

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 4159 OF 2009

DIRECTOR GENERAL, INDIAN COUNCIL OF
AGRICULTURAL RESEARCH & ANR.

Appellants

VERSUS

V. RAVINDRAN

Respondent

WITH

CIVIL APPEAL NO. 4160 OF 2009

CIVIL APPEAL NO. 4161 OF 2009

O R D E R

These appeals arises out of an order passed by the Division Bench of the High Court of Kerala at Ernakulam, confirming an order of Central Administrative Tribunal, hereinafter referred to as "CAT", Ernakulam Bench, directing that the experience gained by the Respondents herein in Grade T-I-3 be counted for reckoning a period of fifteen years in order to consider them for assessment promotion to T-4 grade from their position of fitment in T-3 grade.

We have heard the learned counsel appearing for the parties.

The Respondents in these appeals entered service, more than about five decades ago in the Appellant No.1 organisation in the lowest category of post. In the year 1975, the

Appellant no.1 organisation formulated the rules relating to "Technical Services" of the institution. As per paragraph 3.1 of such Technical Services Rules 1975, as modified on 3.2.2000, the technical services of the institution were divided into three categories, namely, Category I, Category II and Category III. Each of these categories were further subdivided into three grades. The position brought about after the modification of the service rules as on 3.2.2000 will be self-explanatory if paragraph 3.1 and the Table thereunder are extracted. Accordingly, they are extracted as follows:

"Categories and Grades of the Services

3.1 The Technical services are grouped into three Categories, consisting of the following grades with scales of pay as adopted by the ICAR on the basis of the recommendations made by IV and V Central Pay Commissions.

Category	Grade	Pay Scale	
		Pre-revised Scales	Revised Scales
Category I	T-1	Rs.975-25-1,150-EB-30-1,540	(T-1)Rs.3,200-85-4,900
	T-2	Rs.1,200-30-1,560-EB-40-2,040	(T-2) Rs.4,000-100-6,000
	T-I-3	Rs.1,400-40-1,800-EB-50-2,300	(T-1-3) Rs.4,500-125-7,000
Category II	T-II-3	Rs.1,400-40-1,800-EB-50-2,300	(T-II-3) Rs.4,500-125-7,000
	T-4	Rs.1,640-60-2,600-EB-75-2,900	(T-4) Rs.5,500-175-9,000
	T-5	Rs.2,000-60-2,300-EB-75-3,200-100-3,500	(T-5) Rs.6,500-200-10,500
Category III	T-6	Rs.2,200-75-2,800-EB-100-4,000	(T-6) Rs.8,000-275-13,500
	T-7	Rs.3,000-100-3,500-125-4,500	(T-7) Rs.10,000-325-15,200

	T-8	Rs.3,000-100-3,500-125-5,000	(T-8) Rs.10,000-325-15,200
	T-9	Rs.3,700-125-4,700-150-5,000	(T-9) Rs.12,000-375-16,500”

The long and short of the story is that the Respondents approached the CAT, seeking a career advancement/promotion from Grade T-I-3 in Category I to Grade T-4 in Category II. It would be seen from the table in para 3.1 extracted above, that the Grades of T-I-3 and T-II-3 carry the same pre-revised pay-scales and revised pay-scales.

The main objection taken by the Appellant organisation to the claim of the Respondents was that Appendix IV to the Technical Service Rules prescribed model qualifications for all functional groups and for the three categories of technical services of the institution and that for movement from Category I to Category II, a Bachelor's Degree or equivalent qualification from a recognised University was a must. In other words, the contention of the Appellant organisation was that the claim of the Respondents cannot be considered unless they hold or have subsequently acquired the qualifications prescribed in column number 3 of Appendix IV of the Technical Services Rules, 1975, as modified on 3.2.2000.

The CAT rejected the stand taken by the Appellant organisation on the short ground that as per Rule 6.3 of the Technical Services Rules, a longer experience, namely,

experience of ten years was sufficient to move from Category I to Category II in the absence of the prescribed educational qualifications and that, therefore, career advancement cannot be refused to the Respondents.

