

(94)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDRABAD

ORIGINAL APPLICATION NO.885 of 1996

DATE OF ORDER: JANUARY, 1999

BETWEEN:

Dr.K.C.KRISHNA REDDY

.. APPLICANT

AND

1. Union of India,
represented by the Secretary,
Ministry of Agriculture,
Krishi Bhavan, New Delhi,
2. The Director General,
Indian Council of Agricultural Research,
Krishi Bhavan,
Dr.Rajendra Prasad Road,
New Delhi 110 001,
3. The Director,
Central Research Institute for Dry Land
Agriculture, Santoshnagar,
Saidabad Post,
Hyderabad 500 059.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr. G.RAMACHANDRA RAO

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.)

JUDGMENT

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

Heard Mr. G.Ramachandra Rao, learned counsel for
the applicant and Mr.N.R.Devaraj, learned standing counsel
for the respondents.

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2. The applicant in this OA was initially appointed as Scientist Grade S-I (Soil Science) in the pay scale of Rs.700-1300 (pre-revised) in the respondents' organisation under R-3 with effect from 1976. Subsequently he was appointed as Scientist Grade S-II (Soil Science) in the pay scale of Rs.1100-1600 with effect from 18.1.83 by direct recruitment. Later under the provisions of Rule 19 of the Service Rules for Agricultural Research Service, the applicant was appointed to Grade S-2 (Rs.1100-1600) of the ARS with effect 1.7.82 under five yearly assessment scheme and his pay was fixed at Rs.1100/- with effect from 1.7.82 with the date of next increment as 1.7.83 raising his pay to Rs.1150/- per month.

3. It is stated that Dr.M.Velayutham, Project Coordinator, All India Coordinated Soil Test Crop Response Correlation Project (STCR Project for short) was relieved of his duties on 9.10.84 (AN) enabling him to join as Assistant Director General (SS&WM) at ICAR Headquarters, New Delhi. Pending alternative arrangements by the ICAR, Dr.Velayutham was requested to hand over the complete working charge of his post including all records to the applicant, vide note F.No.7-3(S)/83-Estt. dated 8.10.84 (Annexure-I at page 16 to the OA). Accordingly, the applicant received 94 files pertaining to the Coordinating Cell, STCR Project from Dr.M.Velayutham on 9.10.84 as seen from the note F.No.STCR/3-1/84 dated 9.10.84 (Annexure-II at page 17 to the OA). It is stated that the above vacant post of Project Coordinator in Grade S-3 (Soil Science) for ARS in the pay scale of Rs.1500-2000 was advertised by the

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Agricultural Scientists Recruitment Board, New Delhi, vide their Advertisement No.1/87 for which the application of the applicant was forwarded vide CRIDA letter dated 28.2.87. The Advertisement No.1/87 is enclosed as Annexure-III at page 18 to the OA. The forwarding of his application is at Annexure R-1 to the reply. The applicant attended the interview for the above post at the office of the ASRB, New Delhi on 12.7.88 (Tuesday) at 9.30 A.M.

4. The Director, CRIDA, had received a letter NO.20(S-3)3/88-Per.II, dated 25.8.88 (Annexure R-2) enclosing the offer of appointment for the post of Project Coordinator (STCR) in Grade S-3 of ARS for the applicant stating that in the event of acceptance, the applicant will be initially given the charge of the position of the Project Coordinator (STCR) "at Nagpur under CRIDA, Hyderabad". Since there was no sub-station/centre of CRIDA at Nagpur, the then Director requested ICAR, New Delhi, vide Telex Message No.653 dated 30.8.88 (Annexure R-3 to the reply) to clarify the position and the said offer of appointment for the post of Project Coordinator was not delivered to the applicant for want of clarification. The ICAR, New Delhi, vide their letter F.No.20(S-3)3/88-Per.II dated 8.11.88 (Annexure R-4 to the reply) clarified that the expression "Nagpur under CRIDA, Hyderabad" may be amended to read as 'I.I.S.S., Bhopal' and the offer of appointment to the post of Project Coordinator (STCR) may be delivered to the applicant. The applicant was also directed to convey his acceptance of the said offer and was also informed that the offer of appointment would be withdrawn if he failed to join at Bhopal within the

