

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE**

ORIGINAL APPLICATION NO.170/01282/2018

DATED THIS THE 05th DAY OF DECEMBER, 2019

HON'BLE DR.K.B.SURESH, JUDICIAL MEMBER

HON'BLE SHRI C.V.SANKAR, ADMINISTRATIVE MEMBER

Dr.Kumaresan P
S/o Periasamy S
Aged about 51 years
Scientist D
Central Silk Board, BTM Layout
Bengaluru-560 068.
R/o Flat No.4
Sri Sai Krupa Apartments
No.9, 36th Main, 4th A Cross
BTM 1st Stage
Bengaluru-560 068.

....Applicant

(By Advocate Sri K.Sreedhar)

Vs.

1. Union of India
Ministry of Textiles
Udyog Bhavan
Mallaz Azad Road
New Delhi-110 001.
Represented by its Secretary.

2. The Member Secretary
Central Silk Board
CSB Complex, 100 Ft Road
BTM Layout, Madiwala
Bengaluru-560 068.

...Respondents

(By Advocate Sri V.N.Holla, Sr.CGSC)

O R D E R

(PER HON'BLE SHRI C.V.SANKAR, MEMBER (ADMN))

The factual matrix of the case is as follows:

The applicant who studied B.Sc. in Agriculture from Tamil Nadu Agricultural

University, Coimbatore(Annexure-A1), MBA Degree(Annexure-A2) and acquired Doctorate of Philosophy from Mysuru University(Annexure-A3) was selected as Assistant Director(Sericulture Management) in the pay scale of Rs.2200-4000 vide appointment order dtd.2.3.1992(Annexure-A4) by the 2nd respondent. He was subsequently promoted as Scientist C on 30.8.2006 and Scientist D on 1.7.2009(Annexure-A5). He was posted to Research & Training work at Mysuru and now he has been posted to the Headquarters dealing with matters handled by Central Silk Board(CSB) on Sericulture-Statistics, Sericulture Policies and Silk Exports and Imports.

2. The applicant submits that in the year 1998, the Govt. of India issued a Scheme called Flexible Complementing Scheme(FCS) for scientists in various departments vide OM dtd.9.11.1998(Annexure-A6). But the same was made applicable to the CSB only on 30.8.2006(Annexure-A7). The Assessment Committee conducted interview for Scientist B, C & D and they had looked into only research papers and other parameters which has adversely affected other scientists who have made representation for reconsideration of the matter as their mandate is confined only to handling of seed/coordination/development activities of the Research Institute. Then the 2nd respondent constituted a Committee to look into the grievance of the scientists. As per the recommendation given by the Expert Committee, it was decided to give one more opportunity for re-assessment of the Scientists by following the revised score card designed by the Committee. Accordingly, fresh Assessment Committee has been constituted and after assessing the eligibility of the Scientists who failed in the first instance, they have been recommended for promotion. As such the applicant was promoted to the cadre of Scientist 'C' vide

order dtd.28.4.2007(Annexure-A8) and Scientist 'D' as per order dtd.9.7.2009(Annexure-A9).

3. The applicant submits that his nature of duties falls under the scientific in nature since whatever technology innovated will be assessed in the field by the applicant. Therefore, his nature of work involves implementation of innovative technology. His job also involves training and he also teaching M.Sc. students which is having research work. He was also a Principal Investigator and co-investigator in a number of projects. He also contributed significantly in designing research technologies for various projects/subjects/experiments besides handling specialised projects on Economics and Management. In view of this, his nature of work is scientific one and it cannot be termed as non scientific. And he can be easily classified as a Scientist. He submits that against one Suresh Roy, Scientist 'D', the authorities took action for cancelling the in-situ promotion given to him under FCS stating that he is not a scientist but a Statistician. The said order has been challenged by Suresh Roy in OA.No.75/2008 before the Patna Bench of this Tribunal and the said OA was allowed. The order in OA.75/2008 having been affirmed by the Hon'ble High Court of Jharkhand in WP.No.2503/2009 and also upheld by the Hon'ble Apex Court in SLP.No.11219/2012, the Silk Board passed order dd.20.5.2016(Annexure-A10) extending the benefit to Suresh Roy. The applicant submits that after a lapse of 12 years from the date of extending the benefit, the impugned order of reversion dtd.24.7.2018 has been passed thereby withdrawing all promotions given to him and also reducing him to the lowest cadre(Annexure-A11). Before withdrawing the promotion, no opportunity was given to the applicant which hits the principles of natural justice. The reasoning adopted in the impugned order is liable to be set aside. In other organisations like