It will be useful to extract paragraph 17 of the order of the Tribunal which articulates the dispute in a lucid manner. Therefore, it is extracted as follows:

"17. The third issue is the materiality of the barrier. If possessing the qualification of Graduate or Diploma is considered critical to the functioning in Category-II and it is such that cannot be compromised then it has to be concluded that Category-II does not come in the normal line of promotion for those who entered Category-I. Further, considering the point made by the learned counsel for the applicants, that employees in the Grade T-I-3 are discharging substantially the same functions that are discharged by those in Category T-II-3 or T-3 it cannot be argued that qualification can be a barrier for entering Category-II at the lowest level. If a person can discharge the functions assigned to T-II-3 grade then for considering him for T-I-3 should not be a bar unless the experience in T-I-3 is sought to be distinguished qualitatively from the experience in T-II-3. Experience can be distinguished qualitatively provided the criterion for distinction are laid down. No such criteria have been laid down. Further, with the same pay scales and permeability of grades will be difficult to establish that one involves responsibility higher than the other. Through a system of assessment promotions intra-grade movements have been facilitated but inter-grade movements from Category-I to Category-II are sought to be prevented by a qualification barrier. As we have stated already, the very prescription of Matriculation with 10 years experience as the qualification for direct recruitment to Category-II stands on the same footing as prescription of Degree or Diploma for direct recruitment. In other words, if a person possess the experience of 10 years with the basic qualification of Matriculation he can be considered for induction into Category-II as a direct recruit. The only point that the learned counsel for the applicants failed to see is that eligibility for direct

recruitment does not create any right to appointment.”

The view so taken by the CAT was confirmed by the Division Bench of the High Court, forcing the Appellant organisation to come up with the present Civil Appeals.

The main thrust of the argument of the learned counsel for the Appellants is that under Rule 6.10, the assessment of the eligible persons for merit promotion/advance increments in Categories I and II has to be done by a Selection Committee. According to the learned counsel, the procedure for assessment of persons for grant of promotion is also detailed in Appendix III of the Rules. In short, the contention of the learned counsel for the Appellant is that the Tribunal as well as the High Court conveniently overlooked all these Rules and went solely by Rule 6.3.

But we are not impressed with the aforesaid contention of the learned counsel for the Appellants. Rule 6.3 reads as follows:-

“6.3 As per the revised grade structure, the entrants of Category I at T-1 grade would continue to be regulated for assessment from T-1 to T-2 after five years of service, as at present. However, the T-2 grade personnel, possessing the qualifications, as prescribed hereinfurther under the Notification of 3 February 2000 for Category II for direct recruitment, would be eligible for assessment promotion to T-3 grade after five years of service, while those not possessing such qualifications shall become eligible for assessment promotion to T-3 grade only after 10 years of service in T-2 grade. The assessment promotions from T-3 to T-4 and T-4 to T-5 shall continue to be regulated at five years interval, as

at present.”

A careful reading of Rule 6.3 extracted above would show that persons working in T-1 grade in Category I, possessing the qualifications prescribed in the Rules will be eligible for assessment promotion to T-3 grade in Category II, after five years of service. But those not possessing such qualifications would become eligible for assessment promotion to T-3 grade only after ten years of service in T-2 grade.

In other words, persons possessing the qualifications prescribed in Appendix IV to the service rules, will be eligible for movement from grade T-2 in Category I to grade T-3 or T-4 in Category II, if they have put in service of five years. But if they do not have the educational qualifications, they must put in ten years of service. Therefore, Rule 6.3 has been rightly interpreted by the Tribunal as well as by the High Court.

Coming to Rule 6.9 on which reliance is placed, it is seen that the same deals with the question of determining the eligibility of a person for grant of merit promotion or advance increments, which reads as follows:-

“6.9 For determining the eligibility of a person for the grant of merit promotion or advance increments, the entire period of the service in the grade including the service rendered in the pre-revised scale of pay will be counted.

- (i) The service rendered by an individual in another Institute from where he comes on transfer on compassionate ground will be taken into account for computing the eligibility period of 5 years.

(ICAR letter No.7-5/83-Per.III dated 27 August 1984).

- (ii) For the purpose of computing the prescribed period for assessment, the period of ad-hoc service in the same grade and also the period of leave, including study leave/EOL, and period spent on deputation, will also be counted.

- (iii) However, it may be added that the following periods are not to be counted for computing the prescribed period of eligibility for assessment/promotion to the next higher grade.

