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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION No.812/89

DATE OF JUDGEMENT: 16-9-1993

Between

M.C.Swamy

.. Applicant

and

1. Shri R.^P.Singh
Director
Central Research Institute for
Dryland Agriculture,
Santoshnagar
Hyderabad 500 659

2. Indian Council of
Agricultural Research
rep.by its
Director General,Krishi Bhavan
New Delhi-110 001.

.. Respondents

Counsel for the Applicant :: Mr C. Suryanarayana

Counsel for the Respondents :: Mr G.Madanmohan Rao,SC for
CRIDA

CORAM:

HON'BLE SHRI A.B. GORTHY, MEMBER(ADMN)

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

JUDGEMENT OF THE DIVISION BENCH DELIVERED BY HON'BLE
SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

This application is filed by the applicant herein
under Section 19 of the Central
Administrative Tribunals Act
to direct the respondents to promote the applicant to the
grade of Technician-7 with effect from the due date in 1984
and pass such other order or orders as may deem fit and
proper in the circumstances of the case.

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2. Facts so far necessary to adjudicate this OA in brief, are as follows:

3. The first respondent is a constituent unit of the 2nd respondent.

4. The Indian Council of Agricultural Research (herein after called ICAR) constituted technical services with effect from 1.10.1975 with a view to provide promotional opportunities to technical personnel. Technical services are grouped into three categories consisting of the following grades.

<u>Category</u>	<u>Grade</u>	<u>Pay scale (pre-revised)</u>
Category I	T-1	i) Rs.260-8-300-EB-8-340-10-380-EB-10-430
	T-2	ii) Rs.330-10-380-EB-12-500-EB-15560
	T(I)-3	iii) Rs.425-15-500-EB-15-560-20-700
Category II	T(II)-3	i) Rs.425-15-500-EB-560-20-700
	T4	ii) Rs.550-25-750-EB-30-900
	T-5	iii) Rs.650-30-740-35-810-EB-35-880-40-1000-EB-40-1200
Category III	T-6	i) Rs.700-40-900-EB-40-1100-50-1300
	T-7	ii) Rs.1100-50-1600
	T-8	iii) Rs.1300-50-1700
	T-9	iv) Rs.1500-60-1800-100-2000

5. The applicant herein, initially joined the 1st respondent's organisation as Technician T-II which is Central/Research Institute for Dryland Agriculture (hereinafter called CRIDA) w.e.f. 12.1.1979. The applicant later earned certain promotions and was appointed as Technician-6 (T6) w.e.f. 12.1.79. While working as T-6, the applicant was permitted to cross the Efficiency Bar in the scale of Rs.700-40-900-EB-40-1000-50-1300/- as per orders dated 17.1.1985 of the 1st respondent's office.

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6. Educational qualification that is required for promotion from T5 to T6 and from T6 to T7 are one and the same. The applicant had completed five years of service by January, 1984. The applicant was fully qualified and eligible for promotion to the grade of T7. Accordingly, the applicant submitted his assessment forms on 2.9.1985. The applicant belongs to the discipline of agronomy. The Assessment Committee with regard to the Promotions of Category III persons, decides the performance of the technical officers and makes recommendations either for promotion to the next higher grade or sanctions advance increments. As the applicant belonged to the ~~ex~~ discipline of Agronomy, his assessment was carried out by a eminent team of scientists belonging to Agronomy. In accordance with the rules, the applicant was assessed for the period ending 31.12.1984 on 20.12. and on the basis of that assessment the applicant's case was recommended by the Assessment committee for grant of two advance increments in his present grade and the same was granted to him with effect from 1.1.85 as per order of the respondents dated 1.3.1986.

7. As per orders dated 18.12.1985, the applicant asked to appear before the Assessment Committee for personal discussion. The assessment Committee recommended grant of two advance increments with effect from to the applicant, but the applicant was not promoted in the year 1985.

8. As per the orders dated 10.6.86, the applicant in the form of a note by the Sr. Administrative Officer, CRIDA, the applicant was

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It was issued to the Sr. Administrative Officer with four

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copies of the 5-yearly assessment/re-assessment forms and was required to submit them duly filled in by 28.6.86. The assessment was for 1 1/2 years from 1.7.84 to 31.12.1985 and the applicant submitted the same on 14.7.1986. But the applicant was not promoted though he was called again for personal discussions in the Director's Committee Room at 10.00 A.M. on 24.7.86. On 28.7.86, however, an office order was issued by the respondents awarding 2 three advance increments to the applicant including the two already sanctioned to him with effect from 1.1.1985 and the third advance increment with effect from 1.1.1986. It is the case of the applicant that after 10.6.86^{also} in the year 1987 he had submitted the assessment forms and that the applicant had not been promoted from T6 to T7 and that the action of the respondents in not promoting the applicant is ^{with} malafide and so he has filed the present OA for the relief as already indicated above.

