

THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 02.02.2012

+ **W.P.(C) 3792/2002 & CM 10667/2002, 3452/2004, 13602/2007**

SADACHARI SINGH

... Petitioner

versus

UOI & ORS

... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr Prashant Bhushan with Mr Sumeet Sharma
and Mr Anupam Bharti

For the Respondent : Mr Jagdeep Dhankar, Sr Advocate with Mr S. S. Lingwal

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE G. P. MITTAL

BADAR DURREZ AHMED, J (ORAL)

1. This writ petition is directed against the order dated 01.04.2002 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA 1276/2001, whereby the petitioner's said OA was dismissed. In the Original Application, the petitioner had challenged the office order dated 31.01.2001 issued by the respondent No. 2 (Indian Council for Agricultural Research), Krishi Bhawan, New Delhi, whereby, the tenure of the petitioner as Assistant Director General, Agricultural Research Information System (ARIS), was terminated and he was directed to be posted as Senior Scientist at Central

Institute of Agricultural Engineering (CIAE), Bhopal, where he had been working before joining as the Assistant Director General, ARIS with immediate effect.

2. The petitioner was aggrieved by the fact that he had been placed at the position of Assistant Director General, ARIS, on a tenure basis for five years and he had taken that position with effect from 15.01.1998 and even before his tenure of five years was over, the order dated 31.01.2001 curtailed the said tenure and directed that he return to his position as a Senior Scientist at CIAE, Bhopal. According to the petitioner, his tenure of five years could not have been curtailed. Another point taken by the petitioner was that he was not returned to a matching post. Another point taken by the petitioner was that his Annual Assessment Reports (AARs) were not prepared in time and the adverse entries made therein, were not communicated to him in time as per the rules of ICAR and, therefore, they could not have been made the basis of curtailment of his tenure, in any event.

3. We find that office order dated 11.02.1998, by virtue of which the petitioner was appointed to the position of Assistant Director General, ARIS, is relevant and the same reads as under:-

“INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAWAN : NEW DELHI

F.No. 4 (2) /98-Per. III

Dated the 11th Feb., 1998

OFFICE ORDER

On the recommendation of Agricultural Scientists Recruitment Board, President, ICAR Society has been pleased to appoint Dr. S.S. Tomar, Sr. Scientists, Central Institute of Agricultural Engineering, Bhopal to the post of Asstt. Director General (ARIS), in the pay scale Rs.4500 -150 -5700 -200 -7300, on the terms and conditions contained in the Council's Memorandum No. 2 (5)/ 96 -Per. III dated 7.1.1998 with effect from 15.1.1998 for a period of five years or until further orders whichever is earlier.

Sd/-
(VIKRAM SINGH)
DY. DIRECTOR (P)”

A plain reading of the said office order would indicate that the post of Assistant Director General, ARIS was to take effect from 15.01.998 for a period of five years or “until further orders whichever is earlier”. It means that the post was for a period of not more than five years, but it could be for less than five years, subject to further orders.

4. According to the respondents, the performance of the petitioner, during the period he worked as Assistant Director General, ARIS, had been found to be unsatisfactory and below average as was reflected in the Annual Assessment Reports for the period 1998-1999 and 1999-2000. The adverse remarks from

his AARs were communicated to the petitioner on 19.07.2000 and 07.09.2000. The petitioner had made representations against the said adverse remarks by virtue of his letters dated 14.08.2000 and 06.10.2000. The same had been considered by the competent authority, which came to the conclusion that the adverse remarks had been made objectively and accordingly, the representations of the petitioner were rejected by memo No. 4(2)/98-Per.III Part II, dated 24.01.2001. It is only thereafter that, on 31.01.2001, the order impugned before the Tribunal was issued, whereby the tenure of the petitioner as Assistant Director General, ARIS, was terminated and he was posted as Senior Scientist, CIAE, Bhopal, where he had been working before joining as Assistant Director General, ARIS, with immediate effect. We find that this aspect of the matter has been adequately addressed by the Tribunal in paragraph 14 of the impugned judgment, which reads as under:-

“14. We are unable to agree with the contentions of the applicant that his tenure has been curtailed only because he had tried to expose corruption in high places among senior officers, including the DG (ICAR). These cases are under investigation by the CBI. The further contentions of the learned senior counsel that his AARs have not been properly written or reviewed or that his representations to the communication of the adverse entry had not been dealt with by the competent authority are without any basis. We have seen the relevant records and are satisfied that the applicant has been communicated the adverse remarks in his AARs for the years 1997-98, 1998-99 and 1999-2000 on which he had been given an opportunity to represent which had been considered by the competent authority, who had taken a decision not to expunge those adverse remarks. As the allegations of mala fide and bias are also not

proved and the Tribunal does not sit as an appellate body, the claims of the applicant that the adverse remarks should be expunged are also rejected.”

5. The learned counsel for the petitioner had raised the point that the adverse entries in the AARs had not been communicated within time schedule prescribed in the rules pertaining to ICAR. However, even if it were so, we feel that in such an eventuality, the question of prejudice would have to be considered. Before the order dated 31.01.2001 was issued, the petitioner had been communicated the adverse entries and he had been given an opportunity to make a representation against the same. In fact, he did make representations, as indicated above, and those representations had been considered by the competent authority. After due consideration, the representations were rejected on 24.01.2001 and it is only thereafter that the order dated 30.01.2001 was issued, whereby the tenure of the petitioner was cut-short.

6. From the above, we find that the petitioner has not suffered any prejudice on account of the alleged delay in communicating the AARs. Consequently, we see no reason to interfere with the impugned order passed by the Central Administrative Tribunal.

7. The Tribunal has also noted that after the issuance of the order dated 30.01.2001, on the request of the petitioner, he was transferred from CIAE,

Bhopal to IARI, New Delhi by virtue of the order dated 04.01.2002 in partial modification of the order dated 30.01.2001. Furthermore, the impugned order records that the petitioner had not established that the post on which he was transferred as Senior Scientist was not a matching position in research work. In fact, the later order dated 04.01.2002 has not even been challenged.

8. We are not sitting in appeal over the order passed by the Tribunal and we have to only ascertain as to whether the Tribunal has committed any illegality or not. We do not find any such illegality in the impugned order.

Consequently, the writ petition is dismissed.

BADAR DURREZ AHMED,J

G. P. MITTAL, J

**FEBRUARY 02, 2012
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