

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A No.2837/2018

**Reserved on:30.07.2018
Pronounced on:31.07.2018**

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. Pradeep Kumar, Member (A)**

Dinesh Chandra Mishra
S/o Late Shri G.P. Mishra
Age 53 years
Sr. Tech. Assistant
R/o D-24, Harbhajan Enclave,
Todapur,
PO IARI s.o.
New Delhi-12
Working as T-4 in National Bureau of
Plant Genetic Resources, Pusa Campus,
New Delhi-12.

...Applicant

(Applicant in person)

Versus

1. Indian Council of Agriculture Research,
Through Secretary, DARE & DG, ICAR (Min of Agri)
Krishi Bhavan,
New Delhi.
2. Director, ICAR,
National Bureau of Plant Genetic Resources,
Pusa Campus,
New Delhi-12.

...Respondents

ORDER

By Mr. V. Ajay Kumar, Member (J)

Heard the applicant in person.

2. The applicant, who is working as T-4 in the National Bureau of Plant Genetic Resources, filed the OA seeking the following reliefs:-

“(8.1) Direction be passed to re-write APAR strictly following the rules/circular by appropriate authority, even at admission stage or direction be passed to consider as blank viewing DOPT’s rule stated in ground.

(8.2) Direction also be passed to write APAR in speaking manner/pen picture if directed to re-write”.

3. In short, the applicant is aggrieved with the remarks and the consequent grading given to him in his Annual Performance Appraisal Report (APAR) for the period from 01.04.2016 to 31.03.2017. It is also his case that the officers, who have written his APAR, were not competent enough to write the same. The applicant instead of making a proper representation to the concerned authority against the APAR, appears to have made Annexure A-1 and Annexure A-4 representations mainly contending that the said APAR was not written by a competent authority. If the applicant is aggrieved with the remarks or grading given to him in his APAR for the year 2016-17, or even that the same was not written by a competent authority, he could have made an appropriate representation to the appropriate authority by raising all ground including by raising the issue of writing of the APAR by an incompetent authority. Without availing the said alternative remedy, he filed the instant OA.

4. Section 20 of the Administrative Tribunals Act, 1985, reads as under:-

“20. Applications not to be admitted unless other remedies exhausted.—

(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances,—

(a) if a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.

(3) For the purposes of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the Governor of a State or to any other functionary shall not be deemed to be one of the remedies which are available unless the applicant had elected to submit such memorial”.

5. Admittedly, the applicant has not availed the alternative remedy of making a representation to the concerned authority by raising all the grounds available to him. The Annexure A-1 and Annexure A-4 representations mainly raising the issue of competent authority cannot be treated as the representation against the APAR, on merits.

6. In the circumstances, the OA is disposed of without going into the merits of the case by permitting the applicant to make an appropriate representation against Annexure A-3 APAR for the year

2016-17, if he is aggrieved either with the remarks or with the grading or with the competency of the officers who have written the APAR to the appellate authority, within 4 weeks from the date of receipt of a copy of this order and if such a representation is made within the said time, the appellate authority shall consider the same and pass appropriate speaking and reasoned orders thereon within 8 weeks, by condoning the delay, if any, in making such a representation. No costs.

(PRADEEP KUMAR)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

RKS