CSIR, ICMR, DRDO etc, persons working with similar qualification have been treated as Scientists and extended FCS benefits. Only in the case CSB, the impugned order is passed which is violative of Article 14 of the Constitution. Aggrieved by the action of the respondents, the applicant has filed the present OA seeking the following relief:

Call for the records pertaining to the order bearing No.CSB-5(27)/95-EST II Vol II dated 24.7.2018 vide Ann A-11, and quash the same by issue of writ of Certiorari as the same is illegal, arbitrary and opposed to principles of natural justice and,

Pass such other orders as may be deemed just and expedient in the circumstances of the case, including the award of costs of this application, in the interest of justice and equity.

4. Per contra, the respondents have submitted in their reply statement that in response to the advertisement released by the Central Silk Board(CSB) during 1991 inviting applications for the post of Assistant Director(Sericulture Management), the applicant submitted his application and he was interviewed on 7.12.1991 and later he was offered with the said post. The basic duties include Teaching, involving Indian as well as International students for a course leading to Diploma in Sericulture Management(DSM), Research, updation of course material etc. The applicant possesses the qualification of B.Sc(Agriculture), Master of Business Management and Ph.D in Economics. But as per the definition given by the DoPT in OM dtd.9.11.1998(Annexure-R1) & OM dtd.10.9.2010(Annexure-R2), the applicant does not possess the qualification prescribed for a Scientific Post and he is not a Scientist and on this ground only, the present OA merits dismissal.

5. The respondents submit that based on the recommendations of 5th CPC, the DoP&T issued an OM dtd.9.11.1998 regarding Flexible Complementing

Scheme(FCS) which is a special scheme providing for non-vacancy based in-situ promotion exclusively applicable to the scientific personnel and Technologists holding scientific posts in Scientific & Technological organisations. Scientists who have to their credit demonstrable achievements of higher level of merit are recommended for promotion on rigorous assessment norms. In response to Ministry of Textiles OM dtd.22.9.2000, Min. of Science & Technology, New Delhi constituted an Expert Committee for examining the proposal for recognizing CSB as a Scientific & Technological(S&T) Organisation and it had made recommendation vide OM dtd.30.7.2001(Annexure-R3) stating that CSB and its research Institutes are recognized as S&T Organisations and hence FCS may be sanctioned to Scientists working in CSB and its research institutes up to the level of Scientist 'F' strictly in conformity with the provisions of DoP&T's notification OM dtd.9.11.1998. It also informed therein that Min. of Textiles may consider the recommendations for implementation of FCS with the approval of DoP&T/Min.of Finance. Then the Min. of Textiles vide letter dtd.3.9.2001(Annexure-R4) informed CSB about the recommendation made by the Min. of S&T. Accordingly, CSB vide letter dtd.24.10.2001 submitted a proposal to the Min. of Textiles for extending FCS to the CSB Scientists(Annexure-R5). A modified proposal was submitted to the Min. of Textiles covering the entire group of pay scales under FCS on 11.4.2005(Annexure-R6) as per the request made by the Directors of CSB. The Min. of Textiles after examining the proposal submitted by the CSB in consultation with the DoP&T and Min. of Finance had conveyed approval vide letter dtd.30.8.2006 to CSB for extension of FCS to its Scientists at the level of Scientist-B, C & D. Subsequently, CSB framed draft Recruitment Rules for extension of FCS to CSB Scientists and submitted to the Min. of Textiles on

