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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.1383 of 1995

DATE OF JUDGEMENT: 5th May, 1998

BETWEEN:

M.A.RASHEED

.. APPLICANT

AND

1. The Director General,
Indian Council of Agricultural Research,
Krishi Bhavan, New Delhi,
2. The Director,
Central Research Institute for
Dryland Agriculture,
Saidabad Post, Santoshnagar,
Hyderabad 500 659,
3. The Sr.Administrative Officer,
Central Research Institute for
Dryland Agriculture, Saidabad Post,
Santoshnagar, Hyderabad 500659,
4. The Chairman,
Assessment committee constituted
for grant of 5 yearly assessment
benefit to the applicant
(T-5 Technical Officer), headed by
the Chairman, Central Research
Institute for Dry Land Agriculture,
Santoshnagar,
Hyderabad.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.KRISHNA DEVAN

COUNSEL FOR THE RESPONDENTS: Mr.N.R.DEVARAJ, Sr.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

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JUDGEMENT

ORDER (PER HON'BLE SHRI R.RANGARJAN, MEMBER (ADMN.))

Heard Mr.Krishna Devan, learned counsel for the applicant and Mr.N.R.Devaraj, learned standing counsel for the respondents.

2. The applicant in this OA was initially appointed as Draftsman (Civil) with effect from 12.3.63. Presently he is functioning as Senior Draftsman in the T-5 grade to which he was promoted with effect from 1.2.88. He submits that he is due for promotion to the next higher grade i.e, T-6 with effect from 1.2.93 on the basis of Rule 6 of ICAR Hand Book of Technical Services (hereinafter called as the ~~EEEE~~ rules). He also submits that he is also entitled for increment if promotion is not given on the basis of the above said rule as he had completed 5 years of service on 1.2.93. His representations in this connection were not heeded to. Hence the applicant filed OA 311/94 praying for a direction to the respondents to consider his case for grant of promotion to the next higher grade i.e, T-6 or for grant of three advance increments in the T-5 grade to which he became eligible with effect from 1.2.93 with all consequential benefits such as seniority, promotion, arrears of salary and allowances. That OA was disposed of by the order dated 8.4.94 (Annexure A-VII at page 16 to the OA) directing R-1 therein to constitute Assessment Committee by the end of June 1994 for considering the case of the applicant and similarly situated employees for the purpose of promotion from T-5 grade or for granting advance

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increments and for conferring same with all monetary benefits from the respective due dates. The applicant also submits that way back in August 1993 itself many of the employees were promoted or given increments and for that he has enclosed the Office Order dated 30.8.93 (Annexure A-IV at page 13 to the OA). He submits that he has been left out for granting him that benefit. The applicant further submits that he had submitted five yearly assessment forms in five sets. But he was once again advised to submit the same on 9.6.94 which also he complied with. In spite of the above position he was not given promotion/advance increments.

3. He was informed by the impugned note F.No.SAO/Offi/94, dated 13.7.94 (Annexure A-XI at page 22 to the OA) that his case was considered by the duly constituted assessment committee but the Assessment Committee did not recommend any assessment benefit for him.

4. Aggrieved by the above, the applicant has filed this OA to set-aside the impugned office note No.SAO/Offi/94 dated 13.7.94 and for consequential direction that the applicant is entitled for grant of five yearly assessment benefit due to him from 1.2.93 as per the provisions of Rule 6 of the ICAR Technical Services Rules with all consequential benefits such as arrears of pay and allowances, seniority etc.

5. A reply has been filed in this OA. In the reply it is stated that the applicant is not entitled for promotion under the five yearly assessment scheme as he has

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already in the highest/last grade of T-5 in the Category-II of Technical Services and also he had not qualified for promotion to the T-6 grade and the Assessment Committee did not recommend his name for grant of advance increments.

6. From the above details of this case, it is necessary to examine this case in the light of the rule position and see whether the rules are complied with fully while denying ~~grant~~ promotion/grant of advance increments to the applicant.

7. Rule 6 of the said rules provides for career advancement. This rule along with the note under Rule 6.20 is relevant. Rule 6.1 and 6.2 along with the note read as below:-

"6.1. Career advancement of persons will be in their respective categories and will be done in the following manner:


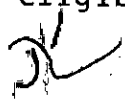
6.2. there shall be a system of merit promotion from one grade to the next higher grade irrespective of occurrence of vacancies in the higher grade or grant of advance increment(s) in the same grade, on the basis of assessment of performance. The persons concerned will be eligible for consideration for such promotion or for the grant of advance increment(s) after the expiry of five years service in the grade.

