

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Dated:- 26 MAY 1994

APPLICATION NUMBER: 956 of 1993.

APPLICANTS:

RESPONDENTS:

Sri.S.Siddalingaiah v/s. Director General, I.C.A.R., New Delhi and
To. Others.

1. Sri.P.Rajashekar, Advocate,
No.3, Sri.Rudreshwara Complex,
C.R.Temple Street, ~~Ena~~
Ganigarpet, Bangalore-560 002.
2. The Head, Southern Regional Station,
National Dairy Research Institute,
Adugodi, Bangalore-560030.
3. Sri.M.Vasudeva Rao, Addl.C.G.S.C.,
High Court Bldg, Bangalore-1.

Subject:- Forwarding of copies of the Orders passed by the
Central administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/, passed by this Tribunal in the above
mentioned application(s) on 20-05-1994.

S. S. Sankar
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

gm*

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: :BANGALORE

FRIDAY THE TWENTIETH DAY OF MAY, 1994

ORIGINAL APPLICATION NO.956/93

Shri V.Ramakrishnan, Member (A)

Shri A.N.Vujjaneradhya, Member (J)

S.Siddalingaiah,
Aged 53 years,
Son of Late Siddaiah,
Technical Assistant,
National Dairy Research Institute,
Adugodi,
Bangalore-560 030.

...Applicant

By Advocate Shri P.Rajashekar.

Versus

1. The Director General,
Indian Council of Agricultural Research,
Krishi Bhavan,
New Delhi.
2. The Director,
Central Marine Fisheries Research Institute,
P.E.No.2704,
Kochin-682 831.
3. The Director,
National Dairy Research Institute,
Karnal-132 001,
Harayana State.
4. The Head,
Southern Regional Station of National
Dairy Research Institute,
Adugodi,
Bangalore-560 030.

...Respondents

By Advocate Shri M.Vasudeva Rao, A.C.S.S.C.



O R D E R

Shri A.N.Vujjanaradhya, Member (J)

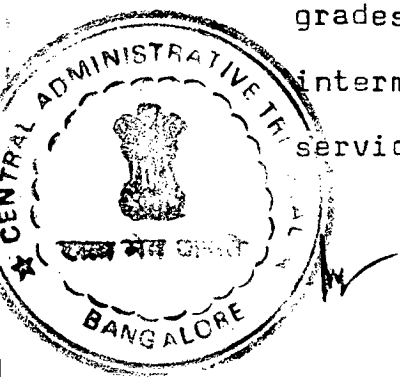
In this application filed under section 19 of the Administrative Tribunals Act, 1985, the applicant is aggrieved by the decision of the first respondent rejecting his representation for induction into category-II (T-II-3) communicated to him vide memo dated 7.10.93 as in Annexure A12.

2. Briefly stated, the case of the applicant is as follows:- The applicant after completing his B.Sc., degree joined service on 28.10.1964 in the Central Marine Fisheries Research Institute (CMFRI for short) Mandapam Camp, Ramanathapuram District as Field Investigator in the pay scale of Rs.130-300. On 03.10.1969 the post was redesignated as Junior Scientific Assistant in the same scale of pay. After the report of the Third Pay Commission, the scale of Rs.130-300 was revised to 380-560 with effect from 1.1.1973. Technical Service Rules (TSR for short) of Indian Council of Agricultural Research (I.C.A.R.) came into force with effect from 1.10.1975, wherein different categories, grades of technical services were merged and grouped into 3 categories as follows:-

<u>CATEGORY</u>	<u>GRADE</u>	<u>PAY SCALES</u>
Category-I	T-1	Rs. 260-430
	T-2	Rs. 330-560
	T-1-3	Rs.425-700
Category-II	T-II-3	Rs.425-700
	T-4	Rs.550-900
	T-5	Rs.650-1200.