30.11.2006(Annexure-R7). In the said draft RRs, FCS was proposed only in respect of core scientific cadre and qualification was also prescribed as per DoPT guidelines. The core scientific cadre was from Senior Research Assistant to Director. Among the non-core scientists, there were few personnel with background of Statistics/Social Science/Management for handling projects related to sericulture management, socio-economic and other technological impact studies and for assisting the core Scientists in discharging and analysing the research data, extension and teaching. After sanction of FCS for CSB scientists, initially FCS was not extended to the non-core scientists for want of clarifications whether their qualification comes within the definition of Agricultural/Natural Science. When the officers with Statistics background were not invited for Assessment Interview during February, 2007, they submitted representations requesting that their cases may also be considered for assessment interviews. Further many Scientists who did not qualify in the Assessment Interviews held during February 2007 had also represented that due to their posting in Units where their mandate is confined to handling seed/coordination/developmental activities, they had no occasion to publish research papers etc. which had adversely affected their prospects in the Assessment Interview and they be given another opportunity of re-assessment. The issue was discussed in the Standing Committee Meeting held on 22.3.2007 at Bangalore and subsequently by the then Member-Secretary with the Director(Silk) in the Min. of Textiles, an Expert Committee was constituted to look into the grievances of the Scientists. Based on the recommendations of the Expert Committee, the scientists who did not qualify in the assessment interview during Feb., 2007 were once again given chance to appear before the

Assessment Committee during April 2007. In the case of non-core scientists, their cases were referred to an Internal Screening Committee at its meeting held on 13.3.2007 which recommended that they deserved to be treated as Scientists and to offer the FCS. The said recommendations were brought to the notice of the then Member-Secretary who discussed the issue with the Director (Silk) and finally it was decided to refer the cases of officers with Scientists/Social Science/Management background to the Assessment Committee and to invite them for Assessment Interview with the recommendation of the Assessment Committee. Accordingly, they were also invited for interview and those who qualified in the interview were granted in situ promotion to the next higher grade under FCS. In this process, the applicant was granted in situ promotion to the post of Scientist- C w.e.f. 30.8.2008 and Scientist-D w.e.f. 1.7.2009.

6. The respondents further submit that the DoP&T has notified the Modified FCS vide OM dtd.10.9.2010 and it was adopted for CSB Scientists with the approval of the Board and the same was made effective from 1.1.2011 as per FAQs issued by the DoPT vide OM dtd.23.9.2011(Annexure-R8). In the said FAQs, it was specifically clarified that the qualifications covered under FCS are Master's Degree in Natural/Agricultural Sciences or Bachelor's Degree in Engineering/Technology/Medicine. It was also clarified that qualification of MCA, M.Sc(IT), M.Sc(Statistics), M.Sc.(Mathematics), MA(Operational Research) and M.Sc(Total Quality Management) are not covered under FCS. After examining the said OM, the Ministry vide letter dtd.17.4.2012(Annexure-R9) had confirmed that the CSB officials with Statistics, Social Science and MBA background will not fall within the ambit of Science & Technology. Subsequently, Min. of Textiles has notified the 'Ministry of Textiles, Central Silk Board, Scientist Group 'A' post,

Recruitment Rules, 2013' on 28.11.2013(Annexure-R10) prescribing the essential qualification for scientific posts in CSB. In regard to Sri Suresh Rai cited by the applicant, the OA.No.75/2008 filed by Suresh Rai was disposed of directing the CSB to implement the FCS in respect of all Scientists. The said order was challenged in the High Court of Jharkhand and Supreme Court and the Hon'ble Supreme Court clarified in SLP.No.11219/2012 that the orders to extend FCS benefits are applicable only in respect of the applicants in OA.75/2008 and its orders cannot be treated as a precedent in any other case. Accordingly, orders were issued granting in situ promotion to Sri Suresh Rai, Assistant Director(Statistics) vide order dtd.20.5.2016(Annexure-R11) subject to the outcome of Writ Petition No.2516/2016 pending on the file of Hon'ble High Court of Jharkhand and OA.No.108/2013 pending in the Patna Bench of this Tribunal. However, in the instant case, the applicant did not bring the fact of reversion of officers with Statistics qualification to their original cadre who were extended the benefits of scientific pay package as well as FCS benefits erroneously. A show cause notice (Annexure-R12) and final order(Annexure-R13) were issued in respect of Smt.Kshama Giridhar belonging to Statistics cadre reverting to her original cadre of Assistant Director(Sericulture Management). The OA.No.1469/2014 filed by similarly placed person Sri J.C.Mahanta was dismissed by this Tribunal vide order dtd.25.8.2016(Annexure-R14). When Dr.G.S.Geetha, the then Scientist-C(Social Science) who is one of the non-core scientists has submitted representation dtd.6.12.2016 to the Director, Establishment-I, DoP&T seeking clarification on her eligibility for grant of in situ promotion under FCS, Min. of Textiles took a decision vide letter dtd.11.7.2018(Annexure-R15) conveying that the FCS extended to non-deserving

