

(54)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.289/96

dt. 13.11.96

Between

B. Gandhi

: Applicant

and

1. The Director
Central Research Instt.
for Dryland Agril.,
Santoshnagar, Saidabad PO
Hyderabad 500059

2. The Sr. Admn. Officer, CRIDA
Santoshnagar, Saidabad PO
Hyderabad 500059

3. The Director General, ICAR
Krishi Bhavan, New Delhi-1

4. The Secretary, ICAR
Krishi Bhavan, New Delhi-1

5. Director(Finance), ICAR
Krishi Bhavan, New Delhi-1

6. Sri G. Laxminarayana
Superintendent, CRIDA
Santoshnagar, Saidabad PO
Hyderabad 500059

: Respondents

Counsel for the applicant

: Party-in-person

Counsel for the respondents

: N.R. Devaraja
Sr. SC for Central Govt.

CORAM

HON. MR. JUSTICE M.G. CHAUDHARI, VICE CHAIRMAN

HON. MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

[Signature]
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Judgement

Order (per Hon. Mr. H. Rajendra Prasad, Member (Admn))

1. The applicant, Sri B. Gandhi, who joined the Central Research Institute for Dryland Agriculture in October, 1972, successfully completed the ICAR Audit and Accounts Examination while holding the post of an Assistant, in 1990, thereby earning eligibility for consideration for promotion to the post of Superintendent (Audit and Accounts). He made several representations to the authorities for promotion to the said post. It is his grievance that his request was not acceded to despite the fact that, according to him, vacancies in the cadre of Superintendents (Audit and Accounts) were unfilled and ~~was~~ available from time to time. In support of his plea, the applicant asserts that in 1990 only one post of Superintendent (Audit/Accounts) had been filled up against four sanctioned posts out of a total of seven available posts.

2. There was a wholesale reorganisation of the entire set up in the ICAR institutions, with accompanying rationalisation of pay-scales and designations, in 1975. Certain Recruitment Rules were also introduced for filling up the posts on Administrative /Accounts wing of the Institute. According to the new arrangement, all personnel working on the Accounts side, such as Superintendent-cum-Accountant, Senior Accountant and Junior Accounts Officer, were to be redesignated as Superintendents (Audit and Accounts), and the then three existing pay scales (Rs.500-900/550-900/550-750) were to be eventually unified in the scale of Rs.550-900. The heads of the institutions were also authorised to

identify and designate the existing posts in keeping with the specific duties attached to the posts of Superintendents, e.g. Stores, Establishment, etc. It was also envisaged that the posts of Superintendent were to be filled up wholly by promotion from among Accounts-qualified Assistants in the scale of Rs.425-700 with a minimum of five years of service in the grade, and that if suitable officials fulfilling these conditions were unavailable, deputation from other (affiliated) institutions could be resorted to for filling up the posts of Superintendents.

3. The applicant states that, when he qualified in the Audit and Accounts Examination in 1990, there were at least three vacancies available on the Accounts side which were, however, allowed to be occupied by unqualified persons. It is his grievance that one of them was not reverted to make way for him even though he fulfilled all the requisite qualifications. He complains further that the post of Assistant Administrative Officer, lying vacant for some time past, was not downgraded to that of Superintendent (Accounts) and that ~~was not downgraded to that of Superintendent (Accountants)~~ and that his request to adjust him against the post was ignored.

4. Several oral/written representations were made by the applicant to authorities at various levels between December, 1990 and August, 1992, reiterating his earlier request regarding his promotion and posting as Superintendent (Audit and Accounts).

5. In the meanwhile, one B. Pandu Reddy, Superintendent (Accounts), was selected as Finance ^{and} Accounts Officer and left the Institute in September, 1992. The authorities thereupon promoted the applicant, but, instead of designating him Superintendent (Accounts, or Audit and Accounts) as

repeatedly requested by him, designated him to be one of the Superintendents (Admn.).

6. It is the case of the applicant that all seven posts of Superintendents sanctioned to the Institute are filled by Superintendents (Admn.), by purposely so designating them, although, according to him, atleast three of the posts are required to be designated Superintendents (Accounts/Audit and Accountants) and filled by suitable qualified candidates like, for example, himself. Furthermore, he speaks of one more newly sanctioned post under the Krishi Vigyan Kendra from January, 1993, which too, he complains, was not given to him.

7. The applicant nevertheless continued to send up representations to various authorities ventilating his sole grievance as already indicated. Since none of the representations elicited any response, the applicant says, he was constrained to file this OA.

8. Based on the above arguments, the applicant prays for a direction to the respondents to 'immediately' redesignate him as Superintendent (Accounts/Audit and Accounts) and to adjust him against one of the Accounts posts sanctioned to the Institute, and to promote him from the date he qualified in the ICAR (Audit and Accounts) Examination, in 1990, or atleast from 28-12-1990 on which date G. Lakshminarayana (Respondent No.6) was promoted, and then, to pay him all consequential benefits from the same date(s).

9. The Respondents explain in the counter-affidavit that upto 31st March 1993, there ^{were} ~~was~~ a total of eight posts of Superintendents sanctioned and available in the Institute and these were filled by eight officials in order of seniority and as per their eligibility. The applicant was duly promoted and posted against one of the available

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vacancies on 21st December, 1992. Three others, excluding the applicant who was the juniormost of Accounts-qualified officials, had to be adjusted against the posts of Superintendents (Admn.), and only one - the seniormost of the earlier qualified officials - could be given the lone post of Superintendent (Accounts or Audit and Accounts).

10. On 1st April, 1993, one of the eight posts got reduced because the scheme for which the post was sanctioned was itself discontinued. Subsequently, one post, which was occupied by the applicant, was transferred, along with the incumbent, to the Project Directorate on Poultry. Thus there are in all six posts of Superintendents available in the respondent Institute, one of which is that of Superintendent (Audit and Accounts). The averment that more than one such posts - four according to the applicant - are sanctioned and available in CRIDA is incorrect. There is, according to the Respondents, only one post of Superintendent (Audit and Accounts) and the remaining five are Superintendents (Admn.) and this distribution is need-based. The recruitment rules for two categories are different from one another. It is also clarified by them that the heads of the ICAR institutions are duly empowered to identify the positions - like for example 'stores', 'Establishment' - within the organisations where the Superintendents (Admn.) are to be deployed. This is based on their perceptions and assessment of work-needs and administrative requirements. They explain that while every section has some work which can be generally described as relating to 'Accounts,' there is functional justification for having no more than one Superintendent (Accounts or Audit and Accounts). It is for this reason alone, and none other, that only one post could be identified and earmarked to Accounts/ Audit and Accounts. The remaining posts have been earmarked

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and designated strictly on the basis of actual operational needs. There is, therefore, neither any scope nor justification for having more than one Supdt. (Accounts/Audit and Accounts), nor has more than one Superintendent (Accounts/Audit and Accounts) been sanctioned for the Institute.

11. Furthermore, the applicant is not senior among the officials who have passed the ICAR (A&A) Examination. In fact, he is junior even to Smt. A. Prema Kumari, applicant in OA.1278/93 (since disposed of on 15th October, 1996) who too is an aspirant for the post of Superintendent (Accounts/Audit and Accounts) since atleast 13th September, 1991. (Incidentally the present applicant, who was a Respondent in the said OA, filed an affidavit in that case admitting the said Prema Kumari's seniority over him.).

11. The case was heard at great length and the parties were afforded full opportunity to advance their pleas and arguments. We have carefully considered all facts of this case, taken due note of all averments and arguments on both sides, and hold that -

1) Mere passing of a qualifying examination by an official does not entitle him to claim an immediate promotion to a post of his choice. The success of the applicant at the ICAR(A&A) Examination would not, therefore, entitle him to an automatic promotion, except in his turn, and subject to the availability of vacancies. He is even less entitled to claim a particular post of his choice.

11) The identification and earmarking of posts in consonance with the actual operational needs of the organisation is entirely a rational process and there is nothing basically impermissible if such exercise is undertaken by the authorities who are of course best suited to do so. The decision of the respondents to have only one post of Superintendent(Accounts/Audit & Accounts) is quite in order and unexceptionable.

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iii) The promotion granted to the applicant as Superintendent (Admn.), in his turn, and as per his seniority in the eligible group, is also in order and does not call for any interference.

12. In the light of the aforesaid findings we do not feel inclined at all to direct the CRIDA to redesignate any post from Superintendent (Admn.) to Superintendent (Accounts/Audit and Accounts). There is no warrant for such a direction which, if issued, would fly directly in the face of the assessment of their operational needs made by the authorities themselves. The reliefs claimed by the applicant clearly lack acceptability and cannot, therefore, be granted.

13. One other long-standing grievance of the applicant, that his requests for transfer to any of the sister-organisations were not transmitted by the authorities of CRIDA to the concerned authorities, has now been resolved : he has since joined the Project Directorate on Poultry, Hyderabad, on 8th May, 1996.

14. We have taken note of the fact that the applicant, along with his post, has been transferred to a sister institution, in fulfilment of his own long-standing request, which had also taken on the complexion of a grievance. In view of this development, there is no necessity or scope, any longer, to accede to his prayers. We also note in this connection that the move of the applicant from CRIDA to the Poultry Project Directorate is neither a deputation nor a temporary transfer, but a regular transfer of a permanent nature. This by itself renders his claim infructuous.

15. It was repeatedly urged before us that the applicant is not in a position to be considered for a promotion to the post of Assistant Accounts Officer in his present office, - and possibly in some others, - because, according to his information, only those Superintendents who have worked against an Accounts/Audit and Accounts post can be considered

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for appointment as AAO. And since he was not so designated in CRIDA, his chances of being considered to the post of an AAO, even where available, have been virtually foreclosed. In this connection, it is noticed from various documents produced before us that the expressions 'Accounts' and 'Audit and Accounts' seem to be used rather loosely in the ICAR institutes; there does not seem to be any precision in their actual usage and the two seem to get contextually interchanged often. This ambiguity needs to be taken note of.


16. While the applicant may not have worked physically against an 'Audit and Accounts' post while he was in CRIDA, - and for good and valid reasons too, - it needs to be noted that it was only on account of want of sufficient vacancies and lack of seniority. But for these two reasons, he could certainly have been considered for such an appointment in CRIDA.

17. Taking into consideration these two sets of facts, it is directed that Respondent No.1 shall now issue a certificate in favour of the applicant to the effect that Shri B. Gandhi became eligible to be considered for the post of Superintendent (Audit and Accounts) in CRIDA from (date), (month), 1990, but ^{that} he could not be so posted for want of sufficient vacancies, and because there were other qualified officials who were senior to him.

18. This shall adequately serve the purpose of the applicant and the ends of justice in this case. The certificate shall be issued within thirty days from this day.

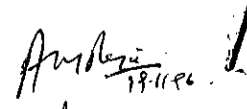
19. The OA is dismissed subject to the above direction and in terms of the above order. No costs.


(H. Rajendra Prasad)
Member (Admn.)


(M.G. Chaudhari)
Vice Chairman

Dated : 13-11-96

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Deputy Registrar (D) CC

O.A.289/96.

To

1. The Director,
Central Research Institute
for Dryland Agricultural,
Santhoshnagar, Saidabad PO,
Hyderabad-59.
2. The Sr.Admn.Officer, CRIDA
Santhoshnagar, Saidabad PO, Hyderabad-59.
3. The Director General, ICAR,
Krishi Bhavan, New Delhi.
4. The Secretary, ICAR
Krishibhavan, New Delhi-1.
5. The Director(Finance) ICAR
Krishibhavan, New Delhi-1.
6. One copy to Mr.B.Gandhi, Party-in-person,
R/O EWSH, Santhoshnagar, Hyderabad.
7. One copy to Mr. N.R.Devraj, Sr.CGSC.CAT.Hyd.
8. One copy to Library, CAT.Hyd.
9. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

Dated: 13-11-1996

ORDER / JUDGMENT

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

in

O.A.No.

289/96

T.A.No.

(w.p.)

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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