

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 10 FEB 1989

APPLICATION NO (S) _____ 903 _____ / 88(F)

W.P. NO (S) _____

Applicant (s)

Respondent (s)

Shri V.N. Somasundaram
To

V/s The Secretary, ICAR, New Delhi & 2 Ors

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1. Shri V.M. Somasundaram
Senior Administrative Officer
Indian Veterinary Research Institute (IVRI)
Bangalore Campus
Hebbal
Bangalore - 560 024</p> | <p>4. The Director
Indian Institute of Horticultural
Research (IIHR)
255, Upper Palace Orchards
Sadashivanagar
Bangalore - 560 080</p> |
| <p>2. Shri A. Keshava Bhat
Advocate
37, 'Vani Nilaya'
III Main Road, Vyalikaval
Bangalore - 560 003</p> | <p>5. The Secretary
Ministry of Home Affairs
Department of Personnel &
Administrative Reforms
New Delhi - 110 001</p> |
| <p>3. The Secretary
Indian Council of Agricultural Research
Krishi Bhavan
New Delhi - 110 011</p> | <p>6. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001</p> |

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER ~~STAY / INTERIM ORDER~~
passed by this Tribunal in the above said application(s) on 1-2-89.

[Signature]
DEPUTY REGISTRAR
(JUDICIAL)

[Signature]

[Signature]
K. M. J. S.
10-2-89

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE.

DATED THIS THE FIRST DAY OF FEBRUARY 1989

Present: Hon'ble Justice K.S.PUTTASWAMY ... Vice Chairman.

Hon'ble Shri L.H.A.REGO ... Member(A)

APPLICATION NUMBER 903/88(F)

V.N.Somasundaram,
Senior Administrative Officer,
IVFI Bangalore Campous,
Hebbal, Bangalore 560 024.

... Applicant

(Shri A.Keshava Bhat .. Advocate)

vs.

1. Secretary,
Indian Council of Agricultural Research,
Krishi Bhavan,
New Delhi 110 001.

2. The Director,
Indian Institute of Horticultural Research,
255, Upper Palace Orchards,
Sadashivanagar, Bangalore 560 080

3. The Secretary,
Union of India,
Department of Personnel & Administrative
Reforms, M/Home Affairs,
New Delhi 110 001.

... Respondents

(Shri M.S.Padmarajaiah .. Advocate)

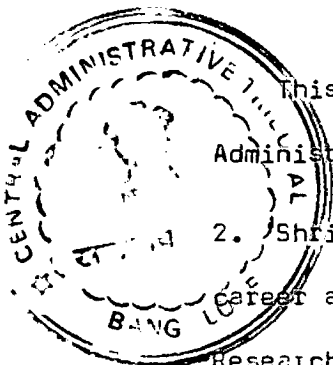
This application has come up today before this Tribunal for
orders.

Orders. Hon'ble Vice Chairman made the following:

ORDER

This is an application made by the applicant under Sec. 19 of the
Administrative Tribunals Act, 1985(Act 1).

2. Shri V.N.Somasundaram, the applicant before us, who commenced his
career as Head Clerk(HC) in 1958 in the Indian Institute of Horticultural
Research, Bangalore, (IHR) controlled by the Indian Council of Agricultural
Research, New Delhi, (ICAR) became eligible for promotion as Assistant
Administrative Officer(AAO) in that Institute from 1.2.1976, on which
date a vacancy occurred.



3. On his seniority vis-a-vis one, Sri D.N.Jalali, working at the Central Mango Research Station, Lucknow (CMR) also under the Control of ICAR there were disputes. On this and other relevant factors, the Head of the Institute appears to have directed the applicant, to attend to the current duties of the AAO which arrangement continued from 1.2.1976 to 3.9.1976. From 4.9.1976 the applicant was promoted as AAO, in which capacity he continued to function till 5.9.1977. From 6.9.1977 he was regularly promoted as AAO, in which capacity he continued till 31.1.1980. From 1.2.1980 he has been promoted as Administrative Officer and is working in that capacity, ever since then. On his accepted date of birth, the applicant is due to retire from service from 28.2.1989.