employees should be withdrawn and the ACP/MACP should be given from due date. CSB is advised to take action regarding recovery of excess payment made to ineligible officers. In cases where recovery cannot be effected in accordance with the DoP&T OM dtd.2.3.2016(Annexure-R16), when the excess payment has been made for a period in excess of five years, this should be worked out and referred to Dept. of Expenditure for seeking waiver of recovery. As per the above decision, the benefits granted erroneously to the non-scientific personnel of CSB including the applicant were withdrawn vide order dtd.24.7.2018 and they have been reverted to their original cadres. Action is being taken to grant the admissible benefits to them under ACP/MACP scheme as per Ministry's instructions. From the orders dtd.24.7.2018 issued to the applicant, it can be seen that there will be no change in the grant of financial upgradation under the ACP scheme to the pre-revised pay scale of Rs.10000-15200 w.e.f. 23.3.2004. Further, the PB-3 Rs.15600-39100 + GP 7600 granted to the applicant under the Modified FCS along with the designation of Scientist-D w.e.f. 1.7.2009 on reversion to the cadre of Assistant Director(Sericulture Management) gets postponed to 23.3.2012 on grant of 2nd financial upgradation under MACP scheme. The applicant contended that the Scientists with similar qualification in CSIR, ICMR, DRDO etc., are extended the FCS which is as per the Cadre & Recruitment Rules notified by the concerned organisations and it cannot be compared to CSB's C&R Rules and there is no provision in the 'Ministry of Textiles, Central Silk Board, Scientist Group 'A' post, Recruitment Rules, 2013' notified on 28.11.2013 to consider those CSB officers as Scientists and to extend FCS. Therefore the action of the respondents in reverting the applicant to his original cadre is in strict compliance of the guidelines issued by DoPT and orders

of Min. of Textiles. The Hon'ble High Court in WP.No.34296/2010 in the case of *CSB vs. Sri Doddanarasaiah* had passed order dtd.26.9.2012(Annexure-R17) quashing the CSB's order dtd.8.12.2006 whereby 9 officials of the Economics Wing were given benefits of Scientific pay scales and also quashing the Tribunal's order where it is ordered for grant of arrears of salary to Sri Doddanarasaiah from 1.1.1996. The CSB being an S&T organisation and the core predominant activity being Research & Development, the Govt. of India has extended certain additional benefits by way of improving the pay scales only to the scientific fraternity to encourage them to involve themselves in the core activities of the Board. Such benefits cannot by any stretch of imagination be extended to other non-scientific categories even though they possess similar qualification, even though they have worked along with scientists extending technical support or working in R&D units of the Board. Accordingly, the applicant is not entitled for any relief and the OA is liable to be dismissed with costs.

7. The applicant has filed rejoinder reiterating the submission already made in the OA and submits that the work of the applicant is scientific in nature in the Board which cannot be denied by the respondents. Only Natural Science graduates are eligible to be treated as scientists is untenable. The applicant having qualification of B.Sc(Agriculture) which is Natural science and also working in the area relating to research and investigation and applying technologies in the field, socio-economic issues and impact of various sericulture development programmes in the field, which is necessarily a work of scientific nature and a layman cannot do it, he is eligible to be treated as scientist. He had worked as Principal Investigator along with other scientists who have been given the benefit of FCS whereas it has been denied to him. Further the applicant also

attended scientific workshops, seminars, conferences both at national and international levels. Merely because the persons working outside the lab, they cannot be denied as Scientists. Even persons working in the field where they test the adoption level of technology, socio-economic status of farmers and impact of sericulture development programmes have to be treated as scientific in nature and many other S&T organisations such as CSIR, ICMR, DRDO, ICAR etc. consider the personnel involved in such activities as scientists and extend the benefits of FCS to them. It is a misnomer on the part of the respondents to claim that only Natural science graduates are alone to be treated as scientists. Number of natural science graduates are also working in the Administrative cadre in Central Office and Regional Offices of CSB and commercial activities such as silkworm seed production and they are not doing any scientific work in the Lab. For them, the benefit of FCS has not been denied. If the contention of the respondents is to be accepted, only persons working in the Lab have to be treated as Scientists. The Hon'ble Supreme Court in Civil Appeal No.5886/2002 in *P.M.Bhargava Vs.UGC* held that Astrology is also a Science. By applying that ratio, the applicant's work also has to be treated as Scientific only as he worked in 16 research projects (as Principal Investigator in 8 projects and as Co-Investigator in another 8 projects) funded by CSB in CSB's research institute. The DoP&T notified Modified FCS on 10.9.2010 and the same was adopted by CSB w.e.f. 1.1.2011 and the FAQs was issued by the DoPT in its OM dtd.23.9.2011 and the Min. of Textiles notified the recruitment rules for scientists only on 28.11.2013. The applicant was elevated to Scientist C on 28.4.2007 and subsequently to Scientist D on 9.7.2009 i.e. well before issuance of FAQs by DoPT and formulation of CSB's RRs for Scientists during 2013. It is a well settled