- (a) Period of suspension treated as dies-non for all purposes inclusive of assessment under Technical Service Rules;

- (b) Period of reduction to lower grade as measure of penalty.

(ICAR letter No.7-34/80-Per.III dated 19 May 1982)."

Unfortunately for the Appellants, the Rule does not make a reference to the qualifications stipulated in Appendix IV. Even Rule 6.10, on which reliance is placed, merely stipulates the procedure to be followed for movement from Category I to Category II by referring the matter to a Selection Committee.

A careful look at the entire scheme of the 1975 Rules, as modified on 3.2.2000, would show that Rule 7.4 is the only Rule which refers to the model qualification. Rule 7.4 reads as follows:-

"7.4 The Model Qualifications prescribed for different groups of the three categories are given in Appendix IV.

Note: Alternative qualifications circulated vide the Council's letter No. 7(10)/78-Per.III dated 27.1.1979 are applicable to the Council's employees for the purpose of promotion only against the 33.3% vacancies, reserved for departmental promotions. These qualifications will not, therefore, be applicable to the Council's employees when they apply for technical posts against 66.6% quota reserved for direct recruitment."

Rule 7.4 is followed immediately by Rule 8, which deals with direct recruitment. Rule 8.3 which makes the qualifications prescribed in Appendix IV applicable to appointments, reads as follows:

"8.3 The minimum educational/trade qualifications prescribed for different groups of the three categories will be as per Appendix IV. Any modifications to this Appendix, if considered necessary, will be made in consultation with the Agricultural Scientists' Recruitment Board.

Note: In the case of ex-servicemen, the equivalence for their qualifications with those prescribed in Appendix IV will be decided in consultation with the Director-General of the Resettlement, Ministry of Defence."

Unfortunately, Rule 8.3 finds a place only under the heading 'Direct Recruitment'.

Therefore, in the absence of any specific reference to the educational qualifications prescribed in Appendix IV and also in view of the enhanced experience criteria prescribed in Rule 6.3 for those not possessing the educational qualifications, we do not think that the Tribunal or the High Court committed a serious error warranting interference by this Court.

It must be pointed out that the Respondents were appointed more than 50 years ago and they have retired perhaps more than a decade or two ago. Learned counsel for the Appellants expressed an apprehension that this interpretation may open a floodgate. But we are only dealing with the cases of the Respondents and in particular, Rule 6.3. Therefore, we do not think that this can really open the floodgate.

This case actually arises out of the merger of two grades, namely, T-I-3 in Category I and grade T-II-3 in Category II. Therefore, we do not think that the apprehension expressed by the learned counsel for the Appellants will be justified.

In view of the above, the Appeals are dismissed. There will be no order as to costs.

Pending application(s), if any, stand disposed of.

.....J.
(V. RAMASUBRAMANIAN)

.....J.
(PANKAJ MITHAL)

NEW DELHI;
FEBRUARY 08, 2023

ITEM NO.103

COURT NO.15

SECTION XI-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 4159/2009

DIRECTOR GENERAL, INDIAN COUNCIL OF
AGRICULTURAL RESEARCH & ANR.

Appellant(s)

VERSUS

V. RAVINDRAN

Respondent(s)

IA No. 129135/2020 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

WITH

C.A. No. 4160/2009 (XI-A)

C.A. No. 4161/2009 (XI-A)

Date : 08-02-2023 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN
HON'BLE MR. JUSTICE PANKAJ MITHALFor Appellant(s) Ms. Kavita Jha, AOR
Mr. Vaibav Kulkarni, Adv.
Mr. Aditeya Bali, Adv.
Mr. Rajeev Jha, Adv.For Respondent(s) Mr. K. V. Mohan, AOR
Mr. K.v. Mohan, Adv.
Mr. K.v. Balakrishnan, Adv.
Mr. Rahul Kumar Sharma, Adv.UPON hearing the counsel the Court made the following
O R D E R

The appeals are dismissed in terms of the signed order.

Pending applications, if any, are also disposed of

(DR. NAVEEN RAWAL)
ASTT. REGISTRAR-cum-PS(RENU BALA GAMBHIR)
COURT MASTER (NSH)

(Signed order is placed on the file)