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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. NO. 1339/2003

NEW DELHI THIS THE.....18th.....DAY OF FEBRUARY 2005

HON'BLE SHRI JUSTICE V S AGGARWAL, CHAIRMAN
HON'BLE SHRI S.A. SINGH, MEMBER (A)

Dr. Virender singh Lather,
Professor (Plant Breeding),
Regional Research Station (Uchani)
Haryana Agricultural University Karnal – 132001 (Haryana)

.....Applicant

(By Advocate: Shri Nidhesh Gupta, Ms Nidhi Gupta and Sh. Vinod Shukla)

VS

1. Agriculture Scientists Recruitment Board,
Anusandhan Bhawan, Pusa Campus,
IARI, New Delhi; through its Secretary.
2. Indian Council of Agriculture Research,
Krishi Bhawan, New Delhi, though its Director General.
3. CCS Haryana Agricultural University,
Hisar, Haryana, though its Registrar.


.....Respondents

(By Advocate: Shri Satish Kumar for Respondents 1&2)
None for Respondent No.3

ORDER

BY HON'BLE SHRI S.A. SINGH, MEMBER (A)

An advertisement was issued by the Agriculture Scientists Recruitment Board (ASRB) for the post of Principal Scientist (Genetics/Cytogenetics) IARI, New Delhi . The applicant applied for the post and appeared on 23.7.2001 for the interview and claims that he was selected by the board. However, letter of appointment was not issued for the reason that there was some controversy as to whether Associate Professor , Scientist Reader of Haryana Agriculture University Hissar is equivalent to the Senior Scientist of ICAR. He approached the Tribunal in OA 2564/2002 and by order dated 1st Oct. 2002 it was disposed of with the direction to respondent No. 3 to inform the applicant in a reasoned order reasons for not appointing him, within a period of three months from the date of receipt of this order.



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2. In compliance to these directions the respondents have passed the following order:

“ I am to refer to Court order No. 2564/2002 dated 1.10.2002 and to inform you that you do not fulfill the requirement of 3 years Experience as a sr. Scientist (Rs.12000-183000) as required as on 16.6.2000 (closing date of the application). By mistake screening expert, have recommended your name for the said post on the basis that you are working as Associate Prof. In “State Agriculture, University in the scale of Rs. 12000-18300. Acting on this basis you were recommended for the post of Principal Scientist Interview for the said post scheduled on 23.7.2001. Later on a reference made to HAU, the University has confirmed that ‘Dr. Lather having the designation of Associate Prof. In the pay scale of Rs. 10000-15200 which is obviously less & not equivalent to the scale of Rs. 12000-18300 as per the prescribed qualifications. Hence your candidature for the post of Principal Scientist IARI New Delhi was not accepted since you did not fulfil the condition of having 3 years experience as the Sr. Scientist in the grade of Rs.12000-183000 or in an equivalent position as per the prescribed qualifications.”

3. Aggrieved by this the applicant has filed the present OA praying that the respondents be directed to issue the appointment letter to the applicant for appointment as Principal Scientist (Genetics/Cytogenetics) IARI, New Delhi and to grant him seniority from due date .

4. The matrix of facts perceptitating the controversy can be conveniently delineated . The qualification prescribed for appointment against the post are as under:

- (i) Doctoral degree in Genetics/Cytogenetics/Plant Breeding.
- (ii) 10 (Ten) years experience excluding the period spent in obtaining the Ph.D. degree (subject to maximum of 3 years) in research/teaching/extension education provided 3 years experience is as Senior Scientist (Rs.12000-18300) or in an equivalent position. (emphasis provided)
- (iii) Evidence of contribution of Research/Teaching/Extension Education as supported by published work/innovations.
- (iv) Specialization in Biometrical Genetics.”

5. The controversy is surrounding (item ii) i.e whether the applicant fulfills the requirement of three years experience as Sr. Scientist (12000-18300) or in an equivalent position . It is the averment of the respondents that on the closing date

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of the application i.e. 16.6.2000, the applicant did not have the required experience. Hence his application was correctly rejected.