proposition of law that the new rule is applicable from the date of its implementation and cannot be applied retrospectively. When the FCS was implemented in CSB during 2006, the benefit was extended to only staff working in erstwhile Statistics cadre. When Sri Doddanarasaiah challenged the action of giving FCS to only few officials in the merged cadres of Economics & Statistics and depriving the same to him, though he was the part of the same cadre, the Hon'ble High Court of Karnataka did not issue any order related to denying implementation of FCS for the scientists with the qualification of Statistics. It only advised the CSB to hear the applicant and thereafter consider revising the pay scale for him as given to erstwhile Sr.Research Assistants(Statistics) in accordance with law. On the contrary, the Board has issued show cause notice to all the employees and pensioners in the merged cadre including Kshama Giridhar and Mahantha and thereafter revised the seniority as per the original positions existed in 1989-90 creating heartburn to everyone in the cadre. The CSB's order has been challenged by many in the Court and is still under litigation process. In Mahanta's case, the Tribunal has observed that as the Statistics and Economics wing of CSB form a definitive cadre with proper channel of promotion, FCS cannot be considered for the employees belonging to the same stream. But the applicant's post is an isolated one without any feeder cadre and promotional channel. Therefore, the same analogy cannot be applied in his case. The FCS benefit is extended to G.S.Gopal, Scientist-D, Zaffar MD Sohard Khan, Scientist-D and Shakti Nandan Mishra, Scientist-D in CSB who possess the qualification of only B.Sc which is not in the Recruitment Rules 2013. This indicates that the CSB is biased and partial in application of rules for its employees. Many scientists in CSB do not work in the subject area in tandem with the subject they

specialised in Master's/Doctoral degree(Annexure-A15). The Scientists with Master's degree in Zoology or Botany or M.Sc(Agriculture) with the specialization in Entomology and other fields conduct researches on socio-economic aspects and impact assessment of technologies as Principal Investigators in many research projects in CSB(Annexure-A16). Many scientists who have not involved in a single research project as principal investigator have been promoted under FCS. However, the applicant's involvement in research activities has completely been ignored and the promotions given to him under FCS has been withdrawn whereby it leads to financial loss of about Rs.15000 per month and by reversion, Assistant Director(Sericulture Management) has become an isolated post with no promotional avenue. The Principal Bench of this Tribunal in the case of *Prem Prakash Sharma vs. UOI* in OA.No.3692/2010 held that uniformity needs to be the hallmark of the respondents in dealing with the employees of such specialist, scientific and technical institutes(Annexure-A19). The promotion given for a scientist under FCS(in-situ in nature) would not affect the promotional chances of other scientists. Therefore, the promotion given to the applicant under FCS would not affect the promotional chances of any other scientist working in CSB. Therefore, he is entitled for the relief sought in the OA.

8. We have heard the Learned Counsel for both the parties and perused the materials placed on record in detail. The applicant has filed written arguments note along with citations in support of his claim and also produced the research papers. This is a classic case where a person who was appointed as Assistant Director(Sericulture Management) and posted to a Research Institute was extended the benefits of the Flexible Complementing Scheme(FCS) with an in-situ promotion to the cadre of Scientist-C w.e.f. 30.8.2006 based on the

