

\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **WP(C) No.4431/2014 and CM No.8855/2014**

+ Reserved on : 5th July, 2017

Date of Decision: 31st July, 2017

INDIAN COUNCIL OF AGRICULTURAL
RESEARCH & ANR.

..... Appellants

Through Mr.Gagan Mathur & Mr.Varun
Kumar, Advocates.

versus

SHRI LAXMI NARAYAN MEENA

..... Respondent

Through Mr.Chittaranjan Hati, Advocate

WITH

WP(C) No.4578/2014 & CM No.9119/2014

INDIAN COUNCIL OF AGRICULTURAL
RESEARCH & ANR.

..... Appellants

Through Mr.Gagan Mathur & Mr.Varun
Kumar, Advocates.

versus

RAM RATTAN SINGH & ORS.

..... Respondents

Through Mr.Chittaranjan Hati, Advocate

WP(C) No.6682/2014 & CM No.15862/2014

INDIAN COUNCIL OF AGRICULTURAL

RESEARCH & ANR. Appellants
Through Mr.Gagan Mathur & Mr.Varun
Kumar, Advocates.

versus

SURESH RAI Respondent
Through Mr.Shanker Raju & Mr.Nilansh
Gaur, Advocates

WP(C) No.1/2015 & CM No.7/2015

INDIAN COUNCIL OF AGRICULTURAL
RESEARCH & ANR. Appellants
Through Mr.Gagan Mathur & Mr.Varun
Kumar, Advocates.

versus

AJAB SINGH Respondent
Through Mr.Shanker Raju & Mr.Nilansh
Gaur, Advocates

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J

1. These writ petitions entail identical issues with somewhat similar facts, hence are being disposed of, vide this common judgment.
2. All the four writ petitions are directed against orders passed by the Central Administrative Tribunal, Principal Bench, New Delhi in four separate Original Applications (OAs)

whereby the Tribunal has while allowing the OAs filed by the Respondents, quashed the orders of reversion challenged by them on similar grounds and has directed the Petitioner to allow the Respondents continue to work in the grades on which they were working before the passing of the Revision order.

3. The common issue involved in all the writ petitions is regarding removal of category bar from category I (T-I-3) to Category II (T-II-3) in respect of all the Respondents, pursuant where to they became entitled to earn further promotion in higher grades in the technical services to which they all belong. The common case of the Petitioners, before the Tribunal, was that even though the Respondents were not possessing the requisite essential qualification for direct recruitment to Category II (T-II-3) - which was a pre-condition for the removal of category bar, the same was erroneously removed and once the said mistake was detected by the Petitioner, it had rightly proceeded to rectify the error and had, after giving show cause notices to each of the Respondents and considering their replies thereto, passed the reversion orders, which action according to the Petitioners, was in consonance with the Technical Service Rules.

4. It may be apt to note that the technical services in the petitioner organization are grouped in III categories consisting of the following grades:-

Category

Grade

Category I	T-1
	T-2
	T-I-3
Category II	T-II-3
	T-4
	T-5
Category III	T-6
	T-7
	T-8
	T-9

5. The Technical Service Rules of the Petitioner-Organization came into force w.e.f. 1st October, 1975 and Appendix IV thereof prescribes the minimum Educational/Trade qualifications for different groups of the three categories. For adjudication of the present batch of petitions, the qualifications pertaining to category II of Field/Farm Technicians are relevant and the same are reproduced hereinbelow:

“Appendix IV

Minimum Educational/Trade Qualifications for Different Groups of the Three Categories

Field/Farm Technicians

CATEGORY II

Essential Qualifications

- (i) Three years Diploma/Bachelor's Degree in relevant field

or

****National Trade Certificate of I.T.I.
National Apprenticeship Certificate
or equivalent qualifications with seven
years' experience in the relevant field.**

or

****Matriculate with ten years' experience
In the relevant field.**

****One year's training course in Forestry
with ten years' experience in the relevant
field.**

or

****Intermediate in Science/Intermediate
In Agriculture
(ii) 3 years experience in the relevant
Field for Diploma holders."**