6. The applicant claims that he had this experience as he had held the following posts indicated at item 19 of the application under employment record:

Employer	Designation with Institution	Period (From-to)	Scale of pay	Whether permanent or temporary
A. Regular Service				
1. Vice Chancellor HAU Hisar.	Research Associate	21.8.79 to 31.8.80.	Rs.650-900	Permanent
2. -do-	Assistant Scientist	1.9.80	Rs.700-1600	Permanent
3. -do-	Associate Professor	4.3.90 to 3.3.98	Rs.3000-5000	Permanent
4. -do-	Professor/Sr. Scientist	4.3.98 to to date.	Rs.16400-22400 Basic pay : Rs. 17300/-	Permanent

7. From the scrutiny of this employment record it would be apparent that from 4.3.98 he had held the post of Professor/Sr. Scientist in the grade of Rs.16400-22400 which was higher than the required post and that before that he had been Associate Professor which also was equivalent to the post of Sr. Scientist (Rs.12000 – 18300- Revised) . Thus he was fully qualified for appointment. In any case on the date of interview (23.7.2001) he had held the post of Prof./ Sr. Scientist for 3 years.

8. According to the applicant the post of Associate Professor indicated to be in the scale of Rs.3000 – 5000 (pre-revised) has to be taken to be in the revised scale of Rs.12000 – 18300/- because in terms of Ministry of Human Resource Development, Government of India, notification dated 18.10.2002 the pay scales of teachers in Universities and Colleges were revised on the recommendations of the 5th CPC. The relevant para of the said letter is reproduced below:

“(i) The MPs Readers, who are in the pre-revised scale of Rs. 3000-5000/- (Revised to Rs.10000-15200/-) will be given the pre-revised pay scale of Rs.3700-5700/- (revised to Rs.12000-420-18300/-) w.e.f. 1.1.96 who fulfil the conditions prescribed under the Scheme notified by the Govt. on 27.7.1998 for career advancement to the post of Reader/Lecturer (Selection Grade).”

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9. According to the applicant this letter was binding on the University because respondents vide their notification dated 1.2.2000 resolved that effective from 1.1.96 any subsequent clarifications/guidelines received from UGC/ICAR with regard to Career Advancement Scheme shall be binding on the University, as per the advice of the State Government.

10. The second limb of the argument of the applicant was that there is a difference in nomenclature between the Haryana Agriculture University and ICAR. The pay scales of the ICAR and HAU are reproduced below:

PAY SCALE OF THE ICAR

Sl	Category of posts	Existing scales of pay (Rs.)	Revised scales of pay (Rs.)
1.	Scientist	2200-75-2800-100-4000	8000-275-13500
2.	Scientist (Senior Scale)	3000-100-3500-125-5000	10000-325-15200
3.	Scientist (Sel. Grade) /Sr. Scientist	3700-125-4950-5700	12000-420-18300/-
4.	Principal Scientist	4500-150-5700-200-7300.	16400-450-20900-500-22400

Pay scale of the CCS Haryana Agricultural University Hisar

1.	Asstt. Professor & equivalents	2200-75-2800-100-4000	8000-275-13500
2.	Asstt. Professor (Senior Scale)/ Associate Professor & equivalent.	3000-100-3500-125-5000	10000-325-15200
3.	Asstt. Professor (Selection Grade)/ Associate Professor & equivalents.	3700-125-4950-150-5700	12000-420-18300/- Pay of those with 5 Years service as on 1.1.1996 may be fixed minimum at Rs. 14940/-
4.	Professor & Equivalents	4500-150-5700-200-7300	16400-450-20900-500-22400

11. Further the duties performed by the Senior Scientists/Professors of the Haryana Agricultural University are the same as the duties performed by Principal

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Scientist of the ICAR. Since the scale of pay⁵ are similar and the nature of duties and functions are also similar and the only difference is on account of the nomenclature the difference in nomenclature should not become the cause for rejection of his candidature. The applicant also claimed that one Dr. A K Sarial was appointed to the post of Officer-in-charge (Rs.16400-22400) vide appointment letter dated 28.01.2001, even though he did not have a single days experience in equivalent cadre/scale of Rs.12000-18300/- prescribed by the Respondent in the advertisement. The action of the respondents in rejecting the claim of the applicant was discriminatory.