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prescribed period by the letter NO.7-19(5)/83-Estt. dated 18.11.88 (Annexure A-8 at page 27 to the OA). It is stated that the applicant had accepted the offer by his letter dated 6.12.88 (Annexure R-6 to the reply). It is also stated in the letter dated 6.12.88 that the applicant will inform the exact date of joining the post in due course and that letter was forwarded to the ICAR, New Delhi by the letter dated 8.12.88 (Annexure R-7 to the reply) with a copy to the Director, Indian Institute of Soil Science, Bhopal. It is stated for the respondents that after accepting the offer for the post of Project Coordinator (STCR), IISS, Bhopal the applicant requested the ICAR, New Delhi for retention of the Coordinating Unit (STCR) at Hyderabad instead of Bhopal and extension of time to join the post of Project Coordinator (STCR). But the ICAR informed the applicant vide Memo No.20(S-3)3/88-Per.II dated 6.2.89 (Annexure R-8 to the reply) that his request had been considered in the Council carefully, but it had not been found possible to accede to the same. It is also informed by the above memo that as he failed to join the post of Project Coordinator (STCR) (S-3) at Indian Institute of Soil Science, Bhopal, within the stipulated period, the offer of appointment to him was withdrawn/cancelled. Thereafter the applicant submitted representation for joining as Scientist S-3 to work as Project Coordinator (STCR) at Hyderabad. By the letter dated 25.2.89, (Annexure-XIII at page 32 to the OA) he had addressed a letter to R-3 for putting him in any of the divisions/sections of the CRIDA at Hyderabad as he missed the promotion. Accordingly R-3 posted him in the divisions of the Human Resource Management with effect from 1.5.89

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with a direction that he will continue to look after the coordination work of the Project of SCTR independently until the said project is officially transferred to the Indian Institute of Soil Science, Bhopal, vide order No.7-19(S)83-Estt. dated 25.4.89 (Annexure XIV at page 33 to the OA).

5. In the meantime introduction of the revised pay scale in respect of ARS Scientists of ICAR and its research Institutes was issued by the memo No.P-14/87-Per.IV dated 9.3.89 (Annexure XV at page 34 to the OA) whereby the post of Scientist in the Grades upto 16 years of service was fixed in the scale of pay of Rs.3,700-5700 and Scientist S3 with total service exceeding 16 years were to be fixed in the pay scale of Rs.4500-7300. That instruction for some reason or the other was reviewed by subsequent clarification/representation as seen from the Annexures XVI and XVII at pages 47 to 49 to the OA. Finally by the memo No.1(a)/95-Per.IV dated 15.3.95 (Annexure XIX at page 51 to the OA), it was ordered that the Scientists recruited directly in S-2 and S-3 grades on or after 1.1.86 but before 17.9.90 in the pre-revised scales of Rs.1100-1600 and Rs.1500-2000 are to be placed in the revised scales of Rs.3700-5700 and Rs.4500-7300 respectively. The applicant thereafter filed representation dated 13.9.95 addressed to R-2 for regularisation and payment of salary as instructed by the various letters with effect from 30.8.88 and payment of arrears. But it appears that no action has been taken on those letters.

6. This OA is filed praying for a direction to the respondents to fix the pay of the applicant in the scale of

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pay of Rs.4500-7300 in the post of Project Coordinator (Scientist Grade S-3) with effect from 30.8.88 with all consequential and attendant benefits including arrears of pay.

