class Master's Degree and second Class in the Bachelor's Degree; or
- (iii) A candidate not possessing Ph.D. Degree but possessing second Class Master's Degree should have obtained first class in the Bachelor's Degree.

3. PRINCIPAL SCIENTIST

(Rs. 4500+150=5700--
200+7300).

- (i) An eminent Scientist with published work of high quality actively engaged in research/teaching/extension education.
- (ii) Good Academic Record with a doctoral Degree in the 10 years /relevant experience (excluding the subject period spent in obtaining the Ph.D. Degree subject to a maximum of 3 years) in research/teaching/extension education provided that at least three years is as a Senior Scientist or in an equivalent grade.

EXPLANATION

An A.R.S. Scientist inducted/recruited in a particular discipline shall be deemed to have acquired the requisite qualification in the relevant subject.

- (iii) Evidence of substantial contribution to research and scholarship as evidenced by variety product or technology developed or adopted as result of research, the quality of publication of papers in professional journals of repute and innovations in teaching/extension education.

Contd/....



✓ 5. DIRECTORS OF ICAR INSTITUTES (OTHER THAN IARI/IVRI/NDRI/CIFRI/NAARM) (a) PROJECT DIRECTORS/Joint DIRECTORS (IARI/IVRI/NDRI) AND ASSIST. DIRECTORS GENERAL

(v) Relative specialisation and relevant experience cognate to the job requirement (to be specified for the respective post).

(i) An eminent Scientist with published work of high quality and actively engaged in research/teaching/extension education.

(ii) Good Academic Record with a doctoral degree in the relevant subject.

(100-1500-150-5700-
200-7300)

EXPLANATION

An ARS Scientist inducted/recruited in a particular discipline shall be deemed to have acquired the requisite qualification in the relevant subject.

- (iii) 15 years experience (excluding the period spent in obtaining the Ph.D. Degree subject to a maximum of 3 years) of research/teaching/extension education, out of which at least 5 years should be as a Principal Scientist or in an equivalent grade.
- (iv) Evidence of substantial contribution to research and scholarship as evidenced by variety product or technology developed or adopted as result of research, the quality of publication of papers in professional journals of repute, appraisal recommendations

Cont'd./*Continued.*



AIK3

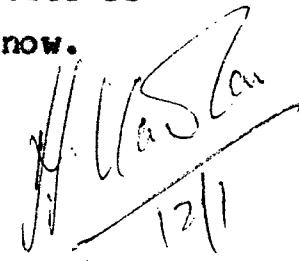
AX-A2

CENTRAL INSTITUTE OF HORTICULTURE
FOR NORTHERN PLAINS, (ICAR)
B-217, INDIRA NAGAR,
LUCKNOW

CERTIFICATE OF TRANSFER OF CHARGES

Certified that I have in the forenoon of
12th January, 1990, assumed the charge of the post
of Officiating Director, Central Institute of
Horticulture for Northern Plains, Lucknow.

Signature


12/1

Name : Dr. I.S. YADAV,

Designation: OFFICIATING
DIRECTOR

Dated: 12.1.1990
Station: Lucknow



AIIU

AX-A3PA/Dir/90/8359-64
12.1.1990

To

The Director General,
ICAR, Krishi Bhawan,
New Delhi-110001.

Sir,

With reference to the Council's Office Order No.52-5/89-Per.III, dated 11th January, 1990, I have resumed the charge of the post of Officiating Director, Central Institute of Horticulture for Northern Plains, Lucknow, in the forenoon of 12th January, 1990.

I am enclosing herewith charge assumption certificate, in quadruplicate, for countersignature and further necessary action at the Council.

Thanking you,

Yours faithfully,

S.I./-

(I.S. Yadav)
OFFICIATING DIRECTOR

Copy to Shri O.P. Kumar, Under Secretary (K), ICAR, Krishi Bhawan, New Delhi-110001, alongwith a copy of charge assumption certificate.

(I.S. Yadav)
OFFICIATING DIRECTOR

Copy also to the following alongwith charge assumption certificate and an attested photo copy of ICAR Office Order as stated above mentioned above.

1. Dr. R.P. Srivastava, Scientist S-3(pre-revised), CIHNP, Lucknow. He may is requested to hand over all the articles/documents in his possession relating to the post of Director.

