

OA.No.170/00277/2016/CAT/Bangalore Bench
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00277/2016

DATED THIS THE 10th DAY OF OCTOBER, 2017

HON'BLE SHRI DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)

Dr.K.Mathivanan

Age 49 years, S/o.V.Krishnaraj

Farm Superintendent

Central Cattle Breeding Farm

Hessarghatta

Bangalore-560088.

.....Applicant

(By Advocate Sri B.Venkateshan)

Vs.

1. The Union of India
Represented by the Secretary
Ministry of Agriculture
Department of Animal Husbandry, Dairying & Fisheries
Krishi Bhavan
New Delhi-110001.
2. Joint Secretary
Cattle & Dairy Development (CDD)
Department of Animal Husbandry, Dairying & Fisheries
Krishi Bhavan, New Delhi-110001.
3. Joint Commissioner
Cattle Breeding Farm (CBF)
Department of Animal Husbandry, Dairying & Fisheries
Krishi Bhavan, New Delhi-110001.
.....Respondents

(By Advocate Shri S.Prakash Shetty)

ORDER

(PER HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (ADMN))

The applicant has filed the present OA seeking the following relief:

“To direct the respondents to consider the case of the applicant to promote him to next higher grade by upgrading the post of Farm Superintendent CCBF, Bangalore to that of Director, FSB(now CFPTI) with the scale of Rs.10,000-15,200 with all consequential benefits accruing there from to the applicant who is holding the said post of Farm Superintendent since 15 years, in the interest of justice.”

2. According to the applicant, pursuant to a notification issued by the UPSC for the post of Veterinary Assistant Surgeon, he applied and got selected and was appointed as Veterinary Asst.Surgeon(Group-B post) vide OM dated 13.8.1998(Annexure-A1). He joined the said post on 15.3.1999. Thereafter again in response to a notification issued by the UPSC for the post of Farm Superintendent (Class-1) in the scale of Rs.8000-275-13500, he applied for the said post through the department and got selected. He was appointed to the post of Farm Superintendent vide order dated 19.6.2000(Annexure-A2) and joined the said post on 12.7.2000. Prior to joining the Government of India post, he served in Tamilnadu Government from 22.1.1990 to 30.11.1990 and also served the Army under Short Service Commission(SSC). The applicant submits that the post of Farm Superintendent in addition to being the Head of the Office handles key areas like Breeding, Veterinary, Live Stock Management, Agriculture, Training and other ministerial works. The breeding farm at Hessarghatta is the oldest unit established originally in Himachal Pradesh in 1950 and got transferred to Bangalore in 1962. The post of Farm Superintendent is the only isolated post in CCBF in the Department of Animal Husbandry under the Ministry of Agriculture while all other CCBFs are headed by Directors.
3. According to the applicant, the Farm has shown consistently higher achievements and was appreciated by senior officials visiting the Farm and therefore justifies its upgradation to higher status like that of the

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Director. Vide order dated 14.5.2007(Annexure-A7), the Farm was directed to work independently instead of through Director CFSP & TI, Bangalore and thus is independent for all purposes. He submits that while the Asst.Director level posts in the Central Medical Department was upgraded to the pay scale of 10000-15200 due to the interest taken by the concerned department, no interest was shown by the Department of Agriculture in respect of Farm Superintendent post and hence it continued to remain at lower level though other Farms were upgraded and headed by Directors. Though the applicant has been representing the authorities on several occasions to consider the case for upgradation of his post to that of Director, the same has not been considered. He submits that the action of the respondents not to upgrade his post along with higher pay scale of Rs.10000-15200 is discriminatory and in violation of natural justice. Therefore, he prayed for granting the relief sought by him.

4. The applicant has filed an MA for condonation of delay saying that he ought to have approached the Tribunal at least in the year 2006. However, he expected that he will be considered finally by the authorities and hence did not approach the Tribunal in time. As such he prayed for condonation of delay and to allow the OA on merits.
5. The respondents have filed reply statement in which they submitted that the Head of the Offices posted at Central Cattle Breeding Farms are entrusted with the responsibility of drawing, disbursing and attending day-to-day Farm activities. Each Farm is assigned with the physical target on different parameters of production and reproduction and these targets are fixed by the Department. The Farms are periodically reviewed and targets revised. In CCBF, Hessarghatta, an exotic breed of cattle is maintained.