12. Moreover the application of the applicant had been scrutinized by an independent board and that board had recommended him for appointment because he possessed the requisite experience. Seeking of further clarifications by respondents was without any basis.

13. The respondents vehemently contested the claim of the applicant pleading that the name of the applicant was recommended for appointment by the screening committee on the mistaken belief that as a Associate Professor in Haryana Agriculture University he was in the scale of Rs.12000 – 18300/- . However, when reference for confirmation was made to Haryana Agriculture University Hissar, the University replied that though the applicant had the designation of Associate Professor he was carrying the pay scale of Rs. 10000 – 15200/- . His candidature was therefore cancelled as he was not fulfilling the prescribed qualifications. The respondents also denied that any person had been appointed to the post of Principal Scientist who do not fulfill the requirement of three years experience carrying the scale of Rs. 12000-18300/- . The appointment of Mr. Sarial was distinguishable as he had been appointed as Head of Regional Station CRRI at Gerua in Assam and requirement of that post were different from the position of Principal Scientists.

14. The respondents made an averment that prior to 1.1.96 there were two schemes for purposes of promotion to higher grades. One was called "Career Advancement Scheme' (CAS), which provided promotional avenues for Reader/Associate Professors/Lecturers (Selection Grade) Scientists (Selection



grade) in the scale of Rs.3700-500/- with no promotional avenues to the post of Professor and equivalent post in the scale of Rs.4500-7300/- (pre-revised). Against the post of professor only direct recruitment was possible. The other scheme that existed was called 'Merit Promotion Scheme' (MPS) and this provides promotions to various categories as under:

Lecturer: Rs. 2200 – 4000/-

Reader/Lecturer (SG) : Rs.3000 – 5000/-

Professor : Rs. 4500 – 5700/-

15. Under the MPS, therefore promotional avenues existed up to Professor in the scale of Rs. 4500 – 5700/-. This did not existing under CAS. Thus Associate Professor/equivalent in the grade of Rs. 3000 – 5000 who opted for the MPS were eligible for promotion to Professor in the scale of Rs. 4500 – 5700/- after eight years of service.

16. With effect from 1.1.96 those readers/Associate Professors who were in the scale of Rs. 3000-5000/- were given the revised scale of Rs. 10000-15200/-. MPS of 1983 was terminated in 1987 for those who had not opted for it and the SAUs were informed vide notification of 3.3.99. UGC in its subsequent clarificatory letter of 21.6.1999 stated that MPS of 1987 stood abolished from the date of issue of revised scales of UGC i.e. 27.7.98. On receipt of representations of HAU and other States Agriculture Universities, the Council changed the date of abolition of the scheme to 3.3.99 vide its letter dated 8./2.2000.

17. Ministry of HRD issued guidelines on 18.10.2002 for revision of pay scale of Associate Professor in the Scale to Rs. 10000 – 15200. The scale of pay was revised to Rs. 12000 – 18300/- w.e.f. 1.1.96, provided eligibility conditions given in the revised CAS were fulfilled. Based on the guidelines UGC formulated its guidelines for promotion of MPS Associate Professors in October 2002, however, they cannot be made applicable to the SAUs until ICAR conveys its approval. It is therefore, apparent that on closing date of receipt of application i.e. on 16.6.2000 two categories of Associate Professor were in existence i.e. those promoted under MPS and those under CAS.