2. Asstt. Admin. Officer, CIHNP, Lucknow.

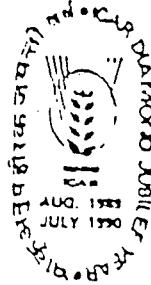
3. Asstt. Fin. & Accounts Officer, CIHNP, Lucknow.

4. Secretary Book

O/C

(I.S. Yadav)
OFFICIATING DIRECTOR

DR. I.S. YADAV,
DIRECTOR



AX-Ay

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CIMS

Tel: 0522-71196
R: 78260
Gram: MANGOSEARCH
Telex: 635/359

केन्द्रीय उत्तर मैदानी उद्यान संस्थान
CENTRAL INSTITUTE OF HORTICULTURE
FOR NORTHERN PLAINS

बी-२१७, इन्द्रा नगर,
B-217, Indira Nagar,
डाकघासा राम सागर मिश्रा नगर,
P. O. Ram Sagar Mishra Nagar,
लखनऊ-२२६०९६
Lucknow-226016

D. O. No. PA/Dir/90/

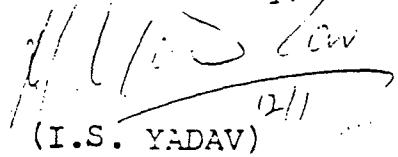
Dated: 12.1.1990

Dear Colleague,

I have assumed the charge of Director, Central Institute of Horticulture for Northern Plains, Lucknow, on the forenoon of 12th January, 1990. All the demi-officials and confidential letters meant for this Institute may please be addressed to me. I also look forward to your kind cooperation in discharge of my duties as the Director of this Institute.

With regards,

Yours sincerely,


(I.S. YADAV) 12/1



said. *एक नया नियुक्ति किया गया है।*
New director of horticulture institute

LUCKNOW, January 13: Dr I.S. Yadav, a principal scientist of pomology and coordinator of All-India Co-ordinated Fruit Improvement Project has taken over as director, Central Institute of horticulture From Dr R.P. Srivastava.

Dr Yadav who has done his Ph.D from IARI, New Delhi is associated with fruit breeding for the last 20 years. He has been a member of a high-level delegation to chalk out the horticultural development plan within the country as well as abroad.

— of 'Chikhandi'

आम संस्थान के नये नियुक्ति द्वितीय जनवरी १९८५



14 लखनऊ, शनिवार
 । भारतीय कृषि
 अनुसंधान परिषद ने
 डा. आई.एस. यादव
 को आम संस्थान का
 नया नियुक्ति नियुक्ति
 किया है।

अब तक रामप्रकाश श्रीवास्तव इस पद
 पर थे। डा. यादव उद्यान विज्ञान के प्रधान
 वैज्ञानिक तथा अधिकारी भारतीय समन्वित
 फल विकास परियोजना के कोऑर्डिनेटर भी
 हैं।

14 लखनऊ
 अनुसंधान परिषद द्वारा



डा. आई.एस. यादव

**डा. यादव आम संस्थान
 के नए नियुक्ति**

लखनऊ, १३ जनवरी। भारतीय कृषि
 अनुसंधान परिषद ने आम संस्थान के कार्यकारी
 नियुक्ति रामप्रकाश श्रीवास्तव को हटाकर
 उनके स्थान पर डा. आई.एस. यादव को
 नियुक्ति का कार्यभार दे दिया है। डा. यादव
 उद्यान विज्ञान के प्रधान वैज्ञानिक तथा अधिकारी
 भारतीय समन्वित फल विकास परियोजना के
 कोऑर्डिनेटर भी हैं।

डा. यादव ने फल प्रजनन के क्षेत्र में पिछले
 २० वर्षों से महत्वपूर्ण कार्य किया है तथा अंगू
 र तथा पैशनफ्रूट की किसी के विकास में उनका
 विशेष योगदान रहा है। उन्होंने भारतीय कृषि
 अनुसंधान परिषद के अनेक संस्थानों में
 महत्वपूर्ण योगों पर कार्य किया है।