NOTE: Since merit promotions are restricted within the category, persons holding highest grades viz. Grade T-I-3 in Category-I, Grade T-5 in Category-II and Grade T-9 in Category-III are not



eligible for further promotion. There is however, no bar for grant of advance increments to such Technical Personnel who are in the highest grade of category subject to the maximum of three increments within the grade (No.7-18/83-Per.III dated 16.7.84)."

8. From the above rule it is evident that an employee will be eligible for consideration for promotion or for grant of advance increments after the expiry of five years in that grade. The applicant was promoted to T-5 grade on 1.2.88. Hence he is eligible for promotion/grant of advance increments with effect from 1.2.93. The above position is not denied by the respondents. But the respondents submit that the applicant cannot be given promotion as he had reached highest/last grade in T-5 in Category-II of Technical Services. Further, he cannot be given promotion as he does not possess the educational qualifications as provided for in the rule. There are three categories and grades of Technical Services in the respondents-organisation. Category-I consists of Grade T1, T2 and T-I-3. Category II consists of Grade T-II-3, T-4 and T-5 and Category III consists of T-6, T-7, T-8 and T-9. The eligible scales of pay for those categories/grades have been given in Rule 3.1 of the said rules. As per note under Rule 6.2, since merit promotions are restricted within the category, persons holding highest grades in Grade T-I-3 in Category-I, Grade T-5 in Category-II and Grade T-9 in Category-III are not eligible for further promotion. As the applicant herein is in grade T-5 in Category-II in the scale of pay of Rs.650-1200, he is not eligible for merit promotion.



9. However, as per Rule 7.3 under the heading 'Promotion', "20% of vacancies in Grade T-6 may be filled by promotion of persons in Grade T-5 possessing qualifications prescribed for Category-III. (Concil's letter NO.7-37/79-Per.III dated 7.4.81)". Hence the applicant is entitled for promotion as per that rule provided he fulfills the other conditons. The minimum educational/trade qualifications for different groups of the three categories for promotion has been indicated in Appendix IV of the said rules. For promotion to T-6 in Category-III, the essential qualifications as stipulated in the Appendix-IV is as follows:-

"Essential qualficiations:

(i) Three years' diploma/Bachelor's Degree in relevant field;

(ii) At least 5 years experience."

10. The applicant possesses only H.Sc. examination of the Board of Secondary Education, A.P. and All India Trade Test Certificate of Draughtsman (Civil). As this qualification is not sufficient for promotion to T-6 category in view of the recruitment rule extracted above, the applicant cannot aspire to get promotion to T-6 against 20% of vacancies. In view of the position explained above, the applicant cannot aspire for promotion under the rules. The learned counsel for the applicant fairly submitted that he is not insisting for promotion but only praying for grant of advance increments to him with effect from 1.2.93. Rule 6(1) of the said rules provides for grant of advance

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increments. Procedure for five yearly assessment has been given in the rule in Appendix-III. The relevant procedure for five yearly assessment in Category-II under the Appendix-III is reproduced below:-

" Assessment of the Technical Personnel (Category II) shall take into consideration:

1. The material furnished in the Five-Yearly Assessment proforma (enclosed).
2. CCRS. for the past 5 years."

11. The Assessment Committee will be constituted by the appointing authority and will comprise of not less than three and not more than five members including the Chairman. The Chairman of the Committee would be a person from outside the Institute and would be nominated by the Chairman of the ASRB. Separate Assessment Committees will be constituted for each professional group/discipline and will include experts in the particular professional group/discipline in addition to Heads of Divisions/Research Stations/Project concerned in the Institute (Para 9 in Appendix III). The procedure for five yearly assessment as given in the Category-III is as follows:-

"3. Assessment of the Technical Personnel shall take into consideration:

1. The material furnished in the Five-yearly Assessment Proforma (enclosed).
2. Performance record files maintained by the Technical personnel (for this

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purpose, a suitable proforma shall be devised by the Director/Secretary, ICAR).

3. Bio-data and career information (various posts held etc.) of the technical personnel throughout their service in the ICAR.

4. CCRs. for the past 5 years.

4. The Technical personnel being assessed shall carefully fill in the enclosed proforma keeping in mind their activities in the past five years.

12. From the above rule position, it has to be seen whether rules are complied with fully while considering the case of the applicant for grant of advance increments. To examine the above, we have called for files in this connection. The respondents have produced before us the Annual Assessment Reports/Confidential Character ~~of the~~ rolls of the applicant from 1.1.88 to 12.11.92 i.e, CRs of five years. The five yearly Assessment Committee reports along with the annexures were also produced by the respondents. We have perused the above documents.