7. A reply has been filed in this OA. The facts of this case as enumerated above are not denied. It is further stated in the reply that the post of Project Coordinator (STCR) was shifted from CRIDA, Hyderabad to Indian Institute of Soil Science ^{Bhopal} with the approval of the competent authority keeping in view the discipline oriented functions of the post and to enhance its future prospects in a better way for which the competent authority in ICAR is a better judge. The applicant instead of joining the duty as Project Coordinator (STCR) at its shifted location at IISS, Bhopal, continued to represent after exerting outside influence to retain the post at Hyderabad which was not agreed to by the competent authority and he was finally asked to report to IISS, Bhopal, failing which the offer of appointment would be treated as withdrawn. It is further stated that the applicant was given only the working charge of the post of Project Coordinator (STCR) till the post was filled on regular basis through ASRB, and not the regular charge of the post.

8. The respondents also add that the applicant himself stated that he "missed promotion" in his letter dated 25.2.89 addressed to R-3 and as per his request he was posted to some other Division in CRIDA, Hyderabad and that appointment to the post at Bhopal could not be materialised as no one was willing to join the post at

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IISS, Bhopal. The claim of the applicant that he is holding the post of Project Coordinator (STCR) on regular basis with effect from 30.8.88 is denied. On the other hand the respondents submit that he was asked to look after the post by the Director, CRIDA, Hyderabad till the post was transferred to IISS, Bhopal. The competent authority can direct any employee to undertake temporary charge of the post, in the exigencies of service, to carry out the functions of the post in the absence of the regular incumbent of the post. The applicant cannot claim the scale of the post just for looking after the work of the post for a particular period. After withdrawing the offer for the post of Project Coordinator (STCR) from the applicant, the post was re-advertised by the ASRB and another incumbent was selected to the said post. As such, the applicant cannot claim the scale which he had not held at all on regular basis. The respondents further submit that the averment of the applicant that his services are deemed to have been regularised as Scientist Grade S-3 (Project Coordinator) w.e.f. 30.8.88 is false and unjustified. Since he was never appointed on regular basis to the post of Project Coordinator (STCR), the question of giving him the pay scale of Rs.4500-7300 with effect from 30.8.88 does not arise.

9. A rejoinder has been filed in this OA. It is more or less same lines as was submitted in the application to the effect that he had worked as Project Coordinator from 9.10.84 on the transfer of Dr.M.Velayutham, Project Coordinator and subsequently on applying for that post he was selected and he continued to hold that post on regular

basis with effect from 30.8.88 as Project Coordinator at Hyderabad and hence he is entitled for the scale of pay as prayed for in this OA.

10. It is a fact that the applicant was asked to look after the duties of Dr.M.Velayudham who was working as Project Coordinator at Hyderabad on his transfer to Delhi by note dated 8.10.84 and he had taken over the charge of that post in addition to his duties as Scientist Grade S-2 as per note dated 9.10.84. He applied for the post of Scientist Grade S-3 - Soil Science (Project Coordinator) to the Soil Test Crop Response Correlation Project after selection in pursuance of the Advertisement NO.1/87. He was initially posted as Project Coordinator at Nagpur by the order dt. 25.8.88. However, that order was modified in view of the clarification asked for by R-3 by his Telegram dt. 30.8.88 by amending the order to read as "IISS Bhopal" instead of "Nagpur" by the Memo dated 18.11.88. Nowhere in the above orders it has been stated that the applicant was posted at Hyderabad as Scientist Grade S-3 i.e, Project Coordinator (SCTR). The applicant keeps on impressing us to the effect that he had taken over as Scientist Grade S-3 at Hyderabad as per his joining report. But the joining report does not give us a feeling that he was posted at Hyderabad and hence he joined. The posting order is very clear. He was posted only as Scientist Grade S-3 at Bhopal under IISS, Bhopal. From the reading of the various orders issued from time to time, no stretch of imagination will lead ^{us} to the conclusion that the applicant was posted as Scientist Grade S-3 Project Coordinator SCTR at Hyderabad. He was posted at IISS, Bhopal only. Hence the contention

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for the applicant that he assumed the charge as Scientist Grade S-3 at Hyderabad with effect from 30.8.88 is not based on facts. He had never joined that post as he had not carried out his transfer to Bhopal.