4. The applicant claims that he had been regularly promoted as AAO from 1.2.1976 to 3.9.1976 and his service conditions should be regulated on that basis, which is resisted by the respondents.

5. Sri A.Keshava Bhat, learned Advocate has appeared for the applicant. Shri M.S.Padmarajaiah, learned Senior Standing Counsel for Central Government has appeared for the respondents.

6. Shri Bhat contends, that on a true construction of the orders made from time to time and in particular, the order dated 12.12.1977 (Annexure-B), followed up by various other orders thereon, we should declare that the applicant had been regularly promoted as AAO, from 1.2.1976 to 3.9.1976, and his further conditions of service should be regulated on that that basis only .

7. Shri Padmarajaiah, sought to support the decisions against the applicant for the period from 1.2.1976 to 3.9.1976, and thereafter also.

8. For the period from 1.2.1975 to 3.9.1976, there has been more than one order made, which presents a baffling situation. On this we requested Sri Bhat to produce any order made promoting and posting the applicant as AAO from 1.2.1976 to 3.9.1976 preferably on or before 1.2.1976. He is unable to produce the same.

9. We have carefully examined every one of the records touching on this point. On such an examination we find that no order was made on or before 1.2.1976 promoting and posting the applicant as AAO, from 1.2.1976 to 3.9.1976.

10. We will even assume, that the applicant had performed the duties of AAO, from 1.2.1976 to 3.9.1976 on the oral directions of the Head of his Office, which however is denied by the respondents. Even if we accept this case of the applicant, then also, we cannot hold, that he had been promoted and posted as AAO on or before 1.2.1976. At the highest, this only proves, that he had performed the duties of AAO, on by way of "attending to the current duties of the vacant post" which generally happens in every Government Offices as a stop-gap arrangement and does not prove that he had performed the duties as a regular ~~incumbent~~ ^{circumvent} under a lawful order of promotion.

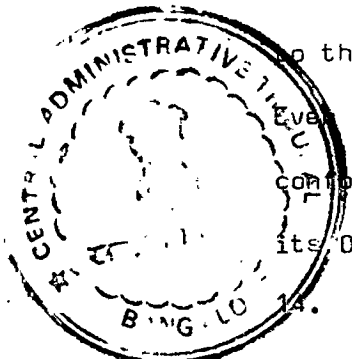
11. Every one of the circumstances and documents placed before us, by both sides do not support the case of the applicant. On the other hand, all of them only support the plea of the respondents and the latter orders made by them culminating in the order marked Annexure VIII against the applicant.

12. On the foregoing discussion we have no hesitation in rejecting this case of the respondents.

13. On our earlier conclusion itself we cannot take exception to the arrangement made for the period from 4.9.1976 to 5.9.1977. Even otherwise, the arrangement made for this period is in conformity with the executive instructions issued by Government in its O.M.D.O.No. 10(11)/78-I dated 16.12.1973(Annexure VIII).

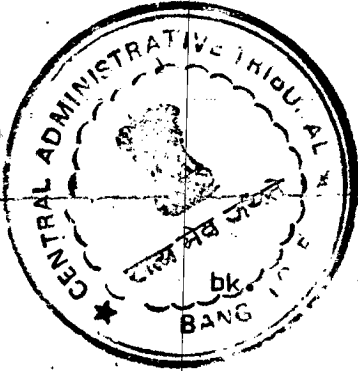
14. On merits, the applicant has no case.

15. Even otherwise, we do not think that even if we accept his case, the same would make any difference to the applicant who is due to retire shortly on 28.2.1989 as also to his retiral benefits.



On this aspect also, we must decline to interfere with the arrangements made for both the periods in dispute.

16. In the light of our above discussion, we hold this application is liable to be dismissed. We, therefore, dismiss this application. But, in the circumstances of the case, we direct the parties to bear their own costs.



Sd/-

VICE CHAIRMAN

TRUE COPY

Sd/-

MEMBER (A)

11.2.1989

[Handwritten Signature]
DEPUTY REGISTRAR (JULY 1982)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE