

1Q
BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.735/96

decided on : 21-6-96

Between

B. Gandhi : Applicant
and

1. Zonal Coordinator
Zone V of TOT Projects of ICAR
CRIDA Bldg. Complex
Santoshnagar Hyderabad 500059

2. Secretary
Indian Council of Agricultural Research
Krishi Bhavan, New Delhi-1

3. Director General
Indian Council of Agri. Research
Krishi Bhavan, New Delhi 1

4. Sri K. Sreenivasa Rao
Jr. Clerk, National Academy of Agril.
Research & Management
Rajendranagar, Hyderabad-30

5. Secretary (SS),
CTSC-ICAR, CIFT, Cochin
Central Instt. of Fisheries Tech. : Respondents

Counsel for the applicant : Party-in-person

Counsel for the respondents : N.R. Devaraj, Sr.CGSC

CORAM

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

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

Judgement

Oral Order (per Hon. Mr. Justice M.G. Chaudhari, VC)

The applicant argued in person.

2. We are not satisfied that any cause is disclosed which requires the OA to be admitted for the following reasons :
i) The applicant is presently working as Superintendent at Project Directorate on Poultry, at Rajendra Nagar.

20

Hyderabad, in the pay scale of Rs.1640-2900. He states that he has qualified at the ICAR Audit and Accounts Examination, 1990. He contends that by virtue of the above qualification he became eligible to be appointed in the post of Superintendent (Audit & Accounts) / (Accounts) in ICAR/its Research Institutes/Projects/Zones. It is averred by the applicant that Respondent 1 zone has one sanctioned post of Accountant in the pay scale of Rs.1640-2900 which has to be filled as Superintendent (Audit and Accounts) / (Accounts) ^{from} amongst ICAR Audit and Accounts qualified candidates only. According to him since no eligible candidate is available within this zone, Respondent 1 has been issuing notifications/circulars since 1993 calling applications from other units of ICAR. These circulars were issued from time to time since 1993. These circulars were issued when he was working in CRIDA (Central Research Instt. for Dryland Agriculture) as an Assistant upto 1992 and thereafter as Superintendent. In pursuance of the circular he submitted the first application on 20-11-93 requesting for designating the post of Accountant as Superintendent (Audit and Accounts). He also applied on 15-11-1994 ~~and~~ as well as on 16-9-95 after the post was designated as Superintendent (Accounts) for appointment to that post. Similar application was made on 22-5-1995. Yet ^{another} application was made on 13-9-95 to consider his candidature on permanent and request transfer basis to the said post as it was lying vacant since 1993. Thereafter on 13-3-96 he submitted an application to the Director General, ICAR, to transfer him to the said post. He alleges that certain assurance was given to him and on that basis he made that request. It appears that his request was being pursued by the



21

Secretary, Staff side, Central Joint Staff Council, with the Director General. Lastly, he submitted application dated 28-5-96 seeking reasons as to why his application and request was not being considered. He alleges that despite all these requests without being considered some time back he learned that the post was being offered to Respondent 4. This was done without calling applications and without considering his candidature on request transfer basis based on the assurance given by the Director General. He alleges that the offering of the post to Respondent 4 without following the Recruitment Rules and the selection process, ignoring his candidature and assurances given by Respondent 3 is illegal, arbitrary, and violative of principles of Natural Justice. His grievance therefore is that ^{because} any of the said irregularities being committed by Respondent-1 ^{he} is being denied the opportunity to serve in that post. Hence, he prays that the respondents-1 may be directed to cancel the offer given to Respondent 4 and to give that offer to him i.e. the applicant. By way of interim order he prays for stay of operation of ^{the} offer order issued to Respondent 4. Admittedly, the applicant is already holding the post of Superintendent in the scale of Rs.1640-2900. The Respondent -4 on the other hand as stated in the OA itself ~~he~~ is holding the post of Junior Clerk in the scale of Rs.950-1500 and has qualified at Audit and Accounts Examination in 1994. The applicant has produced certain circulars and Rules. The position revealed there from is as follows :

The post appears to be created under plan scheme under Krishi Vigyan Kendra during the Eighth Five Year Plan.



JG

The post in question was earlier designated as Accountant in the scale of Rs.1640-2900. The post has been redesignated as "Superintendent (Audit and Accounts)" in the pay scale of Rs.1640-2900 ~~vide~~ the letter of the ICAR dated 22-2-1993 read with letter of the ICAR dated 25-1-1995. Thus, the post now can be described as Superintendent (Audit and Accounts) in the pay scale of Rs.1640-2900.