या। 14 लखनऊ अनुसंधान परिषद
**आम संस्थान के नए
 नियुक्ति**

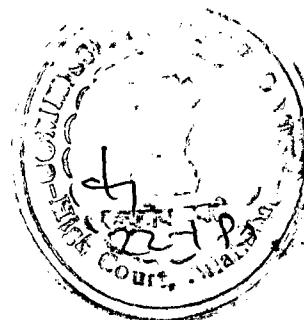
लखनऊ, १३ जनवरी। भारतीय कृषि
 अनुसंधान परिषद ने उत्तर भैदानी उद्यान
 संस्थान। आम संस्थान के कार्यकारी
 नियुक्ति डा. राम प्रकाश श्रीवास्तव को
 हटाकर डा. इन्द्रजीत सिंह यादव को नियुक्ति
 का कार्यभार लौंगा गया है।

डा. यादव उद्यान विज्ञान के प्रधान,



विज्ञानी तथा अधिकारी भारतीय समन्वित फल
 विकास परियोजना के कोऑर्डिनेटर भी है।
 देश - विदेश में उद्यान विज्ञान के क्षेत्र में डा.
 यादव जाना पहचाना नाम है। पिछले २०
 वर्षों से वह फल प्रजनन के क्षेत्र में उत्तोषित
 काम कर रहे हैं। अंगूर तथा पैशनफ्रूट के
 किसी के विकास में उन्होंने उत्तोषित
 कार्य किया है।

गत माह वह यूरोपिया में कूपी और
 उद्यान के सर्वांगीण विकास के लिए भारत
 सरकार द्वारा मिले गए एक उच्चस्तरीय
 अध्ययन दल के सदस्य के स्प में वहां गए
 थे।



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DR. I.S. YADAV,
DIRECTOR

CENTRAL INSTITUTE OF HORTICULTURE
FOR NORTHERN PLAINS,
B-217, INDIRA NAGAR,
LUCKNOW-226016

D.O. No.PA/Dir/90/

Dated: 16.1.1990

Dear Colleague,

Of late, circulation of some letters have been seen with very derogatory remark against some of our colleagues. Situation of past few months have seen a spurt in such activities which is highly deplorable. In fact letters using very filthy language towards the family members were received earlier too by some of us including myself, Dr. Sinha and Dr. K.C. Srivastava (Ex-Director). But the latest one circulated twice before 11th January has crossed all the limits of a sane behaviour. It has not only tried to malign our most respected female colleague, who has a high and strong moral character but has also played with the sentiments and sorrows of two of our dear colleagues. Instead of helping them to forget and share their sorrows, these letters have tried to laugh on their misfortune. No words are sufficient to condemn such letters. Such acts of meanness needs to be condemned by all of us. Any person who has done this and if left with even an iota of moral values should immediately apologise for his mis-deeds to three colleagues. Otherwise, if caught, will not be spared who-so-ever he may be. I hope and pray that good sense will prevail upon and all such activities which tarnish the image of our colleagues and Institute will not only be condemned by every one of us but will also stop immediately.

With kind regards,

Yours sincerely,

(I.S. YADAV)



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CHAI

5) Have owing as at this period from
Stone Creek as per my bill. Please as New
JJS is in escrow, but not paid to me
present as at overdate at N. I. C. H. & another
white bank, since hence, it is agreed that
141 Rancher at Rs 500/- not being
re account as 141 may be advanced to
me. But then I can get 141 and do
business on my own for which the payment
now seem coming from R. Kline to R. B.
New car to do this for. As for obtain
for me money advanced from the business
entity, Inc.

Director.

Sanctioned Rs 500/- The purchase
may be effected after consulting with
the officials in this regard. W. H. C. S. (Co-Partnership)

16/11/80

Left

12/11/80

W. H. C. S.

16/11/80

Before the Central Administrative Tribunal,

Circuit Bench, Lucknow.

Case No. O.A. No. 14(L) of 1990.

Dr. R.P. Srivastava ... Petitioner

Vs.

Director General, ICAR and
one another ... Opp. Parties

"LIST OF CASES CITED By OPP. PARTIES I,"

The respondent no. 1 in the above noted case

most respectfully begs to submit as under : -

1. That the petitioner has got no locus standi
to file this application as he is not qualified and
eligible for the post of Director in terms of the
advertisement issued on 3-2-1990.

2. That the respondent no. 1 is placing the following
case laws for perusal and consideration of this august
Tribunal: -

1. 1980, Volume-III Supreme Court cases, page 29
N.C. Singhal Vs. Union of India.