13. The Assessment Committee was nominated by the Director in accordance with the rules. The Assessment Committee consists of Chairman and four Members. Shri E.Anjaneyulu was nominated as Chairman. Mr.B.V.Ramana Rao, Head, DRM, Mr.C.R.Thyagraj, Senior Scientist and Dr.K.P.R.Vittal, Senior Scientist and Mr.M.Mohan Rao, Member Secretary and SAO were on the Assessment Committee. The applicant had submitted his assessment form duly filled in and those assessment forms have been reviewed by the



reviewer and accepted by the Director, Central Research Institute for Dryland Agriculture commenting ~~on~~^{the} suitability of the applicant for recommendation for grant of advance increments. The applicant was given adverse entries in the CR for the year 1988-89. That was ordered to be expunged by this Tribunal. We have perused the CR for 1988-89 and we find that the adverse entries had been expunged. Hence the adverse entries entered for the year 1988-89 were not taken note of by the Assessment Committee.

14. We do not want to express any thing about the remarks in the CRs or in the Assessment form. However, it has to be noted that the remarks in CRs and in the Assessment form are not flattering to the applicant.

15. The Committee after perusing the above documents graded the applicant as Grade-C. Grade A+ grading indicates an employee is fit for merit promotion and Grade-C is the lowest recommendation which indicates "not recommended for anything". The applicant herein was given Grade-C. Hence he was not recommended for anything and hence he cannot be granted the advance increments.

16. The Apex Court in the reported case in 1992(2) ATC SC 562 (National Institute of Mental Health and Neuro Sciences v. Dr.K.Kalyana Raman and others) had held as follows:-

"1. The function of the Selection Committee is neither judicial nor adjudicatory. It is purely administrative. There is no rule or



regulation which requires the selection committee to record reasons. In the absence of any such legal requirement the selection made without recording reasons cannot be found fault with.

2. Administrative authority is under no legal obligation to record reasons in support of its decision. Indeed, even the principles of natural justice do not require an administrative authority or a Selection Committee or an examiner to record reasons for the selection or non-selection or a person in the absence of statutory requirement.

3. the procedural fairness is the main requirement in the administrative action. The 'fairness' or 'fair procedure' in the administrative action ought to be observed. The Selection Committee cannot be an exception to this principle. It must take a decision reasonably without being guided by extraneous or irrelevant consideration.

4. Selection Committee consisted of experts in the subject for selection and they were men of high status and also of unquestionable impartiality. The court should be slow to interfere with their opinion."

17. The present Assessment Committee consists of experts in the subject for selection and they are men of high status and also of unquestionable impartiality. Hence, questioning of their wisdom is not called for. But procedural fairness is the main requirement in the administrative action and the Selection Committee is not an

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exception to that principle. As we see that there is no irregularity committed in following the procedure for grading the applicant in this OA ~~we~~ we do not ~~find~~ find any procedural unfairness committed by the Committee. Hence the grading given to the applicant by the Committee is unquestionable. Further, the Apex Court had held in the reported case in 1997(1) SLR 153 (Anil Katiyar v. Union of India) that "Court cannot sit in the judgement over the selection made by DPC unless the selection is vitiated by malafide or is arbitrary. However, the Tribunal could not go into the question as to whether the appellant had been rightly graded in the ACRs." That observation is very relevant in this case. No malafides have been attributed by the applicant to any of the Members of the Assessment Committee. As the Assessment Committee had decided on the basis of the material placed before them as per the rules, the Tribunal cannot question the grading given by the Assessment Committee.

18. In view of what is stated above, we find that the applicant cannot aspire to get advance increments even though he had completed five years of service in the T-5 grade. Hence the prayer for grant of advance increments has to be rejected.

19. In the result, we find no merit in this OA. Hence the OA is dismissed. No order as to costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)


(R. RANGARAJAN)
MEMBER (ADMN.)

DATED: 5th May, 1998

Copy to:-

1. The Director General, Indian Council of Agricultural Research, Krishi Bhavan, New Delhi.
2. The Director, Central Research Institute for Dryland Agriculture, Saidabad Post Santoshnagar, Hyderabad.
3. The Sr. Administrative Officer, Central Research Institute for Dryland Agriculture, Saidabad Post, Santoshnagar, Hyderabad.
4. The Chairman, Assessment Committee Constituted for grant of 5 yearly Assessment benefit to the applicant, The Chairman, CRIDLA, Santoshnagar, Hyderabad.
5. One copy to Mr. Krishna Devan, Advocate, CAT., Hyd.
6. One copy to Mr. N.R. Devaraj, Sr. CGSC., CAT., Hyd.
7. One copy to D.R. (A), CAT., Hyd.
8. One duplicate copy.

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II COURT

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COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :
M (J)

DATED: 5/5/98

ORDER/JUDGMENT

M.A/R.A/C.P. NO.

in

O.A. NO.

1383/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS
DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद बेंच
HYDERABAD BENCH

27 MAY 1998

Despatch *nlsp*
~~RECEIVED~~

उप दिवाण/TAHPAL SECTION