6. MA 611/89 is moved by the counsel for the applicant to condone the delay of 6 months in filing this OA. At the time of admission of this OA, the question of limitation had been kept open by an order of this Tribunal dated 15.11.89. After hearing both sides in the MA, we are satisfied that this is a fit matter to condone the delay in the filing of this OA 812/89 and the delay in filing OA 812/89 is condoned and ^{611/89} the MA is allowed accordingly.

7. Counter is filed by the respondents opposing this OA.

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8. In the counter filed by the respondents, it is maintained that the applicant will have no promotional prospects until he acquires M.Sc. Degree. It was conceded during the hearing of the OA, on behalf of the respondents that for promotion from T6 to T7, it was not necessary that one should possess M.Sc. Degree and that, the qualifications for promotion from T5 to T6 and then from T6 to T7 are one and the same. So, it is quite evident that the applicant need not possess M.Sc. Degree for promotion from T6 to T7. Nevertheless, the applicant has since passed his M.Sc. Degree examination, and as a matter of fact, has filed a copy of his degree certificate before this Tribunal. The certificate of the Executive Council of the Marathwada Agricultural University shows that the applicant has passed the M.Sc. Degree Examination in the first division in the year 1989.

9. It is not in dispute in this OA, where a technical person is not satisfied with the results of his assessment, he may, if so desires, submit a representation of not more than 500 words to the concerned Director of the Institute in support ^{of} his claim for promotion retrospectively from the due date. It is also not in dispute in this OA that the recommendations of the Assessment Committee will be final and no further representations shall be entertained. It is also admitted by the respondents that the applicant had submitted the representation for review of his assessment results for the year ending 31.12.1984 on 3.4.1988 and as no last date has been stipulated for the past cases, that the applicant's representation is still under consideration. It is also maintained on behalf of the respondents that it is not only the applicant

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but also for other technicians in his category, assessment/re-assessment has not been done since 1986 for want of duly constituted Assessment Committee, and action in this respect is likely to be completed shortly, and all pending cases including that of the applicant will be taken up for all the pending years soon, and the representation of the applicant also needs to be considered by the said ^{Assessment} Committee. So, in view of the stand taken by the respondents in the counter, it will be fit and proper to leave it to the Department itself to reassess the case of the applicant for promotion for the period ending by 31.12.1984 and also for the subsequent years.

10. Even though it has been pleaded that ^{there} are malafides on the part of the respondents in not promoting the applicant, we are least con-vinced about the said argument. The very fact that the applicant had been granted two advance increments in the year 1985 and one in the year 1986, though he was not found fit for promotion in the year 1985, would go to show that the respondents had dealt fairly in the matter of promotions of the applicant.

11. The learned counsel appearing for the applicant strongly contended that a direction is liable to ~~g~~ be given to the respondents to promote the applicant with effect from the due date in the year 1984. This Tribunal cannot step into the shoes of the Assessment Committee and take an opinion in the matter. It is for the competent authority to consider the case of the applicant and decide whether

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1. The Director, Central Research Institute for Dryland Agriculture, Santhoshnagar, Hyderabad-659.
2. The Director General, Krishi Bhavan, Indian Council of Agricultural Research, New Delhi-1.
3. One copy to Mr.C.Suryanarayana, Advocate, CAT.Hyd.
4. One copy to Mr.E.Madanmohan Rao, SC for CRIDA, CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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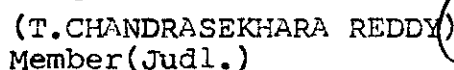
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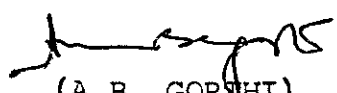
the applicant could be promoted or not from the due date with the material available before them.

12. It is stated by the learned counsel for the applicant that the applicant has submitted his assessment reports as required by rules and regulations in October, 1992. In view of this position to sub-serve the interests of justice, the OA is disposed of with the following direction to the respondents.

13. The respondents shall once again assess the applicant for promotion with effect from the due date in the year 1984 and pass appropriate orders with regard to the said promotion as per the extant rules/instructions. We further give one more opportunity to the applicant to submit his assessment reports within one month from the date of communication of this order if already had not been submitted. The respondents shall pass appropriate orders with regard to the promotion of the applicant within four months from the date of communication of this order.

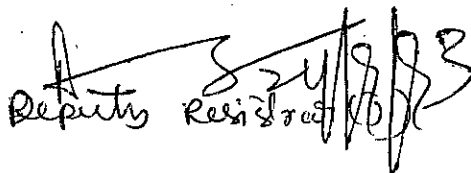
14. OA is allowed accordingly. Parties shall bear their own costs.


(T. CHANDRASEKHARA REDDY)
Member (Judl.)


(A.B. GORTI)
Member (Admn)

Dated: 11-5-1993

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Deputy Registrar

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TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated: 10 - 9 - 1993

~~ORDER~~/JUDGMENT:

M.A./R.A./C.A.No.

in

O.A.No. 812/89.

T.A.No. (W.P.)

Admitted and Interim directions
issued

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.

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