2. 1977, Volume-II, SCC, page 148, para 7
D. Nagraj Vs. State of Karnataka

3. 1986 U.P. Local Bodies & Educational Cases
(D.B., Allahabad), page 85,
Dinesh Pratap Singh Vs. State of U.P.
paras 1, 4 and 5.

4. 1983 (I), All India SLJ, 334,
M.S. Miglani Vs. State of Punjab
(D.B. Puri & H.P. 1)

Aug

A copy has
been given
to Dr. P. K. Khar
Adv.

26/3/99



ALSO

- 2 -

5. 1986, Volume-IV SCC, page 246,
M/S Star Diamond Co. Vs. Union of India, para
ON THE POINT OF
Administrative instructions:

Earlier letter issued by the Government would not affect nor create any estoppel against the subsequent letter issued by the Government clarifying the correct position. Earlier letter cannot also be used as an argument that, that ~~order~~ was the Government understanding of the matter,


For opposite party- 1
(I.C.A.R New Delhi)

AI72

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW.

Claim petition No. 14^{copf} 1990

Dr. R.P. Srivastava

Petitioner

Versus

The Director General Indian
Council of Agricultural Research
New Delhi and others.

Respondents

APPLICATION FOR EARLY HEARING

The petitioner most respectfully prays
as under:

1. That for the facts and the circumstances stated in the accompanying affidavit it is most respectfully prayed that the Hon'ble court may be pleased to direct the listing of the aforesaid claim petition at the earliest so that the petitioner may not further suffer loss as the respondent No. 2 is acting in a very

Let this case be listed
for admission/hearing
on 2/3/90, but the
applicant must inform
the Counsel for O.P. of
this date

DR
27/2/90

AP23

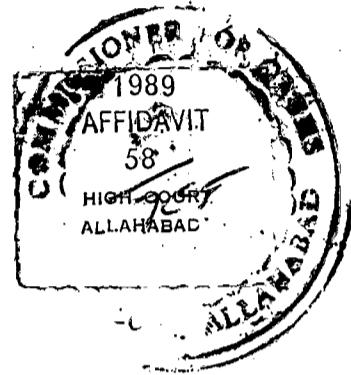
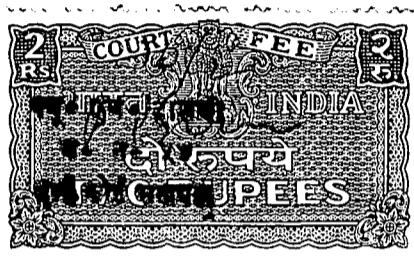
•2•

illegal and arbitrary manner ~~and~~ in
in dis-obeying the orders passed by this
Hon'ble court and such other orders may also
be passed as this Hon'ble court may deem fit
and proper in the circumstances of the case.

(P. K. Khare)
Advocate

Dated: Lucknow the Counsel for the petitioner
26th day of Feb. 1990

AL26
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW.



Dr. R. P. Srivastava

Petitioner

Versus

The Director General

Indian Council of Agricultural
Research, New Delhi and others.

Respondents

AFFIDAVIT

I, Dr. R. P. Srivastava, aged about 49 years
son of late Sri Ram Ghulam Srivastava, resident of
A-601 Indira Nagar, Lucknow do hereby onsolemn
affirmation state as under:

R.P. Srivastava

1. That the deponent is the petitioner
in the above noted case and as such is fully
conversant with the facts deposed hereunder:
2. That the deponent feeling aggrieved against
the order of the respondent No. 1, preferred a
claim petition before this Hon'ble Tribunal
on which this Hon'ble Tribunal was pleased to
pass an interim order on 16th of Jan. 1990 to

ANS

.2.

to maintain the status quo.

3. That the deponent was the Director Central Institute of Horticulture for Northern Plains, Lucknow thus the next day he went to his office and joined his duties after returning from casual leave for 4 days.

4. That the petitioner continued to work on the aforesaid post peacefully ~~xxxxx~~ till 22nd of Jan. 1990 but on 23rd of Jan. 1990 the office of the Director was grabbed by the respondent No. 2 by adopting illegal practice and at the gun point .

5. That Since then the respondent No. 2 started to claim himself as the Director though he could not act as the Director as the ~~xxx~~ deponent has never handed over the charge of the Director which was the precondition of the impugned order in the claim petition .

