

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.2939 of 2002
M.A. No.2507 of 2002

New Delhi, this the 18th day of July, 2003

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

1. Dr. Ragender Singh,
525, Krishi Kunj, IARI, New Delhi-110012.
2. Dr. C.B. Singh,
679, Krishi Kunj, IARI, New Delhi-110012.
3. Dr. Brij Vir Singh,
IARI, New Delhi-110012.
4. Dr. V.K. Gupta,
IARI, New Delhi-110012.
5. Dr. D.K. Joshi,
Munirka Village, New Delhi.
6. Dr. Roshan Lal,
649, Krishi Kunj, IARI, New Delhi-110012.
7. Dr. Satender Singh,
524, Krishi Kunj, IARI, New Delhi-110012.
8. Dr. Brahma Jeet Singh,
611, Krishi Kunj, IARI, New Delhi-110012.
9. Dr. Y.K. Kala,
660, Krishi Kunj, IARI, New Delhi-110012.

.....Applicants

(By Advocate : Shri V.S.R. Krishna)

Versus

Indian Council of Agricultural Research
Through :


1. The Director General
Indian Council of Agricultural Research,
Krishi Bhawan, New Delhi.
2. The Director,
IARI, New Delhi-110012.

....Respondents

(By Advocate : Shri Satish Kumar)

ORDER (ORAL)

Heard Shri V.S.R. Krishna and Shri Satish Kumar, learned counsel for the applicants and for the respondents respectively.



MA 2507/2002

MA 2507/2002 for joining is allowed.

OA 2939/2002

The applicants, nine in number, are aggrieved by the impugned order No.1(6)2002-Pers.IV dated 2.8.2002 issued by the Indian Agricultural Research Institute (IARI), denying them the benefit of monetary incentive, available to the Scientists in ARS after obtaining Ph.D.

2. All the applicants are working in IARI a Unit under the Indian Council of Agricultural Research (ICAR). All of them possess the doctoral qualification in areas of their specialisation in the field of agriculture and are involved in various research activities. Scientists of Agricultural Research Service, who also conduct research and allied activities, are also at par with the applicants. In terms of their order no.1(15)/98-Per.IV dated 27.2.1999, the ICAR had granted two advance increments as and when the Scientists complete and acquire their degrees but the applicants, who are equally placed, performing the technical functions, had been denied the same. The ^{work of this} applicants, who have also undertaken their higher studies with the permission of competent authority and after obtaining necessary study leave and ^{acquired} ~~acquiring~~ of higher academic qualification by them, had proved helpful to the Institute. The applicants, in addition, have a number of publications

doctoral
3

h

in their respective field of specialisation and the same have been published in prestigious international journals. They also have thus contributed to the excellence of the Institute. However, they have been discriminated in respect of the grant of incentive by way of increments which have been limited only to the scientists. Earlier OA No.1536/2002 filed by the applicants was disposed of by the Tribunal on 6.6.2002 with a direction to the respondents to consider and dispose of the representations of the applicants in the light of their circular dated 27.2.1999. The impugned order dated 2.8.2002 has been issued in pursuance of the said directions. Being aggrieved by the rejection, the applicants have come up with this OA.

3. The grounds raised by the applicants in this OA are that (a) as far as acquisition of doctoral qualification is concerned, both the Scientists and Technical personnel are equally placed and, therefore, the denial of advance increments on acquisition of doctoral degree to the Technical personnel was highly arbitrary and violative of the principles of equality enshrined under Articles 14 and 16 of the Constitution; (b) grant of advance increments to those acquiring the doctoral degree is recognition of increased efficiency and competency of those persons in day-to-day discharge of their duties and responsibilities and, therefore, the benefit of incentive scheme cannot be restricted to one stream;

1
2

(c) Similarly the Scientific personnel and Technical staff like applicants also granted study leave for higher/doctoral qualification and, therefore, no reason why they should have been discriminated subsequently; (d) it cannot be the case of the respondents that the applicants are not involved in the research activities or teaching activities as the Scientists expected to perform. The acquisition of higher qualification by personnel of all kinds performing important functions plays ^{important} ~~an~~ role for the excellent out put of the organisation. On this aspect both technical personnel and the Scientific personnel are equally placed; and (e) Fourth Pay Commission, University Grants Commission had recommended and adopted the practice of advance increment for the excellence in the various fields. There cannot be any dilution of the above by making incorrect classification. In the above circumstances, it is pointed out by the applicants that their case deserved acceptance.

4. In the detailed reply filed on behalf of the respondents, it is pointed out that the applicants are not entitled for the relief claimed by them, as the same are admissible only to the Scientists of the respondents' organisation, who are in a different service, as two distinct categories of employees are involved. The question of equal pay for equal work does not arise. In Mewa Ram Kanojia Vs. All India Institute of Medical Sciences and Others (1989 (2) SCC

h
2

235), it has been held by the Hon'ble Supreme Court that the State is competent to classify the employees on the basis of qualification, duties and responsibilities for the post concerned having nexus with the object sought to be achieved. The decisions in the cases of State of West Bengal & Ors. Vs. Dev Kumar Mukherjee & Ors. (AIR 1995 SC 1889) and V. Markandeya & Ors. Vs. State of A.P. & Ors. (1989 (3) SCC 191) are also along same lines. The staffing pattern of the ICAR is categorised into Scientific, Technical, Administrative and supporting with different rules for different categories. While the Scientific staff/employees are governed by the Agricultural Research Services to which the applicant belong good which are categorised into one, two and three. Thus the fact in respect of pattern of recruitment and conditions of service, the Scientific staff and Technical personnel are different and, therefore, the question of extending the grant of incentive, which are available to the Scientific personnel to the Technical personnel also cannot arise.

