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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.177/2002  
MA No.172/2002

New Delhi this the 12th day of August, 2002.

HON'BLE SHRI S.A.T.RIZVI, MEMBER (A)

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

1. Bishamber Singh,  
S/o late Sh. Tilak Ram,  
R/o H.No.714, Krishi Kunj,~  
New Delhi-12.
2. Vijay Kumar Sharma,  
S/o Sh. L.R. Sharma  
R/o K-20, Kailash Colony,  
New Delhi-48.
3. Dr. Vijay Verma,  
S/o late Sh. H.K.G. Verma,  
R/o B-71, Oriental Apartments,  
Sector-9, Rohini,  
Delhi-85.

-Applicants

(By Advocate Shri Chittaranjan Hati)

-Versus-

1. Union of India through  
the Secretary,  
Ministry of Agriculture,  
Krishi Bhawan,  
New Delhi.
2. I.C.A.R. through its  
D.G./Secretary,  
Krishi Bhawan,  
New Delhi.
3. I.A.R.I.,  
through its Director,  
Pusa, New Delhi.

-Respondents

(By Advocate Shri Shankar Anand proxy for Sh. V.K.Rao)

O R D E R (ORAL)

By Mr. Shanker Raju, Member (J):

Heard the parties. MA for joining together is allowed.

2. Applicants, three in number, are Graduates and were appointed as Senior Scientific Assistant during the years 1970-72. On introduction of I.C.R. Technical Service applicants had opted for the same, which has come into effect from 1.10.75. Applicants were promoted to the

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posts of Technical Assistants in the pay scale of Rs.425-700 in October, 1976.

3. On the strength of a decision of Cuttack Bench in OAs-291-92/95 in Smt. Sanjukta Das and Ors. v. I.C.A.R. & Ors. it is contended that identically situated employees have been ordered to be placed in the pay scale of Rs.425-700, unrevised w.e.f. 1.1.73 and the same was implemented by the respondents through their order dated 22.10.96. As the decision has not been challenged and set aside by the higher courts and it is not disputed by the respondents that they are similarly circumstance, they are entitled for the benefit of the same. It is further contended that denial of the benefits of pay scale w.e.f. 1.1.73 is violative of Articles 14 and 16 of the Constitution of India.

4. On the other hand, respondents' counsel contended that the decision of the Cuttack Bench has been set aside by the Apex Court in a decision reported in 1995 (Vol-I) SLJ SC 127 and further placed reliance on a decision of the Apex Court in AIR 1997 SC 3108 it is contended that any direction given by the court contrary to the rules is not binding.

5. On merits it is contended that applicants were appointed as Laboratory Assistants/Senior Scientific Assistants and were to provide support to the Scientists. It is stated that they themselves had opted for the Technical Cadre in 1975 and their case was duly considered

in view of the decision of the Cuttack Bench (supra). The same having been set aside by the Apex Court applicants have no case.

6. Applicants' counsel in his rejoinder contended that the recommendations have been made by the CSIR to accord them the benefit of the pay scale and furthermore, in a case decided by the Cuttack Bench in OA-182/91 - D.B. Nayak & Others v. Union of India & Others the decision was treated to be in rem and the benefits have been accorded to the similarly circumstance.

7. We have carefully considered the rival contentions of the parties and perused the material on record. The claim of the applicants has been rejected on the ground that the decision of the Cuttack Bench (supra) was in personnam and cannot be treated as decision in rem and is against the rules and policy. However, it is not disputed that the applicants are similarly circumstance and in all four covered by the decision of the Cuttack Bench (supra). The contention that the Hon'ble Supreme Court has set aside the decision of the Cuttack Bench is not correct. We have perused the decision reported and referred to by the respondents. The same is entirely different and does not cover the case of the respondents. The same has been decided on different plea.

8. In view of the fact that the decision of the Cuttack Bench has allowed the similar benefits to similarly circumstance w.e.f. 1.1.73 the decision of the respondents to deny the same to the applicants, cannot be countenanced.

9. In the result, OA is partly allowed. The impugned orders at Annexure A-1 collectively are quashed and set aside. The matter is remanded back to the respondents to consider the request of the applicant for grant of pay scale of Rs.425-700 (unrevised) w.e.f. 1.1.73, having regard to the decision of the Cuttack Bench (supra) and in accordance with rules and to take a final decision by passing a detailed and speaking order, within three months from the date of receipt of a copy of this order. In case applicants are still aggrieved, it is open to them to approach this court in accordance with law. No costs.

*S Raju*

(Shanker Raju)  
Member (J)

'San.'

*S.A.T.Rizvi*

(S.A.T.Rizvi)  
Member (A)