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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.1532 of 2003

New Delhi, this the 28th day of May, 2004

HON'BLE MR.V.K. MAJOTRA, VICE CHAIRMAN (A)
HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

Shri Bhagwan Sharma
Secretary, Staff Side,
Headquarters,
Joint Council & Central
Joint Council, ICAR,
Krishi Bhawan,
New Delhi.

...Applicant

(By Advocate: Shri V.S.R. Krishna)

Versus

Union of India Through

1. The Secretary,
Ministry of Agriculture,
Government of India,
Krishi Bhawan,
New Delhi.
 2. The Director General,
Indian Council of Agricultural Research,
Krishi Bhawan,
New Delhi.
 3. The Secretary,
Indian Council of Agricultural Research,
Krishi Bhawan,
New Delhi.
- ..Respondents

(By Advocate: Shri V.K. Rao)

O R D E R

By Hon'ble Mr.Kuldip Singh, Member(Judl)

The applicant who claims to be Secretary, Staff Side, Headquarters, Joint Council and Central Joint Council, ICAR Krishi Bhawan, New Delhi has assailed an order dated 13.3.2003, Annexure A-I vide which a seniority list issued by the ICAR on 27.5.99 had been withdrawn.

2. The facts in brief, as alleged by the applicant are that in the matter of fixation of seniority
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of its employees, the ICAR was following the rules and regulations of the Government of India which are in force from time to time and in accordance with this practice, the respondents had fixed the seniority of Assistants and Section Officers in the ICAR in accordance with the Ministry of Home Affairs OM dated 22.12.1959. Seniority so fixed was objected by the Section Officers and Assistants of the ICAR Headquarters as the Central Joint Staff Council and the Headquarters Joint Staff Council of the ICAR objected to the application of the OM dated 22.12.1959. The staff side made demand that the principle of determining of inter-se seniority be referred to Arbitration in terms of Rule 28 of Joint Council Scheme of ICAR. The matter was accordingly referred to the Board of Arbitration.

3. It is further stated that the award given by the Arbitrator becomes final and binding on the parties after the expiry of the 30 days of its pronouncement.

4. Reference was made to the Arbitrator as to what criteria should be adopted in all the administrative cadre under the ICAR. The Board of Arbitration after holding a number of meetings, gave its final award vide Annexure A-4 and the Arbitrators in para 17 of the Award opined as follows:-

"17. Looking to the circumstances of the disputed cases and in the interest of equity and fairness, the Board is of the view that to correct the distortions in the seniority list of Section Officers and



Assistants in the ICAR Headquarters, the same should be drawn up afresh applying the principles contained in the DOP&T OM dated 7.2.86 starting from the date from which different modes of recruitment were prescribed under the recruitment rules".

5. However, on this award the respondents took various opinions from the Department of Legal Affairs, Ministry of Law and Justice and they also consulted DOP&T who opined that the Award of Board of Arbitration be implemented. But in the meantime some of the Section Officers Assistants who were aggrieved filed an OA 290/1998 challenging the said Award of the Board of Arbitrators. The OA filed by those officers was dismissed vide order dated 4.5.99. Upon dismissal a CWP was filed before the Hon'ble High Court by those Section Officers. When the petition came up for hearing the official respondents informed that the seniority list was finalised as per the Award of the Board of Arbitration and upon reference of the same to the DOP&T, they had clarified that the OM dated 7.2.1986 cannot be made applicable retrospectively prior to the date, i.e., 1.3.1986 as recommended by the Board of Arbitration so the counsel of the respondents informed the Delhi High Court that he had instructions to state that in view of the advice of DOP&T OM dated 20.2.1998 will not be given effect to which was the very essence of the petitioners challenge before the Tribunal so in view of the statement made by the counsel for the respondents, the Hon'ble High Court observed that the very challenge of the petitioners



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as made in the petition did not survive and the petition has become infructuous so the Writ Petition was dismissed.

6. Now the respondents have issued the impugned order dated 13.3.2002 illegally withdrawing the provisional seniority list circulated vide their letter dated 27.5.99, cancelled the order dated 20.2.1998 implementing the award passed by the Board of Arbitration and the same is being challenged on the various grounds.

7. However, the respondents have taken a preliminary objection that the applicant Shri Bhagwan Sharma in this OA has no locus standi to file the present OA. The respondents submitted that the applicant is only an Upper Division Clerk in the respondents department and is challenging the promotion and seniority list of Section Officers and Assistants and he is in no way concerned or aggrieved by the impugned orders of the respondents. Thus the applicant has no right to challenge the same and the application as filed is, therefore liable to be dismissed.

8. On this preliminary hearing we have heard the learned counsel for the parties and gone through the record.

9. Undoubtedly the petitioner in paragraph 4 of the OA has stated that the applicant is presently working as Upper Division Clerk and vide impugned order the respondents have fixed the seniority of Assistants and



Section Officers in the administrative category. Thus the applicant cannot have any grievance regarding the seniority of Assistants and Section Officers.

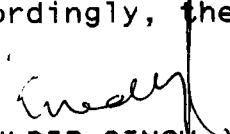
10. However, Shri Krishna appearing for the applicant submitted that the OA has been filed by the applicant as Secretary Staff Side Headquarters Joint Council and Central Joint Council so the applicant has a right to challenge the seniority list being the representative of the staff but we find from the record that there is no document placed on record to show that the applicant has filed the present OA in the representative capacity of the staff nor there is any resolution authorising him to file OA. Besides that we find that the applicant has admitted in the OA that he is working as UDC and the seniority list pertained to Section Officers and Assistants. He cannot have any grievance to be placed in the seniority list pertaining to Assistants and Section Officers, so he cannot be said to be a person aggrieved of any matter against which he has filed the OA. Assuming for the sake of arguments that he had filed the petition in the representative capacity. Shri Rao appearing for the respondents submitted that first of all there is no document to show that the OA has been filed in a representative capacity. Secondly as the applicant had retired from service then some other office bearer should have taken over the position which the applicant was occupying in the Association so after the retirement of the applicant the person who had taken over from the applicant he should

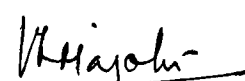


have made an application to come on record and since that has also not been done, so the application otherwise abates.

11. In reply to this Shri Krishna fairly conceded that since the applicant had superannuated and has retired. Thus we find that for the time being he is neither an office bearer of the Association nor the representative of the Staff Association comprising Assistants and Section Officers, as he had retired, he cannot pursue the case on behalf of the association also.

12. Hence we hold that the applicant has no locus standi so the OA is liable to be dismissed. Accordingly, the OA is dismissed. No costs.


(KULDIP SINGH)
MEMBER(JUDL)


(V.K. MAJOTRA)
VICE CHAIRMAN(A)

/Rakesh