5. In the rejoinder as well as during the oral submissions, the applicants point out that the objection raised by the respondents are not correct. According to Shri Krishna, the distinction have sought to be made between the applicants and the Scientific personnel was artificial. Merely because the Scientific personnel belong to the ARS, it cannot be

h

(5)

held that the Technical personnel are less important than ~~them~~ ^{his journey} and the doctoral degree acquired by them in the area of specialisation was anything less remarkable. Both the classes of services provide necessary infrastructural support to the organisation and thus there is no reason to discriminate between them on hypothetical grounds. He also points out that the respondents have themselves granted study leave to the Technical personnel for having Ph.D programme thereby bringing them on par with those in the ARS. The grant of advance increment, which was a recognition for the higher qualification acquired, was only the next logical stage. The same cannot be denied. That being the case, the impugned order dated 2.8.2002 would merit for setting aside prayed Shri Krishna.

6. On the other hand, Shri Satish Kumar, appearing for the respondents, stoutly defended the action of the respondents and indicated that the acquisition of higher degree by the Technical staff would be of any way lesser importance than of ARS personnel who are on Scientific stream for whom the acquisition of doctoral degree is condition precedent for career advancement. Therefore, distinction kept by the respondents' organisation between the Scientific on the one hand and the Technical personnel on the other hand was reasonable and the said classification was having a nexus with the object sought to be achieved, its excellence in the

performance in the agricultural research field. The applicants cannot, therefore, claim parity with the Scientific personnel in the matter of advance increment is what Shri Satish says.

7. I have carefully considered the matter. In this case, the applicants who are technical service personnel are aggrieved that they have been denied the advance increment on the acquisition of doctoral qualification, which have been given to Scientists on their acquiring the same qualification. The only distinction which is sought to be made is that the Scientific personnel belongs to Agricultural Research Service while the applicants are in the technical service stream. The points for determination in this case whether the acquisition of the doctoral qualification acquired by the Technical service men working in the ICAR/IARI is inadequate in any way less relevant for the organisation than the similar acquisition acquired by the officers of the ARS. The plea taken by the respondents is that those belong to ARS are entering the organisation through the competitive examination and ICAR's having adopted UGC Scheme that for its Scientists possessing the doctoral degree was of essential part of the pay package which was not so in the case of the Technical personnel. Therefore, according to the ICAR, the ARS personnel while acquiring the doctoral qualification are fulfilling the essential requirement of their service in career advancement, but the Technical personnel are

(8)

not required so to do. This is not a reasonable distinction. As far as the ultimate result, i.e., excellence in performance in the organisation is concerned, the acquisition of doctoral degree in the area of specialisation by both the agricultural Scientists of ARS cadre and the Technical service personnel would amount to the same. What the incentive scheme provides for is recognising the acquisition of higher degree and excellence in performance arising therefrom. That being the same, the respondents could not have maintained the artificial watertight compartalisation between the ARS personnel and the Technical personnel in the matter of grant of incentives on acquisition of higher qualification. It is also pertinent to mention, as pointed by the learned counsel for the respondents, that the respondents themselves have recognised the importance of higher qualification for the technical service personnel by issuance of their circular F14/6/94-Estt. IV dated 1.2.1995 extending the benefit of ARS Study Leave Regulation 1991 to technical personnel with the proviso that study leave for duration of three years will be admissible only for undertaking Ph.D programme. Circular No.25-4/95-Per.V dated 1.5.1995 has also permitted certain categories of technical staff with doctoral degree for inclusion of their names in the project report etc. These two communications are indicative of the understanding by the ICAR of the relevance of the Technical personnel in their profession. There

h

(3)

cannot, therefore, be any justification for denying the Technical personnel who have acquired doctoral degree also, the limited incentive which is granted on the acquisition of the said degree. This denial would militate against the concept of equality before law in terms of the Articles 14 and 16 of the Constitution. No other interpretation is possible in the circumstances of the case. The respondents plea that the applicants are seeking equal pay for equal work, which was not for the Tribunal to adjudicate upon is not relevant, as what is being asked is only a special incentive.

8. In the above view of the matter, the application succeeds and is accordingly allowed. The respondents are directed to extend to the applicants, who are in the technical side, also the advance incentives as prescribed by the Scheme dated 27.2.1999 on their acquiring the doctoral qualification in their area of specialisation. As far as these nine applicants are concerned, the relief should be granted to them within two months from the date of receipt of a copy of this order. No costs.

(GOVINDAN S. TAMPI)
MEMBER (A)

/ravi/