3. The applicant has produced Recruitment Rules which show that the post of Superintendent (A&A) is filled up in the following manner :

a) 100% by promotion from within the Instt./HQrs. in case eligible persons are not available, all eligible persons from other institutes/HQrs on permanent transfer basis. The alternative mode in the event of failure of the above clause is not necessary to be ~~set out~~. The very fact that the post is a ^{promotional} ~~permanent~~ post in the scale of Rs.1640-2900 means that the promotion of a person in the lower grade is from ~~lower~~ ^{ie lower grade} the feeder cadre. It is difficult to imagine that a Superintendent can be promoted again as a Superintendent in the same scale. The Respondent 4 was admittedly in a lower post ^{ie in the} ~~Applicant~~ ^{that he can be} lower grade. He seems to ~~believe~~ considered eligible for promotion to the post in question. Although the applicant has serious grievances about the wisdom in selecting Respondent 4 that ~~is not~~ germane to decide the question about his own eligibility. We are of the view that in view of the recruitment rules and as the post is to be ~~filled~~ by promotion, and since the applicant is already in an equivalent post it is a misconceived notion of the applicant that he can be promoted to that post. His application for that purpose, ~~is~~ therefore has not been considered by the respondents. No illegality can be read therein.





b) That the applicant is aware of the above position is discernible from the averments made in the OA itself. Upon his own showing he had applied on 13-12-1995 for consideration of his candidature on permanent and request transfer basis. Similarly, he refers to the so called ~~assurances~~ given upon his application dated 13-3-1996 to transfer him to the post in question. One can see logic in his wanting to be shifted as Superintendent (Accounts) on the basis that he is qualified to hold that post. The applicant submits that prospects of further promotion and advancement of career are brighter from the post of Superintendent (A&A) as compared to the post of Superintendent which he is presently holding. He therefore desires to be posted in that post. That can only be achieved if the Council accepts his request for his posting as the Superintendent (Audit and Accounts) or Superintendent (Accounts) on transfer basis. On the one hand the applicant has produced a recent letter of the Secretary, Staff side, which indicates that he had discussed the matter with Secy ICAR/ Dy.Secy.GAC stating that the matter was pending and

✓

decision and favourable orders were expected but on the ^(applicant) other hand he has rushed to file this OA. ^{Simply because he} Since the applicant says that he has requested to be posted either as Superintendent (A&A) or Superintendent (Accounts) because one of the posts will be filled by Respondent 4 it does not mean that his request must be granted. It is entirely within the powers and discretion of the Council and we cannot give any direction in that respect. We however make it clear that it will be open to the Council to take such decision on the request of the applicant as it may consider appropriate. Since the letter of the Secretary Staff side dated 11-4-1996 is produced and if



26

what is stated therein records what has actually transpired then we have no reason to imagine that the concerned authority will not intimate the applicant its decision on his pending request for transfer to the desired post. We would like also to mention that transfer from one wing to another in the equivalent post in the same scale and even involving cadre change is essentially a matter for the Council to deal with and it cannot be gone into by us as a legal question. Since we are of the view that the applicant has not made out a legal ground to direct his appointment, it is needless to go into his allegations relating to the appointment of Respondent 4 or the contention that it will be irregular.

4. For the foregoing reasons, the OA is rejected.

5. Mr. W. Satyanarayana for respondents 1 to 3 has appeared on behalf of Mr. N.R. Devaraj, Senior Standing Counsel. Mr. Devaraj will however file memo of appearance within a period of one week failing which appearance of Mr. Satyanarayana will be deleted from the record.

1541
(H. Rajendra Prasad)
Member (Admn.)

M.G. Chaudhari
(M.G. Chaudhari)
Vice Chairman

Dated : June 21, 96
Dictated in Open Court

Mr. M.G. Chaudhari
Deputy Registrar C.S.C.

sk

To

1. The Zonal Co-ordinator, Zone V of TOT Projects of ICAR, CRIDA Building, Complex, Santoshnagar Hyderabad-59.
2. The Secretary, Indian Council of Agricultural Research, Krishibhavan, New Delhi-1.
3. The Director General, Indian Council of Agri. Research, Krishibhavan, New Delhi-1.
4. One copy to Mr.B.Gandhi, Party-in-person, Superintendent, Project Directorate on Poultry, Rajendranagar, Hyderabad-030.
5. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy

pvm.

1 COURT

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

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: 21-6 -1996

ORDER/JUDGMENT

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

in

O.A.No. ~~735/96~~ 735/96

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.

pvm

केन्द्रीय प्रशासनिक बहिकार
Central Administrative Tribunal

मेल/EXPRESS

22 JUL 1996

हैदराबाद बैचर्च
HYDERABAD BENCH