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18. Therefore, the contention of the applicant that post of Sr. Scientists is equivalent to post of Professor and post of Associate Professor is equivalent of Scientist is totally wrong. As per the nomenclature under CAS, which is to be followed by the SAUs, Sr Scientist in the scale of Rs. 12000 – 18300/- (pre revised 3700 – 5700/-) is equivalent to Associate Professor / Reader in 12000 – 18300/- (pre-revised Rs. 3700 – 5700/-) and Principal Scientist Rs. 16,400 – 22,400/- (pre-revised Rs. 4500 – 7300/-) is equivalent to Professor in the scale of Rs. 16,400 – 22400 (Rs. 4500 – 7300/- pre revised). As the applicant was in the scale of Rs. 10,000- 15200/- he therefore, does not fulfill the eligibility requirements for selection.

19.. We have heard the counsel for the parties and gone through the records and we find that the controversy can be broken down to two short questions :-

- (i) in absence of a specific cut-off date for determining eligibility for the said post will the closing date for receipt of applications i.e. 23.7.2001 be the relevant date or the date of interview; and
- (ii) on the cut off date for determining eligibility did the applicant fulfill the requirements with regard to three years experience as a Senior Scientist (Rs. 12000-18300/-) or in equivalent position.

20. It is an admitted fact that no cut off date for determining the eligibility has been specifically indicated in the advertisement. However the respondents have pleaded that for determining eligibility the cut off date has to be closing date of receipt of applications i.e. 16.6.2000. The applicant has contested this by pleading that in absence of a specific date the relevant date should be the date of interview, which 23.7.2001.

21. In the case of **Bhupindar Pal singh & Ors. Vs. State of Punjab & Ors.** (2000 (5) SCC 262) it has been held that :

- (iii) if cut off date is laid down in relevant rules, it has to be followed otherwise it may be prescribed in advertisement, and
- (iv) if no such date is prescribed, eligibility has to be determined as on the last date of receipt of applications – Further held, State of Punjab was following a wrong practice of determining eligibility conditions as on the date of interview – The practice directed to be discontinued.”

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22. Moreover., in a catena of judgements it has now become settled jurisprudence that the cut off date, if not specified, has to be the last date of receipt of applications.

23. In view of the settled law the closing date of receipt of applications indicated in the advertisement i.e. 16.6.2000 will be the crucial date for determining the eligibility qualifications..

24. We now take up the question of eligibility of the applicant on the crucial date (16.6.2000) for appointment to the said post. It is not contested that on 16.6.2000, the applicant had not completed three years in the post of Professor (16400-22400) as his date of promotion to the post is 04.3.1998. However, it is the averment of the applicant that his experience as Associate Professor (10000-15200) should be added for meeting the three years experience eligibility requirement because, as per respondents' Notification dated 01.2.2000, the pay scale of Associate Professor, in the scale of Rs.10000-15200, was raised to Rs.12000-183000 w.e.f. 01.01.1996.

25. The averment of the applicant was vehemently contested by the respondents stating that on the crucial date, i.e. 16.6.2000, no instructions were existing for considering Associate Professor in the scale of Rs.10000-15200 to be in the scale of Rs.12000-18300. They clarified that the Ministry of HRD had issued guidelines for removing the difference between the pay scales of those Associate Professors, who had been promoted under the MPS Scheme and those who had been promoted under the CAS. However, these guidelines had not become operative because they could only become effective after they had been approved by the UGC with the concurrence of ICAR. On the crucial date for determining eligibility (i.e. 16.6.2000) no such instructions existed. As such, the contention of the applicant that he should be taken to be Associate Professor in the scale of Rs. 12000 18300 instead of Rs.10000-15200/-, is not tenable.

26. We find that the applicant has not been able to show any record or document that the guidelines of the Ministry of HRD had been implemented by the Haryana Agriculture University and that the pay scale of Associate Professor in the scale of Rs. 10,000- 15200/- had been revised to Rs.12000-18300/-. On

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the contrary, the Haryana Agriculture University has made a categorical statement that the applicant's grade as Associate Professor was in the scale of Rs.10000-15200/-.

28. In view of the above, we find no merit in the OA and the same is accordingly dismissed. No costs.



(S.A. Singh)
Member (A)



(V.S. Aggarwal)
Chairman

Patwal/