recommendations of the Screening Committee and an interview before an Assessment Committee. Subsequently, based on a similar procedure, he was given an in-situ promotion w.e.f. 1.7.2009 as Scientist-D. The respondents vide Annexure-A11 have sought to reverse these promotions and have withdrawn the same unilaterally without even affording an opportunity to the applicant to defend himself. The trigger for this reversion is the letter from the DoPT dtd.23.9.2011 clarifying certain doubts in the form of Frequently Asked Questions(FAQ) on the implementation of FCS indicating that only if the person has a Master's Degree in Natural/Agricultural Sciences or Bachelor's Degree in Engineering/Technology/Medicine, he/she could be covered under FCS. It is further clarified that the qualifications like M.Sc(Statistics), MCA etc. are not covered for grant of benefits under FCS. This reversion without notice is under challenge before us. The applicant was a B.Sc(Agriculture) and has got Master's in Business Management from the Tamil Nadu Agricultural University and acquired Ph.D from the University of Mysuru. Vide Annexure-A12, he has given an extensive list of more than 100 publications in which he has written the details of 16 research projects he has assisted (with 8 as Principal Investigator and 8 as Co-Investigator), research guidance he has given, the awards/citations he has received, the significant contributions he has made towards the research, teaching/training, transfer of technology and technical contributions along with the list of publications in international and national journals running to several pages. He has also mentioned about the technical reports he has submitted and the thesis/case study, dissertations he has been involved with etc. The main point of contention in this case is whether the applicant would be eligible for being considered as Scientist for the purpose of the objectives of the organisation.

Section-8(2)(a) of the Central Silk Board Act 1947 states one of the functions of the Board as 'undertaking, assisting or encouraging scientific, technological and economic research'. As already noted, the applicant had participated in 16 research projects both as Principal Investigator as well as Co-Investigator. He had participated in a number of scientific committees relating to the research work carried out by the respondent organisation. The promotions given to him in the years 2006 and 2009 were based on the assessment of the work done by him regarding research work, research papers, publications and teaching and other related scientific/technical activities and participation in a number of technical and scientific committees. As has been pointed out by the applicant, the said clarification by way of Frequently Asked Questions has been given by the DoP&T in the year 2011 by which time two promotions were already given to him i.e. one in 2006 and another in 2009. The applicant has also made out the point that there is no regular promotional channel for the post he was recruited for and merely stating the he was eligible for ACP/MACP etc., will not afford him an opportunity to develop further in his career. He has also pointed out that the respondents have not agreed when he wanted to apply for jobs in other organisations precisely due to lack of further opportunities in the respondent organisation. The applicant has furnished a number of cases decided by the Hon'ble Apex Court relating to the parity in avenue for employment(promotion) setting aside reversion after long period even in cases of erroneous promotion, Courts not to interfere on the recommendations of the expert committees and so on. The short point is when an organisation decides to grant a promotion based on its understanding of the promotion scheme and such promotions have been given without any mistake or misrepresentation on the part of the selected

person, the organisation cannot at a later date claim, based on certain new clarifications issued, that the person was not eligible for such promotion. In this case, the applicant was clearly selected based on the assessment done by the Screening Committee and further interviews by an Assessment Committee. He had done tremendous work in terms of research publications and field studies. A narrow definition by the DoP&T as to who can be called as a scientist has led to this predicament where for no fault of his, the applicant is reverted back after more than a decade of having enjoyed superior status. The applicant also pointed out that this will involve a monetary loss of Rs.15000 per month and the respondents have flippantly reverted him back without even the basic courtesy of giving him an opportunity to defend his position as well as assail the proposed reversion. This is against all principles of natural justice and is to be condemned with utmost severity. The number of case studies which have been brought in by the applicant clearly show that when the applicant did not have any juncture in the promotion which was given to him, the respondent organisation should not have attempted to revert him without adequate cause. The only leg on which the respondents stand relates to what they consider as work of a scientific nature. The applicant has himself brought in many examples of the person supposedly with requisite qualifications and coming from Natural Science etc., not doing any work related to their field of study and they being promoted in a routine manner since they supposedly have the basic qualifications as clarified by the DoP&T. The cases cited by the respondents for denying him the opportunity i.e. OA.No.1469/2014 of this Tribunal vide order dtd.25.8.2016 and the orders of the Hon'ble High Court of Karnataka in WP.No.34296/2010(S-CAT) order dtd.26.9.2012 will not help the respondents since in that OA, the same was

discussed at length relating to two streams of appointees from the Economics and Statistics background and this Tribunal had considered that what was done in ICMR and AIIMS would not be applicable to the applicant in that OA since Statistics and Economics wing formed a definitive cadre with proper channel of promotions in the respondent organisation Central Silk Board and the OA was decided based on the facts and circumstances of that case. The case of the applicant is not similar to that case as he is having the qualification of Degree in Agriculture and he having undertaken a large number of research projects for the benefit of the organisation and the beneficiaries of the organisation which is one of the objectives of the said organisation, he could not be reverted back. The order of the Hon'ble High Court of Karnataka is also relating to the interpretation of an earlier order of the High Court and is not in any way connected with the matter being analysed in this particular application.

