

**Central Administrative Tribunal
Principal Bench**

OA No.1797/2012

New Delhi, this the 31th day of July, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Sudhir Saxena,
S/o Late Virendra Kumar Saxena
F-227/A Laxmi Nagar, Delhi-110092.Applicant

(By Advocats: Shri Nilansh Gaur)

Vs.

1. Union of India, Ministry of Agriculture
Through its Secretary, Krishi Bhavan
New Delhi-110001.
2. Director General
Indian Council for Agricultural Research
Krishi Bhawan, New Delhi-110001.
3. Indian Agricultural Research Institute
Through its Director
PUSA Institute, New Delhi-12.
4. Senior Administrative Officer
(P-V) Indian Agricultural Research Institute
PUSA Institute, New Delhi-12. ...Respondents

(By Advocate: Shri Gagan Mathur)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman:-

The applicant was initially appointed as Technical Officer in the ICAR on 29.09.1987. Over the period, he

earned promotions up to the level of T-V in Category-II in the year 1998. The next promotion in the grade is to level T-VI which is in Category-III. There exists a category bar, as regards the movement from Category-II to Category-III.

2. On 03.02.2000, the new Technical Service Rules came into force. The employees were given option whether to be governed by the old rules or new ones. Since the applicant did not exercise option, he is deemed to have opted for the new rules.

3. According to the new rules, an incumbent from Level T-V can move to T-VI if he holds qualifications that are prescribed for direct recruitment to T-6. This, according to recruitment rules is M.Sc.(Agriculture) or an equivalent P.G. degree. However, the then appointing authority treated the applicant as having crossed the bar on account of his holding a P.G. degree i.e., MA (Economics). He was accordingly promoted on 01.07.2003 to level T-VI.

4. On 24.02.2006, the question as to whether MA(Economics) with Agricultural Economics, as a subject, can be equated with M.Sc.(Agriculture) was

examined, and the rules were amended by treating them as equal.

5. The applicant was issued a show cause notice on 15.10.2007 requiring him to explain as to why his promotion from T-5 to T-6 Level, ordered on 01.07.2003, be not treated as invalid. The applicant submitted his explanation on 30.10.2007. However, another show cause notice, in the same terms, was issued. On consideration of the explanation, submitted by the applicant, the competent authority passed order on 25.04.2012 reverting the applicant to T-V Level and directed recovery of differential amount of salary. That order is under challenge in the OA.

6. The applicant contends that it was only on being satisfied that the qualification held by him in the year 2007 was sufficient for promoting him to T-6 grade, that he was promoted, and there was no justification or basis for the respondents to re-open the issue long thereafter. It is also pleaded that the post graduation degree held by him was treated as equal to M.Sc. (Agriculture). Reliance is also placed upon the

judgment of Hon'ble Delhi High Court in WP(C) No.4431/2014 decided on 31.07.2017.

7. The respondents filed a detailed counter affidavit opposing the OA. It is pleaded that the qualification prescribed for appointment to Level T-VI was M.Sc. (Agriculture) in the year 2003, and it was only in 2006 that a decision was taken to equate MA(Eco.) with M.Sc. (Agriculture) as equivalent to that. According to respondents, the applicant was not qualified to be promoted to the level of T-VI in the year 2006.

8. The whole controversy moves around the question as to whether the applicant held the qualification for promotion to T-6 Level as on 01.07.2003. It is not in dispute that under the new Technical Service Rules, the qualification for that post was a degree in M.Sc. (Agriculture) or equivalent which was also to be described as M.Sc. There was absolutely no scope for anyone to understand or to treat a degree in Arts, as equivalent to M.Sc. (Agriculture). For whatever reasons, it was only in the year 2006 that the rule making authority clarified that MA(Economics) with Agricultural Economics, as a subject can be treated as

equivalent to M.Sc. (Agriculture). This exactly was the question that was dealt with by issuing show cause notice. The applicant is not able to satisfy us that as on the date of his promotion to Level T-VI, he held a qualification for direct recruitment into that post.

9. In the judgment delivered by the Hon'ble Delhi High Court, specific direction was issued to treat the degree in MA (Eco.) with Agricultural Economics as a subject as equivalent to M.Sc. Because the promotions were already extended to certain employees, they were protected on the ground that such posts were held for a long time.

10. Strictly speaking, in the instant case, the applicant cannot be said to have been reverted. The only effect of the impugned order would be that his promotion to Grade T-6 would be treated with effect from the date of amendment i.e. 24.02.2006, instead of 01.07.2003. The applicant cannot have any genuine grievance about it. However, as regards the proposal to recover the differential pay, he needs protection from the Tribunal.

11. It was not even alleged that the applicant had mis-represented about his qualification. It is the

respondents themselves who have promoted him on 01.07.2003 and have also extracted work from him in that post. Therefore, we do not find any basis for the respondents to recover the amount from the applicant.

12. In the result, the OA is partly allowed directing that the applicant shall be deemed to have been promoted to Grade T-VI w.e.f. 24.02.2006. However, the impugned order, in so far as it proposed to recover the differential amount, shall stand set aside. There shall be no order as to costs.

(Aradhana Johri) (Justice L. Narasimha Reddy)
Member(A) Chairman

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