

**Central Administrative Tribunal
Principal Bench**

OA No.4365/2012

New Delhi, this the 23rd day of January, 2019

**Hon'ble Sh. Justice L. Narasimha Reddy, Chairman
Hon'ble Sh. Mohd. Jamshed, Member (A)**

Shri Kul Bhushan Gupta
Aged about 49 years
S/o Late Sh. M.L. Aggarwal
R/o H-197, Plot No.29, R.K. Vihar
I.P. Extension, Patparganj
Delhi-110092. ... Applicant

(By Advocate: Shri Ashwani Bhardwaj)

Vs.

1. Indian Council of Agricultural Research
Through its Director General
Krishi Bhawan, New Delhi.
2. The Secretary
Indian Council of Agricultural Research
Krishi Bhawan, New Delhi. ...Respondents

(By Advocate: Shri Duli Chand for Shri B.S. Mor)

ORDER (ORAL)

Justice L. Narasimha Reddy:-

The applicant joined the service of the respondents as Technical II-3 (T-II-3 for short) on 03.09.1990. According to the relevant service rules,

the employees of this category are entitled to move to a higher post on completion of five years. In the process, the applicant was promoted to T-4 on 03.09.1995 and to T-5 on 03.09.2000. He became eligible to be promoted to T-6 on 03.09.2005.

2. The respondents amended the Recruitment Rules for promotion to the post of T-6 w.e.f. 03.02.2000. Earlier, the qualification was Bachelors degree in the relevant specialization with diploma in Book Publishing. This was amended to the one of Masters degree in the relevant specialization. Since the applicant did not hold the Masters degree, he was not promoted.

3. The respondents further amended the Rules w.e.f. 24.02.2006 restoring the earlier qualification for promotion to the post of T-6. On the same day, the applicant was issued an order of promotion to the post of T-6.

4. This OA is filed with a prayer to direct the respondents to treat the promotion of the applicant to the post of T-6 w.e.f. 03.09.2005 with consequential

benefits. He contends that though an effort was made by the respondents to amend the qualification for promotion to the post of T-6, they realized its negative effects and restored to the earlier regime, but in the process, he suffered detriment.

5. The respondents filed counter affidavit opposing the OA. The facts borne by record are not denied. It is however stated that the case of the applicant deserves to be treated only in accordance with the relevant provisions of law which were in force at the relevant point of time.

6. We heard Shri Ashwani Bhardwaj, learned counsel for the applicant and Shri Duli Chand for Shri B.S. Mor, learned counsel for the respondents.

7. The applicant did not face any hurdle for promotion up to the stage of T-5. He was promoted to that post on 03.09.2000. He was entitled to be promoted to the post of T-6 on completion of 5 years and on holding a degree qualification as well as, a diploma in book publishing. There is no denial of the fact that the applicant possessed those qualifications.

However, on 03.02.2000, the respondents amended the rules to the effect that the qualification for promotion to the post of T-6 is Masters degree. Since the applicant did not hold Masters degree, he was not promoted on 03.09.2005, by which time he completed five years of service.

8. Had the situation remained the same, the applicant could not have any genuine grievance. The fact remains that the respondents realized the impracticability of enforcing the amended rule and restored to the original position, on 24.02.2006. The applicant suffered detriment to the extent of one year, in the context of promotion. This, in turn, will have its own cascading effect.

9. We are of the view that the applicant deserves to be extended the benefit of promotion with effect from the date he completed five years of service subject however, to the condition that it shall not have any adverse impact on the seniority of other employees in the organization nor he shall be entitled to be paid any back wages. The OA is accordingly allowed directing that the promotion of the applicant

to the post of T-6 shall be treated as effective from 03.09.2005 and he shall be entitled to be extended the resultant benefits other than the back wages. This shall not affect the seniority of any other employee. There shall be no order as to costs.

(Mohd. Jamshed)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

/vb/