9. Considering all the above, we feel that the respondents erred in taking a very narrow interpretation on the clarification given by the DoP&T. No opportunity was given to the applicant for assailing the proposed action. The respondents have not considered the fact that the promotions granted to the applicant after a due selection process and screening almost a decade back cannot be snatched away merely based on their understanding of what the work of a scientist will be. As rightly noted by the applicant, if that interpretation is to be accepted, only the persons sitting in the laboratories can be considered as scientists. The work of the applicant is totally technical in nature and the research publications he has furnished show that his detailed study will help in furthering the objectives of the organisation in great measure. It is also apparent that persons recruited in his cadre do not have an opportunity for promotion in a regular stream and schemes

like FCS are meant precisely for persons like him. Having given the opportunity of promotion, it is clear injustice on the part of the respondents to have proceeded with the Annexure-A11. We, therefore, quash Annexure-A11 and direct the respondents to restore the position of the applicant as it existed earlier within a period of one(1) month from the date of issue of this order.

10. The OA is allowed with the above. No costs.

(C.V.SANKAR)
MEMBER (A)

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

/ps/

Annexures referred to by the applicant in OA.No.170/01282/2018

Annexure-A1: Copy of Degree certificate in B Sc Agriculture

Annexure-A2: Copy of MBA certificate

Annexure-A3: Copy of Degree of Ph.D

Annexure-A4: Copy of appointment order dtd.2.3.1992 as Asst.Director

Annexure-A5: Copy of service particulars of the applicant

Annexure-A6: Copy of the OM dtd.9.7.1998 introducing FCS in the Government

Annexure-A7: Copy of letter dtd.30.8.006 implementing FCS in the R2 Board

Annexure-A8: Copy of the order dtd.28.4.2007 promoting the applicant Sc C

Annexure-A9: Copy of the promotion order of the applicant dtd.9.7.2009 as Scientist D

Annexure-A10: Copy of order dtd.20.5.16 implementing FCS in the case of Suresh Roy
Annexure-A11: Copy of the impugned order dtd.24.7.2018
Annexure-A12: Copy of Bio Data of the applicant

Annexures with reply statement:

Annexure-R1: DoP&T OM dtd.9.11.1998
Annexure-R2: DoP&T OM dtd.10.9.2010
Annexure-R3: Dept. of Science & Technology OM dtd.30.7.2001
Annexure-R4: Min. of Textiles letter dtd.3.9.2001
Annexure-R5: CSB letter dtd.24.10.2001
Annexure-R6: Min. of Textiles letter dtd.11.4.2005
Annexure-R7: CSB letter dtd.30.11.2006
Annexure-R8: DoP&T OM dtd.23.9.2011
Annexure-R9: Min. of Textiles letter dtd.17.4.2012
Annexure-R10: CSB's notification dtd.28.11.2013
Annexure-R11: In-situ promotion order dtd.20.5.2016
Annexure-R12: Show-cause notice issued to Smt Kshama Giridhar
Annexure-R13: Final order on the show-cause notice
Annexure-R14: Order dtd.25.8.2016 of this Tribunal in OA.No.1469/2014
Annexure-R15: Min. of Textiles letter dtd.11.7.2018
Annexure-R16: DoP&T OM dtd.2.3.2016
Annexure-R17: Order dtd.26.9.2012 of High Court of Karnataka in WP.34296/2010

Annexures with rejoinder:

Annexure-A13: Encyclopedia Britannica extract
Annexure-A14: Information furnished by CSB w.r.t. benefit given to other employees
Annexure-A15: Few examples of CSB Scientists – present area of working not matching with their qualification
Annexure-A16: Research projects with scientists
Annexure-A17: Letter of Indian Institute of Tropical Metrology
Annexure-A18: Copy of letter dtd.30.1.2013 of the respondent Board
Annexure-A19: Copy of the judgment of Principal Bench, CAT Delhi in OA.3692/2010

Annexures with written arguments filed by the applicant:

-NIL-