Rule 3.3 of TSR contemplated that the new pay scales

would be applicable to both future entrants as well as the existing incumbents with effect from 1.10.1975. Rule 5.1 provided that the existing permanent and temporary employees appointed through regularly constituted DPC/Selection Committee would be fitted into grades specified above without any further screening on point to point basis irrespective of their qualifications. However, persons holding position in the merged cadre of Rs.425-700 and possessing qualification prescribed for category-II would be fitted in grade T-II-3 (Rs.425-700). Further rule 8.3 read with Appendix-IV of the said TSR provides the minimum educational/trade qualification for different groups of 3 categories. The post of Technical Assistants is one of the technical posts under group-I i.e. Field/Farm Technicians which posts can be found from Appendix-II. In Appendix-IV of the said rules for induction into Field/Farm Technicians-Category-II, the minimum qualification is a degree in relevant field as could be seen from Annexure A1. After circular dated 18.2.1978 (Annexure A2) issued by the Council, the TSR of ICAR were further amended providing for incumbents of employees holding positions in the Council as on 1.1.1977 with matriculation and 10 years experience in the relevant field as could be seen from Annexure A2. By letter dated 30.11.1978 (Annexure A3) R1 has reiterated that persons are adjusted against the post for which they are qualified at the time of initial adjustment of the existing employees to the various grades of technical service. The applicant, who had intermediate qualification and had also the qualifying service of 10 years with matriculation and who was in



service as on 1.1.1977 was entitled to be inducted in category-II (T-II-3). However, the applicant was inducted into technical service as Junior Technical Assistant i.e. T-2 in Category-I as in Annexure A4. The respondents had extended the benefit of inductment as Technical Assistant T-II-3 in Category-II in the grade of Rs.425-700 to one Shri P.Ananda Rao, who is also not a graduate and who has passed only P.U.C. as could be seen from Annexure A5. The applicant made representations, for which endorsements given to the applicant are as per Annexures A6 to A8. One Shri Khetra Mohan Das, who was similarly situated as that of the applicant had approached the Cuttack Bench of this Tribunal in TA No.6/88, claiming the relief of initial induction into category-II and that application was allowed on 31.8.1989 (Annexure A9). The applicant had made further representation on 30.12.92 as in Annexure A10 and as the respondents did not take any action, the applicant had approached this Tribunal in Application No.546/93, in which a direction was given to the respondents to dispose of the representation within four months (Annexure A11). The representation was rejected by the respondents without assigning any reason and the copy of endorsement dated 7.10.93 is at Annexure A12. Even the Hyderabad Bench of this Tribunal has allowed application No.541/88, in which case also, the relief was granted for the similarly placed person as could be seen from Annexure A13. Hence this application for the following reliefs:-

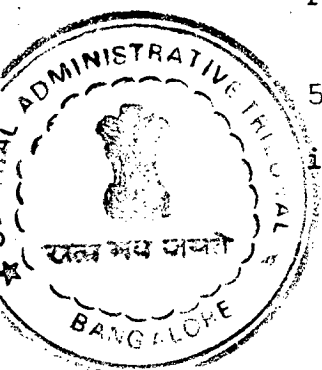


- i) To quash by issue of an appropriate writ or order the endorsement given to the applicant by the first respondent communicated vide Ref.No.F.28-41/Tech/Estt/SRS/93-11377-78 dated 7.10.93 by the fourth respondent vide Annexure A12.
- ii) Issue an appropriate order or direction as the case may be, declaring that the applicant is deemed to have been inducted in Category-II in Grade T-II-3 in the pay scale of Rs.425-700 with effect from the date the Technical Service Rules of ICAR came into force and grant consequential reliefs;
- iii) grant such other relief or reliefs as this Hon'ble Tribunal deems fit to grant in the circumstances of the case in the interest of justice and equity.

3. The respondents oppose the application contending that the applicant is not entitled to the induction as claimed, in as much as he was not in the scale of Rs.425-700 at the time of initial adjustment and that the facts and circumstances of the case of Shri K.B.Das are not similar to the present case and that however, ICAR has filed an SLP in that case and the final verdict is still awaited.

