

16

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

25.05.2011

OA 324/2008

Mr. Vikram Singh Nain, counsel for applicant.
Mr. V.S. Gurjar, counsel for respondents.

Put up on 19.7.2011, as prayed for by learned counsel for the parties.

Ag

Anil Kumar

(Anil Kumar)
Member (A)

K.S. Rathore

(Justice K.S. Rathore)
Member (J)

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19/7/2011

Case Not Reached Put up for
Hearing on 02/8/11

By

Q2R(16)1 m
Court Officer

2.8.11

Mr. Vikram Singh Nain, Counsel for applicant
Mr. V.S. Gurjar, Counsel for respondents

Heard. The OA is disposed of by a
separate order.

Anil Kumar
(Anil Kumar)
M(A)

K.S. Rathore
(Justice K.S. Rathore)
M(J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 2nd day of August, 2011

OA No. 324/2008

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)**

Dr. A.K.Surya
s/o late Shri P.L.Surya,
r/o Type-IV/5, Central Sheep and
Wool Research Institute Campus,
Avika Nagar, Tonk,
at present working as T-6 at
the respondent No.2.

... Applicant

(By Advocate : Shri Vikram Singh Nain)

Versus

1. The Secretary,
Indian Council of Agricultural Research,
PUSHA, New Delhi.
2. The Director,
Central Sheep and Wool Research Institute,
Avika Nagar,
Tonk (Raj.)

... Respondents

(By Advocate : Shri V.S.Gurjar)

ORDER (ORAL)

Brief facts of the case are that the applicant was appointed as Technical Assistant on substantive basis vide order dated 20.4.1977 and joined his duty on 5.2.1977 and subsequently he was confirmed on the same post after completion of probation period. The main grievance of the applicant is with regard to change of designation of the applicant from Technical Assistant (Laboratory) to Senior Laboratory Assistant with retrospective effect vide order dated 21.11.2005 (Ann.A/1).

2. The applicant prays that the respondents may be directed to release the promotional benefits of T-7 to the applicant on completion of 5 years continuous service on the post of T-6 w.e.f. 3.2.2005, on which juniors to the applicants have been granted benefit of promotion as T-7 with all consequential benefits.

3. The applicant, prior to filing of this OA, also filed a Civil Writ Petition No.7252/2006 before the Hon'ble High Court and the Hon'ble High Court vide its order dated 27.5.2008 after hearing the Writ Petition dismissed the same considering preliminary objections which have been raised by the respondents as the dispute raised by the petitioner was covered under the provisions of the Administrative Tribunals Act, 1985, but liberty was given to the applicant to prefer



appeal under the Administrative Tribunals Act, 1985 alongwith application for seeking condonation of delay which was required to be considered objectively about pendency of the Writ Petition.

4. The learned counsel appearing for the applicant submits that the Hon'ble High Court has dismissed the Writ Petition vide order dated 27.5.2008 giving liberty to seek condonation of delay and the present OA has been filed by the applicant before this Tribunal on 21st August, 2008, thus, the OA is to be treated within limitation.

5. The learned counsel appearing for the respondents strongly objected the submissions made on behalf of the applicant and submitted that the Writ Petition before the Hon'ble High Court was not maintainable and therefore the proceedings initiated by the applicant preferring the above noted Writ Petition before the Hon'ble High Court cannot be a ground to condone the delay, since jurisdiction in reference to service matters of the members of service of Indian Council of Agricultural Research was conferred by the Central Government w.e.f. 15.05.1987 i.e. almost 19 years before the applicant preferred the above noted Writ Petition before the Hon'ble High Court.

6. Having considered the submissions on the point of limitation. Since the Hon'ble High Court has given liberty to file



application for condonation of delay, it makes it clear that the time spent in filing the Writ Petition be considered objectively about pendency of writ petition. Thus, we are of the view that the matter requires consideration on merit also and the MA No.272/2008 stands disposed of accordingly.

7. The applicant has contended that vide impugned order dated 21.11.2005, the post of the applicant is re-designated as Senior Laboratory Assistant which is illegal and order impugned deserves to be quashed and set-aside as the designation has been changed without affording opportunity of being heard to the applicant. Further, the promotional chances from the post of Senior Laboratory Assistant are less in comparison to the post of Technical Assistant (Laboratory), and therefore, the applicant also claims promotion from T-6 to T-7 as he is eligible to be considered for promotion.

8. Per contra, the learned counsel appearing for the respondents has submitted that as per Technical service Rules framed by the Council and the guidelines/instructions issued subsequently from time to time to the effect that those Technical Personnel who were having prescribed qualifications such as Bachelor's Degree/Post Graduate Degree/Three years Diploma in the relevant field of groups were awarded merit promotion/assessment from T-5 to T-6 and T-6 to T (7-8) irrespective of posts after completion of 5/10/12 years of



service in the grades. Accordingly, the assessment case of the applicant was also placed before the Assessment Committee for consideration of his merit promotion to next higher grade T-6 to T (7-8) w.e.f. 3.2.2005, but keeping in view of the work done and the report submitted by the applicant along with five yearly assessment form and annual confidential reports for the period from 3.2.2000 to 2.2.2005, the Assessment Committee did not find the applicant suitable for promotion to next grade T (7-8) w.e.f. 3.2.2005, therefore, there is no element of any illegality in the action of the respondents. The case of the applicant has been duly considered for promotion from T-6 to T (7-8) but he was not found suitable by the Assessment Committee.

9. Thus, in view of the submissions made on behalf of the respondents the case of the applicant for promotion has been considered. The submission made on behalf of the applicant that promotional avenue are not available because of change of designation from Technical Assistant (Laboratory) to Senior Laboratory Assistant, it is submitted by the respondents that the applicant was recruited in the functional group of Technical Service Rules as 'Lab' but his designation was Technical Assistant (Lab) as per the post available with the Institute. While sending the recommendations of the Assessment Committee, the Council pointed out that the



designation of Technical Assistant falls under the Field/Farm Technician Group. Therefore, the respondents have not streamlined the matter and during that course the designation of the applicant was changed from Technical Assistant (Laboratory) to Senior Laboratory Assistant.

10. Having considered the overall aspect of the matter as the designation was changed in view of the policy decision taken by the respondents and since pay scale has not been changed, as alleged by the applicant, therefore, we find no illegality as it is within the domain of the respondents to take policy decision and they can change the designation. With regard to further promotion, as discussed hereinabove, the case of the applicant has been considered for promotion, but he was not found suitable on merit and juniors to the applicant were found more meritorious in comparison to the applicant, therefore, they were given promotion.

11. In view of this fact, we find no merit in the OA and consequently, the OA deserves to be dismissed which is accordingly dismissed with no order as to costs.

Anil Kumar
(ANIL KUMAR)
Admv. Member

K. S. Rathore
(JUSTICE K.S.RATHORE)
Judl. Member

R/