6. In 1995, the petitioner upon realizing that the pay scales of Grades T-I-3 and T-II-3 were overlapping, issued circular No.1/2185 to the effect that the category bar could be removed for those employees in Grade T-I-3, who possess the essential qualifications prescribed for Category-II. In the service rules of 1975, this qualification, as noticed hereinabove, included three years diploma/bachelor degree in the relevant field. The relevant rules relating to removal of category bar from Category I to Category II and from Category II to Category III as per the Rules as existing in 1995 are reproduced hereinbelow and are referred to as old TSR:-

“Old TSR (1995)”

6.2 There shall be system of merit promotion from one grade to the next higher grade irrespective of occurrence of vacancies in the higher grade or grant of advance increment (s) in the same grade, on the basis of assessment of performance. The persons concerned will be eligible for consideration for such promotion or for the grant of advance increment(s) after the expiry of five years service in the grade.

Note: Since merit promotions are restricted within the category persons holding highest grades viz. grade T-I-3 in Category-I, Grade T-5 in Category-II and Grade T-9 in category-III are not eligible for further promotion. There is, however, no bar for grant of advance increments to such technical personnel who are in the highest grade of category subject to the maximum of three increments within the grade.

Note: Category bar between category-I and Category-II has been removed in the following manner.

(i) The existing employees at level T-I-3 who possess qualifications prescribed for entry to Category-II by direct recruitment will be placed in grade T-II-3 of Category-II w.e.f. 1/1/1995. The employees who do not possess such qualification will in the event of improving their qualification and acquiring degree/diploma/any other qualification prescribed for entry in Category-II by direct recruitment be placed

in grade T-II-3 from the 1st January of the year following the year in which degree/diploma/certificate is awarded. For subsequent merit promotion from grade T-II-3 to T-4, the service rendered in T-I-3 grade will count towards computation of 5 years of service for merit promotion.

(ii) The employees with 5 years of service in grade T-2 and possessing qualifications prescribed for entry to Category-II by direct recruitment, in the event of merit promotion through 5 years assessment in the terms of rule 6.2 will be placed in the grade T-II-3.

(ii) The employees with 5 years of service in grade T-2 and not possessing qualification prescribed for entry of Cat. -II by direct recruitment, will be placed in grade T-I-3 in the event of merit promotion through five-yearly assessment. Such employees in the event of improving their qualification and acquiring degree/diploma/any other qualification prescribed for entry in category-II by direct recruitment will in case of merit promotion be placed in grade T-II-3 from 1st January of the year following the year in which degree/diploma/certificate is awarded.

II) Direct recruitment in grade T-II-3 will continue to be made as in the past.”

7. On 3rd February, 2000, Technical Service Rules were amended and as per the new rules, those employees who did not possess the qualification for direct recruitment in category II, also became eligible for promotion to category II (T-3) after

rendering ten years service in T-2 category I. The relevant rules relating to removal of category bar from Category I to Category II, and from Category II to Category III as per Rules w.e.f. 3rd February, 2000 are reproduced hereinbelow and referred to as the New TSR:-

“New TSR

6.3 As per the revised grade structure, the entrants of Category I at T-1-3 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 herein further 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.”

8. At this stage, it may be appropriate to note that the term ‘relevant field’ was not defined in the rules and, therefore, the Petitioner was, after examining the qualification of various employees, removing the category bar from time to time on case to case basis. After the removal of category bar from category T-I-3 to T-II, the employee became entitled to earn further promotion to Grade T-4 & T-5 which fall in category II.

9. After the promulgation of the amended Rules on 3rd February, 2000, all the existing employees were given option to opt for the old rules and in case of default, they were to be covered by the new service rules as amended on 3rd February, 2000. It may be relevant to note that after the removal of the category bar, all the respondents earned further promotions to higher grades from time to time and no issue was raised during this period regarding their not fulfilling the qualification for direct recruitment to T-2, Category II, or regarding their performance.

10. Though a large number of employees working under the Petitioners/Organization all over India had been given the benefit of removal of category bar-including the respondents herein, but suddenly on 15th December, 2008, the petitioner issued a clarification that the requirement for removal of category bar has to be read as 'Social Science relevant to agriculture' and, therefore, candidates with BA/MA degrees not having studied subjects relating to agriculture, could not be treated as possessing the qualification for removal of category bar in accordance with 1975 Rules. It was also clarified that in accordance with the rules promulgated on 3rd February, 2000, the technical employees who did not possess qualifications prescribed for category II would be eligible for promotion to T 3 (Category I) after 10 years service in Grade T-2 (Category 1), provided they possess the qualifications prescribed for category I.

