

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.3028/2003

New Delhi, this the 18<sup>th</sup> day of March, 2004

Hon'ble Shri Justice V.S. Aggarwal, Chairman  
Hoon'ble Shri S.K. Naik, Member(A)

Dr. V.T.Prabharakan  
Principal Scientist & Acting Head  
(Biochemetrics), Indian Agricultural  
Statistics Research Institute  
New Delhi .. Applicant  
(In person)

versus

Union of India, through

1. Secretary  
Deptt. of Agricultural Research & Education  
Krishi Bhavan, New Delhi
2. Secretary  
Indian Council of Agricultural Research  
Krishi Bhavan, New Delhi
3. President  
Indian Council of Agricultural Research  
Krishi Bhavan, New Delhi
4. Chairman  
Agricultural Scientists Recruitment Board  
Krishi Anusandhan Bhawan-I  
Pusa, New Delhi
5. Dr. S.D. Sharma  
Director, IASRI, Pusa, New Delhi .. Respondents

(Shri Satish Kumar, Advocate)

ORDER

Shri S.K. Naik

The Agricultural Scientists Recruitment Board (ASRB) vide their letter dated 14.6.2003 advertised the post of Director, Indian Agricultural Statistical Research Institute (IASRI), New Delhi. The closing date of receipt of applications was stated as 30.7.2003. The applicant Dr. Prabhakaran, who is working as Principal Scientist and acting Head of the Division of Biometrics of IASRI applied for the said post. His application was forwarded by the Institute vide its letter dated 29.7.2003 to the Secretary, ASRB. It was indicated therein that no vigilance case was pending or being

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contemplated against Dr. Prabhakaran in so far as the Institute was concerned. A copy of the forwarding letter was also endorsed to the Deputy Secretary(Vig.) ICAR, Krishi Bhavan, New Delhi requesting therein to confirm whether any major or minor penalty has been imposed on Dr. Prabhakaran during the last 10 years. It was also stated that the information thereof may be communicated to the Secretary, ASRB under intimation to the Institute.

2. The applicant vide letter dated 6.11.2003 from ASRB was invited to attend the interview on 18.12.2003. He was, however, directed to bring among other things, vigilance clearance certificate indicating details of minor/major penalties, if any, during the last 10 years. The applicant thereafter made repeated attempts through applications addressed, besides the DDG(Eng), ICAR to the Director General, ICAR and President, ICAR to issue vigilance clearance in his favour. When the respondents did not respond to his requests and since the date of interview was at hand, he filed the present OA on 12th December, 2003 in which he seeks a direction to the respondents to issue vigilance clearance. When the matter came up for consideration before this Tribunal on 15.12.2003, the Tribunal directed the respondents to provisionally interview the applicant since the applicant's earlier vigilance clearance had been forwarded by his Institute to the ASRB. Respondents thereafter were asked to file their reply.

3. Applicant who is appearing in person has reiterated the grounds advanced by him in the application and has contended that the respondents have without any basis withheld the vigilance clearance just to deprive him of

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his right of being interviewed/considered for the post of Director. He has stated that the Institute where he is working has clearly stated that no vigilance case is either pending or contemplated against him. If the office of ICAR has any material against the applicant there was no reason as to why they did not respond to his requests and inform the Secretary, ASRB. The fact that his repeated requests for vigilance clearance have fallen on deaf ears goes to prove that the applicant is being made the victim in the hands of Respondent No.5 who bears a grudge against him. He contends that the said respondent had earlier attempted to block his selection to the post of Principal Scientist and acting Head forcing him to knock the doors of the Tribunal to save him from great injustice. This appears to have irked Respondent No.5 and it is on the basis of this development that the other respondents have turned blind eye to his representations. The applicant therefore contends that withholding of vigilance clearance by the respondents is unjustified, illegal and malafide.

4. Respondents who have filed their counter reply, however, have a different story to tell. While they have denied the role of Respondent No.5 in the entire episode, they have explained that as per Rules/procedure, the Council's employees are permitted to apply direct in response to the advertisements of the ASRB. They are however required to provide no objection certificate/vigilance clearance from ICAR, who is the employer, and only such vigilance clearance is to be taken into consideration before or during interview. They contend that the applicant had applied for the post of Director, IASRI during July, 2003. In the meantime, however, the

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Cabinet approved the proposal for enhancing the age of superannuation for the scientists of IARSI from the existing 60 to 62 years with effect from October, 2003. This has led to spate of representations from various quarters stating that due to this unforeseen development a number of aspirants could not apply to the position advertised by IARSI for which the closing date was 30th July, 2003. After taking into consideration the issue in its totality and in order to provide fair opportunity to all such left out aspirants, the Council, with the approval of the competent authority, had decided to extend the closing date for receipt of applications. The Board has accordingly been directed to issue a corrigendum and the entire process of screening/interview shall be done de novo. Accordingly the counsel contends that, the interview for the post applied for by the applicant also stands postponed for the present.

5. On the question of vigilance clearance/no objection certificate to the applicant, the counsel contends that the applicant has been served with a charge-sheet under CCS(CCA) Rules, 1965 vide Memo dated 16th December, 2003 for initiating major penalty proceedings against him. In the changed scenario, therefore, the counsel contends that the applicant is not entitled for even no objection/vigilance clearance certificate. Drawing attention of the Tribunal to the sole relief claimed by the applicant pertaining to the direction to the respondents to issue him vigilance clearance, the counsel contends that, the same, in view of the changed circumstances, has become infructuous and warrants no interference by the Tribunal.

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6. We have carefully considered the facts, circumstances and the arguments advanced by the applicant and counsel for the respondents. While there is no doubt that the Institute of which the applicant himself was the acting Head has forwarded the application to the ASRB stating therein that in so far as the institute was concerned there is no vigilance case either pending or contemplated against him, the fact remains that as per Rules it is the ICAR, who is the employer of the applicant, is competent to issue such vigilance clearance. We also find that there has been some policy decision by the Government to enhance the retirement age of the Scientists from 60 to 62 yrs. All these factors have been taken into consideration and a conscious decision has been taken to postpone the date of interview and the entire exercise of processing by the Board will have to be undertaken ab initio. Thus, the situation has now totally changed. In the meanwhile, charge-memo for major penalty has also been served on the applicant. When a charge-sheet has been served, no direction can be given to issue vigilance clearance to the applicant. Earlier, an order was passed directing the respondents to interview the applicant on provisional basis because the facts then were totally different. In the changed scenario and the changed circumstances, we are of the view that the application does not merit any consideration and is accordingly dismissed. No costs.

Naik  
(S.K. Naik)  
Member(A)

Aggarwal  
(V.S. Aggarwal)  
Chairman

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