6. That however, at the strength of bad elements the respondent No. 2 styled himself to be the director of the aforesaid institution and also started passing various superfluous orders against the deponent. The position in the office was also ~~tense~~ ^{tense} and is still tense as the outsider always are roaming in the office premises ~~with~~ equipped with arms.

7. That the deponent in the above circumstances moved an application for early listing of the aforesaid petition on 21st of Feb. 1990 and narrated the relevant facts in the affidavit accompanied with the said application and showed therein urgency of the matter. The petition is next listed on 13th March 1990. The deponent submits that the aforesaid application was not allowed by this Hon'ble Tribunal



AT76

.3.

on account of paucity of time or otherwise.

8. That the respondent No.2 is passing orders which are injurious to the petitioner/deponent every now and then. This fact was also shown in the affidavit accompanied with the application for early listing earlier.

9. That now the respondent No.2 passed an order whereby the pay of the deponent will be deducted and the deponent will be paid less pay than the pay for which he is entitled as per the orders of this Hon'ble ~~xxx~~ Tribunal. The respondent No.2 passed an order dated 30.1.90 whereby it was shown that the respondent No.2 is the Director and his pay be drawn as the Director and the ~~xxx~~ deponent's pay be drawn as Scientist-3. This order is also against the orders passed by this Hon'ble court on 16th of Jan. 1990. The copy of the said order is being annexed as ANNEXURE S-1 to this affidavit.

10. That besides above the position in the office is still tense it is apprehended that the deponent may suffer any physical loss at any time at the instance of the respondent No.2. The respondent No.1 is also not paying any regard to the orders passed by this Hon'ble court.

11. That in these circumstances the matter has become very urgent and ~~xxxxxx~~ it is expedient that the same may be taken up at the earliest.



Dated: Lucknow the

26th day of Feb. 1990

R.P.Singh
Deponent

4177

Verification

I, the above named deponent do hereby verify that the contents of paras 16/10 of the above affidavit are true to the best of my personal knowledge and those of paras 11 of the same affidavit are believed by me to be true. That no part of this affidavit is false and nothing material has been concealed; so help me God.

Signed dated and verified this the 26 day of Feb. 1990.

R. B. Suresh
Deponent

I identify the deponent who has signed before me and who is known to me personally.

B.R. Suresh
Advocate

Solemnly affirmed before me on 26-2-90
At 9.45 A.M./P.M. by Sri Dr. R. B. Suresh
the deponent who is identified by

Sri B. R. Gupta & P. R. Khan

Advocate of High Court of Judicature at
Allahabad, Lucknow Bench, Lucknow.

I have satisfied myself by examining the deponent who understands the contents of this affidavit and which have been read over and explained by me.

58125
26-2-90

R. B. Suresh
SATHI COMMISSIONER
High Court, Allahabad
Lucknow Bench

Office S/

Registered

A128

CENTRAL INSTITUTE OF HORTICULTURE
FOR NORTHERN PLAINS,
B-217, INDIRANAGAR,
LUCKNOW-226016.

NO.F.2-102(2)/9914-18

Dated: 22.2.1990

To

The Secretary,
ICAR, Krishi Bhawan,
New Delhi-110001.

Sub: Fixation of Pay of Dr.R.P.Srivastava,
Scientist S-3(Entomology), CIHNP, Lucknow.

Sir,

Reference is invited to this office letter
No.F.2-102(2)/9609-13, dated 15.2.1990 (Photo copy
encllosed) on the subject cited above. The drawal of
pay at the stage of Rs.1860/- as mentioned in the
above referred letter may be read as Rs.1900/- in
respect of Dr.R.P.Srivastava, Scientist S-3 (pre-
revised).

Yours faithfully,

Sd/
(I.S.YADAV)
DIRECTOR

Encl:One

Copy for further necessary action to:

1. Asstt.Fin.& Accounts Officer, CIHNP, Lucknow.
2. DDO, CIHNP, Lucknow.
3. I/C, Accounts, CIHNP, Lucknow. Sd/-
4. P.A. to Director, CIHNP, Lucknow. (I.S. YADAV)
DIRECTOR

Endt. No.F.2-102(2)/10, 009

Dated: 24.2.1990

✓ Copy also forwarded to Dr.R.P.Srivastava, Scientist
S-3(Entomology) for his information,

CIHNP, Lucknow

Encl:Two

✓ (i.s.yadav) 24/2
(I.S. YADAV)
DIRECTOR