11. Based on the aforesaid clarification dated 15th December, 1998, the petitioner issued show cause notices dated 23rd February, 2010 to the Respondents proposing to revert them from T-II-3 (Category-II) to T-I-3 (Category I) w.e.f. 1st January, 1995 and to accordingly modify all subsequent orders placing them in higher categories from time to time. Upon receipt of the show cause notices, all the respondents submitted individual replies pointing out therein that they possess the requisite qualification for promotion to the higher grades and, in any event, they all stood promoted to higher grades i.e. T-4/T-5. The petitioners, however, passed orders of reversion in respect of the respondents whereby, not only their subsequent promotions for the last many years were affected, but even recovery of payments made to them was ordered, compelling the Respondents to approach the Tribunal vide different OAs for quashing of their reversion orders.

12. At this stage, it would be appropriate to note the individual facts of the Petitioners in all the four writ petitions, in so far as they are necessary for adjudication of the present petitions.

WP(C) No.4431/2014 & WP (C) No.4578/2014

13. These two writ petitions arose out of a common order dated 14th November, 2013 passed by the Tribunal in OA Nos.1710/2012 and 1964/2012. For the sake of clarity, the details of each of the Respondents in these petitions are summarized below:-

Sl. No	Name	OA No.	Qualification	Date of Removal of category bar	Present Post	To be reverted
1.	Laxmi Narayan	1964/2012	BA (Sociology)	1-1-99	T-4	T-I-3
2.	Ram Rattan Singh	1910/2012	BA with Economics	1-1-95	T-4	-do-
3.	Smt.Vinod Bala Anand	-do-	-do-	1-1-95	T-4	-do-
4.	Sh.Hukum Singh	-do-	- do -	- do -	T-4	-do-

WP (C) No.6682/2014

14. The sole respondent, Suresh Rai, in this petition is a commerce graduate holding the qualification of B.Com (Pass) and had filed OA No.743/2012 which had been allowed vide order dated 23rd April, 2014. The category bar of the Respondent had been removed w.e.f. 1-1-95 whereafter he was promoted to T-4 w.e.f. 1-1-2000 and to T-5 w.e.f. 1-1-2005. Vide the order of Reversion dated 28th February, 2012 passed just one day before the superannuation on 29-2-2012, he was reverted back to T-I-3 w.e.f. 1-1-1994.

WP(C) No.01/2015

15. The sole Respondent, Sh.Ajaib Singh, is a Graduate with Economics and Sociology and holds a Master Degree in Economics. Aggrieved by the order dated 10th July, 2014 vide which he was reverted to T-5 from T-6 as a result of changing his date of removal of category bar from 1-1-1990 to 1-1-1995,

the Respondent had preferred OA No.2264/2015 which had been allowed vide order dated 24th July, 2014.

16. The Tribunal after noticing the individual facts of cases of each of Respondents, allowed all the OAs by relying on its earlier order dated 15th May, 2013 passed in OA No.763/2012 which had been allowed in similar circumstances. It would be apt to reproduce the observations of the Tribunal in OA No.763/2012 which reads as under:-

“10. While the applicants’ counsel could not cite any rule or judicial precedent to support his case yet in our opinion reversion of the applicants after such long years of service is shocking and unjustified. It will cause irreparable loss to the careers of the applicants. Applicants are not at fault in this as their educational qualifications were well known to the respondents and there was no misrepresentation on the part of the applicants. Yet they were not only appointed but also allowed to work and earn promotions for so many years. Therefore, in the interest of justice, we quash the reversion notices issued to the applicants. The applicants will be allowed to work in their respective grades. However, we do not propose to give any direction regarding further promotions of the applicants.”

17. The Tribunal while allowing the present OAs, quashing the reversion orders in respect of all the Respondents and directing that they be allowed to continue working in the grades in which they were working, before the passing of the reversion

orders, had specifically observed that the qualifications of the respondents were always well known to the petitioner but still they had taken no action for almost 25 to 30 years and now after so much delay, they were proposing to revert them to the post which they were holding 10 to 15 years back. The Tribunal was also of the view that it was shocking that the Petitioners (respondents therein) had taken so much time to discover that the Respondent (applicant therein) was always available with them.