However, the physical targets are decided based on the achievements and capabilities. The post of Director never existed in CCBF Hessarghatta which was always headed by a Farm Superintendent. Regarding the performance of the Farm as contended by the applicant, they submit that the competent authority placed the Farm Superintendent under the administrative control of Director, CFSP&TI, Hessarghatta by reallocating the works as they were not satisfied with the performance of the Farm Superintendent. Thereafter, in 2007, it was placed under the direct control of the Joint Commissioner(HOD), DADF at the Head Quarter in order to improve the position. They submit that the applicant remained on unauthorised absence for the period from 1.10.2009 to 2.6.2013. Further on several occasions whenever the competent authority ordered for his transfers in the interest of administration he disobeyed and for which penalty was also imposed upon him.

6. The respondents submitted that the 5th Pay Commission in its report recommended for placing the pay scales of Directors of 6 CCBF Farms excluding Hessarghatta at Rs.3700-5000(corresponding scale of 10000-15000)(Annexure-R1). The department always tried to give equal chance to all its officers including the incumbents on the post of Farm Superintendent at CCBF, Hessarghatta for promotions, whenever the posts in higher scales and grades are advertised by the UPSC. The department arranged special training programme at ISTM, JNU Campus, New Delhi for its officers during November 2015 which was relevant for getting promotion to the post of Director in CCBFs. While other officers attended the training, the applicant did not attend. The applicant was never prevented to apply for higher posts whenever the posts are advertised by the UPSC. It is evident from the records that though the applicant initially

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joined the department as Veterinary Assistant Surgeon, his application for the higher post of Farm Superintendent was considered and forwarded to UPSC by the Department and he got selected also. Therefore there is no question of any discrimination against the applicant. The post of Director is advertised by the UPSC against the vacancies and after following the due procedure, it finally selects the candidates. Therefore, there is no scope for any direct upgradation from the post of Farm Superintendent and promotion to Director as has been prayed by the applicant.

7. The applicant has filed a rejoinder in which he practically reiterated the points already submitted in the OA and indicated that the upgradation of Farm Superintendent post was not properly represented by the respondents in the 5th Pay Commission when latter recommended upgradation of Group-II Veterinary posts with lower duties and responsibilities. While 5th Pay Commission generously proposed upgradation of all Director level pay scales, similar upgradation of Farm Supdt. Post was not done due to failure in submitting similar proposal by the respondents and to present the case properly. He also submitted that the Director post of CCBF post was always filled by Departmental Promotion and not by UPSC. The training was organized only for the sake of out of the way promoting Dr.Gunasekaran, VO of CCBF-Chennai to Director post that too in same CCBF without any transfer to reward his all-out towing of administrators. The promotional benefits have been denied to the applicant deliberately and hence he is entitled to the relief sought by him.
8. The respondents have filed an additional reply in which they have also reiterated the points already highlighted in the reply statement and submit

that UPSC issues advertisement for filling up of posts and based on RR, experiences, essential trainings and confidential reports etc. the candidates including in-service officers are called for interview. They recommended the selected persons. Referring to the criticism of the applicant regarding the training, they stated that the training course is conducted by the respondents and the said opportunity was not availed by the applicant while Dr.M.Gunasekaran, the Veterinary Officer of CCBF, Chennai attended the training, applied and got selected by UPSC as Director. The applicant, on the other hand, was lacking seriousness in duties as would be evident from the fact that the administration had to take several actions against the applicant like keeping him under suspension, issuing of charge sheet, conducting enquiries, imposing major punishments etc. The applicant was transferred from Hessarghatta to Andeshnagar in April 2016 but instead of joining the duties he was absconding. Therefore, they submitted that the applicant is not entitled to any relief.

9. Heard the Learned Counsel for the parties. The Learned Counsel for the applicant submitted that out of 7 Farms only one Farm where the applicant is working is headed by Farm Superintendent while other Farms are headed by the Director. This Farm should also be upgraded and headed by Director. The applicant has been working in the post of Farm Superintendent for the last 15 years and he deserves to be given higher post of Director. The Learned Counsel for the respondents, on the other hand, submitted that whether a Farm is to be headed by Director or Farm Superintendent is based on the assessment of work, type of the Farm and other factors and nobody can demand that a particular Farm should be upgraded. Whenever, a post of Director is available, it would be filled up by

a regular process. The applicant could also apply for the same just as Dr.M.Gunasekaran who after joining the Veterinary Officer post has applied for the selection to the Group-B Director Post and got selected. The Ld.Counsel also highlighted the issue of unauthorised absence and submits that the applicant is never serious in work and he did not apply for the post of Director when it is advertised. Therefore, the contention of the applicant deserves no consideration.