4. We have heard Shri Rajasekhar, the learned counsel for the applicant and Shri M.Vasudeva Rao, the learned standing counsel for the respondents and perused the records.

5. The facts are not in dispute. The endorsement issued to the applicant rejecting his representation for



initial adjustment (Annexure A12) does not disclose any reason for rejecting the representation. All that it states is that the applicant is not covered by the rules. In the reply filed by the respondents, what is sought to be made out is, the qualification laid down in Appendix-IV read with rule 8.3 of T.S.R. are also applicable for making promotion against 20% quota and as the applicant was in the scale of Rs.330-560 at the time of initial adjustment, the applicant was properly fixed in the scale of Rs.425-700 in category-I i.e. grade T-I-3 and not in category T-II-3. This contention of the respondents is untenable and cannot be accepted in as much as the applicant having necessary qualification is not at all in dispute. The applicant is a B.Sc., degree holder, satisfying the required qualification and he has also put in more than 10 years of service, because he had entered service in the year 1964. The amended T.S.R. clearly apply to the case of the applicant i.e. Matriculation with 10 years of experience in the relevant field as could be seen from Annexure A2 relating to Category-II. In this view of the matter, the contention of the learned standing counsel that the applicant should have been in the scale of Rs.425-700 for initial inductment is without any proper basis. This can be demonstrated to be incorrect even referring to Office Order No.28-2-77-Adm dated 25.2.77 found with list of documents submitted by the applicant dated 14.4.94, which would indicate that incumbents mentioned therein namely Shri Varghese Jacob and others who were in the initial scale of Rs.330-560 were appointed to the scale

of pay of Rs.425-700(T-II-3) thereby indicating that if incumbents possess required qualification, it is not necessary that such persons should be in the scale of Rs.425-700 for being initially adjusted in Category-II.

6. The decision of the Cuttack Bench of this Tribunal rendered in TA 6/88 (Annexure A9) dated 31.8.89 is applicable in all force to the facts of the present case in as much as the applicant therein was also in the scale of Rs.330-560 and holding that he is entitled to the grade T-II-3 in Category-II, the application was allowed. The distinction sought to be made out by the respondents is without ^{any} difference. It is not the case of the respondents that there is an order of stay operating against the decision of the Cuttack Bench rendered in the case of M.K.Das granted ^{by} before the Supreme Court in SLP stated to have been filed against that decision.

7. The applicant has also relied on the decision of the Hyderabad Bench of this Tribunal in OA No.54/88 dated 27.12.1989 (Annexure A13), which ofcourse can be distinguished. The applicants therein were initially inducted to Category-II in the scale of Rs.425-700 and subsequently brought down to Category-I. Whatever it may be, the fact remains that the applicant satisfies the qualification prescribed for initial inductment to Category-II in the pay scale of Rs.425-700 (T-II-3). Therefore, the rejection of the representation of the applicant is invalid as the same is not supported by any valid and cogent reasons. Consequently, the endorsement issued by the respondents

will have to be quashed and the applicant will have to be granted the relief sought.

8. In the result, the application is allowed, but without any orders as to cost. We hereby quash the endorsement as at Annexure A12 dated 7.10.93 issued to the applicant by the fourth respondent. We further direct that the applicant be inducted to Category-II in grade T-II-3 in the pay scale of Rs.425-700 notionally re-fixing his pay from the date of coming into force of T.S.R. of I.C.A.R. but restricting the actual financial benefit to three years prior to the filing of the present application i.e. from 22.11.1990. This direction should be carried out within a period of three months from the date of receipt of copy of this order. These directions are subject to final outcome of the SLP stated to have been filed before the Supreme Court in the case of Sri K.M.Das.

Sd-
20/5/97
(A.J. VUJJANABADHYA)
MEMBER (J)

Sd-
(.V. RAMAKRISHNAN)
MEMBER (A)

TRUE COPY

Gaja

[Signature]
SECTION OFFICER
GENERAL SECRETARY
NATIONAL INSTITUTE
BANGALORE