18. Aggrieved by the impugned order, the petitioner-Organization has filed the present writ petitions wherein the main contention raised by the petitioner is that the respondents had erroneously been given the benefit of removal of category bar, even though, they were at that time not eligible for removal of category bar in category II as per the old technical service rules of 1975 as they did not possess the essential qualifications for direct recruitment of category 2 as prescribed under the rules.

19. Arguing for the Petitioner, Mr.Gagan Mathur, learned counsel has contended that once it was realized that the respondents had been given the erroneous promotions, it was fully justified in withdrawing the promotions earned by them and mere delay in detecting the erroneous promotions, could not be a ground to permit the respondents to continue to hold the grades against the statutory rules. The learned counsel for the Petitioner, has placed reliance on *I.C.A.R. & Anr. Vs T.K*

Suryanarayan & Ors. AIR 1997 SC 3108; U.T. Chandigarh Vs. Gurcharan Singh passed in OA No.9873/2013 & K. Solaman Vs. SAO, Central Marine Fisheries Research Institute, Kochi passed in OA No.653/2009.

20. Per contra, Mr.Shankar Raju and Mr.Chittaranjan Hari, learned counsel arguing for the respondents, have contended that this Court has already dealt with the issue in WP (C) No.1379/2014, wherein it had vide its judgment dated 4th March, 2014 rejected the Petitioner's challenge to the order dated 15th May, 2013 of the Tribunal in OA No.763/2012 on similar grounds. Reliance has also been placed on the judgment of the Apex Court in the case of *Shekhar Bose Vs. Union of India 2007 (1) SCC 222* in support of their plea that if a mistake is to be rectified, the same should be done as expeditiously as possible.

21. Counsels for the Respondents have also drawn our attention to letter/circular dated 19th August, 2016 issued by the Petitioner in which twelve subjects - including Economics, have been treated as relevant fields with effect from 24th February, 2006 and it is contended that once a clarification has been issued in respect of the subjects which are now treated as relevant field, the benefit thereof ought to be extended to all the existing employees.

22. We have perused the impugned orders and given our thoughtful consideration to the rival contentions raised by the parties. We find that even before us, there is no explanation

given by the petitioners for the delay in passing reversion orders when, admittedly, after removal of category bar in each of their cases, all the respondents had earned at least two to three further promotions. It is also an admitted fact that none of the Respondents is guilty of any misrepresentation and their qualifications were always known to the Petitioner. It is also an admitted fact that as per the new Rules notified on 3rd February, 2000, even those T-2 grade personnel who do not possess the qualifications as prescribed for direct recruitment to Category II, would also be eligible for assessment of promotion to T-3 grade after 10 years of service in T-2 grade.

23. The Petitioner has also failed to give any justification as to why the benefit of clarification issued on 19th August, 2016 is being denied to the Respondents and, therefore, it is apparent that the action of the Petitioner is wholly arbitrary and illegal.

24. We have also perused the aforesaid judgment dated 4th March, 2014 passed by a Coordinate Bench in WP (C) No.1379/2014, wherein this Court has already dealt with the same issue and has, in fact, while dismissing the writ petition, held that delay and laches would preclude any action to be taken against the employees after so much delay. The Court also observed that since it was an admitted fact that after the removal of the category bar about 20 years ago, the respondents had been promoted on the basis of assessment made by duly constituted committees which also examined their service record, it was highly unjust and unreasonable to revert them at

this stage. We find ourselves in respectful agreement with the same. We are also of the considered view that the judgment of the Apex Court relied upon by the counsel for the Petitioner is not applicable to the facts of the present case.

25. In view of the above, we find no error in the decision of the Tribunal in quashing the reversion orders which were admittedly passed after 15 to 20 years.

26. The writ petitions being devoid of merit, are dismissed with no order as to costs.

CM No.8855/2014 in WP (C) No.4431/2014, CM No.9119/2014 in WP (C) No.4578/2014, CM No.15862/2014 in WP (C) No.6682/2014 & CM No.7/2015 in WP (C) No.1/2015

27. Since we have dismissed the writ petitions, these applications are also dismissed as infructuous.

**(REKHA PALLI)
JUDGE**

**(VIPIN SANGHI)
JUDGE**

JULY 31st, 2017/aa