11. It is also an admitted fact that the applicant was asked to look after the duties of the Project Coordinator, STCR vice Dr.Velayudham who was transferred to Delhi. That was only a stop gap arrangement. That stop gap arrangement will no way give a right to the applicant to state that he was posted as Scientist Grade S-3 after he was found fit in the viva-voce for the post for which the Advertisement No.1/87 was issued. The applicant having failed to join at IISS at Bhopal, cannot claim as having posted as Scientist Grade S-3 i.e, Project Coordinator (STCR) because he looked after the duties of Dr.Velayudham from 1984. No doubt, for the period he looked after the duties of the post held by Dr.Velayudham, he may be entitled for some charge allowance or honorarium. But, for that, the applicant should submit a representation to the competent authority for granting him charge allowance or honorarium as per rules. As there is no such request in this OA for grant of any such allowance, we leave it to the applicant to approach the higher authorities if he so desires, for grant of charge allowance/honorarium for looking after the duties of the post vacated by Dr.Velayudham in addition to his own duties as Scientist Grade S-2.

12. The learned counsel for the applicant submits that there was no transfer of the post, not even a

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direction to operate the post at Bhopal. Hence the post existing at Hyderabad is deemed to have been retained at Hyderabad and as the applicant was found fit for posting as Scientist Grade S-3 i.e, Project Coordinator, STCR, he is deemed to have posted in that post at Hyderabad.

13. In order to verify the above submission, we have called for the relevant files in this connection. The file No.20(S-3)3/88-Pen.II was produced. We have perused the file. In that file, it is seen that R-2 had ordered that "the Headquarters of the Project Coordinator (STCR) as recommended by the 'Task Force' for the establishment of the IISS is at Bhopal. It was a mistake to send the offer with Headquarters at Nagpur. The earlier orders be modified immediately. The report of the Task Force had the approval of the President of the ICAR Society. It should be written to the candidate that the offer will be withdrawn if he fails to join at Bhopal in the next eight weeks." The above orders were recorded on 23.9.88 before issue of the order posting him at Bhopal on 8.11.88 correcting the earlier order dated 25.8.88 posting him at Nagpur.

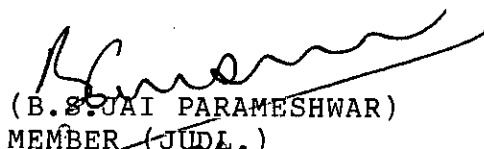
14. In view of the above noting of R-2 it is evident that the post of Scientist Grade S-3 i.e, Project Coordinator (STCR) has to be operated at Bhopal and not at Hyderabad. The operation of the post at Bhopal was necessitated due to the recommendations of the Task Force as approved by the President of the ICAR Society. Hence the contention of the applicant that the post was available only in Hyderabad and not at Bhopal is not revealed by the records. Hence the post of Scientist Grade S-3 i.e, Project Coordinator, ICAR was headquartered at IISS, Bhopal


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and that the applicant was posted only against that post. The official transfer of the post etc. is a subsequent event and on the basis of the order of R-2, the post will have to be operated only at Bhopal. Hence joining of the applicant as Scientist Grade S-3 Project Coordinator (STCR) at Hyderabad does not arise. Hence on the basis of the material available on record, it has to be held that the applicant had not taken over the charge as Project Coordinator (STCR) and hence he is not eligible to the higher scale of pay of Rs.4500-7300 with effect from 30.8.88 as prayed for by him in the OA.

15. In view of the above, the application is liable only to be dismissed and accordingly it is dismissed. No order as to costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)
20.1.99


(R. RANGARAJAN)
MEMBER (ADMN.)

DATED : 20th January, 1999

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COPY TO:-

1. HDHND
2. HHRP M(A)
3. HBSJP M(J)
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR :
VICE CHAIRMAN

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

THE HON'BLE MR. R. RANGARAJAN :
MEMBER (A)

THE HON'BLE MR. B. S. JAI PARAMESWAR :
MEMBER (J)

DATED: 20/1/99

ORDER / JUDGMENT

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

In

B.A. NO. 885/96

ADMITTED AND INTERIM DIRECTIONS ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR

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