10. We have carefully considered the facts of the case and submissions made by either side. The primary contention in the present case is upgradation of the post of Farm Superintendent in Hessarghatta to Director level post. The applicant has contended that even though the Hessarghatta Farm carried out important tasks and showed excellent performance due to his efforts, the Farm continued to be headed by a Farm Superintendent whereas other Farms are headed by Director. This is due to lack of interest shown by the department in upgrading the farm to a higher level.

11. We note that there are seven Farms. While some of the Farms are headed by Director, the Farm at Hessarghatta is headed by a Farm Superintendent. The issues that of the upgradation of the Farm and promoting the head of the Farm to the Director level are two different aspects. It is clearly in the domain of the respondent department to see the nature and functions undertaken by a particular Farm and the work load, total staff etc. and to decide whether the Farm should be headed by a Farm Superintendent or Director. Any one including a person heading a Farm may submit proposal for upgradation of the Farm and it being headed by a Director but cannot demand the same. Further even if the Farm is decided to be upgraded to higher status and headed by the

Director, it cannot be a question of automatic promotion of the person heading the Farm.

12. The posts of Farm Superintendent and Director etc. are advertised and are selected by the UPSC. The post of Director has to be selected in terms of recruitment rules as has been mentioned by the respondents both in the reply and also during the hearing. The post of Director has to be advertised and a candidate has to be selected by the UPSC. Even if the present Farm is not upgraded, the applicant had opportunity to apply whenever the post of Director in any of the Farms is advertised by UPSC. Rather than applying for Director post when advertised and participating in the selection process, the applicant chose to enter into the process of litigation for automatic elevation to the post of Director by way of upgrading the Farm which cannot be considered.

13. On his own submission, the applicant contended that he should have approached the Tribunal in 2006, but he approached after 10 years which clearly shows the seriousness and the approach of the applicant. The respondents in their reply and during hearing have pointed out several lacunae in the performance of the applicant, his unauthorised absence etc. However, we did not intend to go into these aspects as they are not the issue under consideration. The respondents are at liberty to take appropriate action in respect of the infraction committed by the applicant as per rules. As far as the present issue regarding upgradation of post of Farm Superintendent to that of Director is concerned, we hold that the same does not justify any consideration. Therefore, we hold that the OA is totally devoid of any merit and is liable to be dismissed. Accordingly, the OA stands dismissed. No order as to costs.

(P.K.PRADHAN)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ps/

Annexures referred to by the applicant in the OA.170/00277/2016

Annexure-A1: OM No.12-1/96-Admn.111, dated 13.8.1988

Annexure-A2: OM No.12-1/98-Admn.111 dated 19.6.2000

Annexure-A3: List of Central Cattle Breeding Forms under the Ministry of
Agriculture

Annexure-A4: OM No.55-402005-AHT, dated 31.1.2006

Annexure-A5: Report of Joint Commissioner, MMP, dt.18.4.2006

Annexure-A6: OM No.13-1/2006-Admn.III, dt.19.6.2006

Annexure-A7: OM No.13-1/2006-Admn.III, dt.14.5.2007

Annexure-A8: OM No.A-12018/3/2003-Admn.I, dtd.26.12.2006

Annexure-A9: Applicant's representation dated 9.10.2000

Annexure-A10: Applicant's representation dated 21.10.2000

Annexure-A11: Applicant's representation dated 29.10.2004

Annexure-A12: Applicant's representation dated 13.5.2005

Annexure-A13: Applicant's representation dated 18.1.2006

Annexure-A14: Applicant's representation dated 17.9.2013

Annexure-A15: Applicant's representation dated 25.11.2015

Annexures with reply statement:

Annexure-R1: Copy of the 5th Pay Commission report

Annexure-R2: Copy of the Department arranged special training programme

Annexure-R3: Copy of the RR for promotion of the post of Director

Annexure-R4: Copy of instruction issued to the applicant to attend the training
programme

Annexure-R5: Copy of letter dtd.25.11.2015

Annexures with rejoinder:

-NIL-

Annexures with additional reply statement:

Annexure-R6: Copy of the notice sent to the applicant's address

Annexure-R7: Copy of the return letter with the comments that the addressee was
not traceable
