

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH : JAIPUR

Date of order : 14.08.2001

O.A. No. 342/2001

Dr. N.P. Singh son of Shri Ram Singh aged about 53 years resident of Type 5/4, CEWRI Colony, Avika Nagar, District Tonk (Raj.) at present employed on the post of Principal Scientist in Central Sheep and Wool Research Institute, Avika Nagar, District Tonk (Raj.).

... Applicant.

v e r s u s

1. Union of India through its Secretary, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi - 1.
2. The Director, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi - 1.

... Respondents.

Mr. Shiv Kumar, Counsel for the applicant.

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman  
Hon'ble Mr. Gopal Singh, Administrative Member

: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

This application is filed being aggrieved by Annexure A/1 dated 01.01.2001 by which the respondent-department refused to forward his application for promotion to the post of Head, NTRS, Grasa of CSWRI in the pay scale of Rs. 16400-22400.

2. The applicant contended that a departmental proceedings has been initiated against him vide charge-sheet dated 26.04.93, and only because

the disciplinary proceedings are pending, his application for consideration of promotion to the post of Head, NTRS, Garsa of CSWRI, has not been forwarded. But the learned counsel for the applicant further submitted that the applicant may be permitted to appear for interview for the said post with a direction to the respondents to keep the result in sealed cover, and for that purpose, there should be a direction to the respondents to forward his application. The learned counsel for the applicant further submitted that the applicant had submitted an application directly for consideration of selection/promotion on the post of Head, NTRS, Garsa of CSWRI, to the Secretary, ASRP, and on that basis, he has received the call letter (Annexure A/4) dated 23.07.2001, directing him to appear before the Committee on 16.08.2001. Therefore, this is an appropriate case in which an interim order could be granted.

3. Heard and perused the records.

4. From the records, it is clear that the departmental proceedings are pending against the applicant vide charge sheet dated 26.04.93. Because of the pendency of this charge-sheet, the department is not forwarding his application for higher post in ICAR. It appears that certain documents were sought for from the applicant, but he did not submit the same. In those circumstances, vide Annexure A/1 dated 01.01.2001, the department stated that his application would not be forwarded and he is at liberty to receive the application back. As submitted by the learned counsel for the applicant, the applicant directly submitted one application to the Secretary, ASRP, for considering his promotion to the post of Head, NTRS, Garsa, in pursuance of the advertisement No. 9/2000. Even according to the rules, the applicant cannot submit an application directly. The appropriate course would be that the application should be forwarded through proper channel, and that he has not done. Therefore, calling the applicant for interview



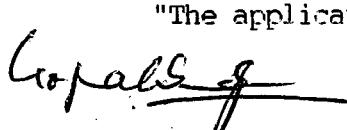
on an application directly sent itself is not in accordance with law. Moreover, vide instruction No. 30(a)(i) under the Chapter 3, Suspension - General Instructions of Swamy's Compilation to CCS (CCA) Rules, it has been provided as under:-

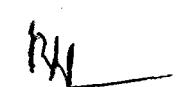
"(20) (a) Cases of Government servants who are under suspension or against whom departmental proceedings are pending:

(i) Applications of Government servants for other posts should not be forwarded when disciplinary proceedings against them are contemplated, whether for a major penalty or for a minor penalty. In other words, when the conduct of a Government servant is under investigation, and the investigation has reached a stage at which a prima facie case can be made out against the Government servant but formal charge-sheet is yet to be issued, the application of such a Government servant should not be forwarded. Thus, where the disciplinary cases are actually pending, question of forwarding of application does not arise."

5. From the above instruction, it is clear that whenever there is a prima facie case for conducting disciplinary proceedings by issuing a charge-sheet, the application filed by the Government servant for other posts should not be forwarded for selection/promotion. In the instant case, the applicant has already been charge-sheeted, therefore, his application has not rightly been forwarded. As such, we do not find any illegality in issuing Annexure A/1 dated 01.01.2001. Accordingly, we pass the order as under:-

"The application is dismissed in limine."

  
(GOPAL SINGH)  
Adm. Member

  
(JUSTICE B.S. RAIKOTE)  
Vice Chairman

cvr.