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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.2256/2001

This the 11th day of September, 2001.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

Thianzakham S/O Damkhotang,
R/O 793/8 R.K.Puram,
New Delhi-110022.

... Applicant

(By Mrs. Rani Chhabra, Advocate)

-versus-

1. Union of India through
Secretary, Department of Agriculture
Research & Education, Krishi Bhawan,
New Delhi.
2. Secretary (DARE) &
Director General, Indian Council of
Agriculture Research,
New Delhi.
3. Joint Secretary (DARE) &
Secretary, ICAR, New Delhi.
4. Director (Finance),
Indian Council of Agriculture Research,
New Delhi. ... Respondents

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, Member (A) :

The applicant who was a Stenographer with the Government of Manipur in the pay scale of Rs.1320-30-1560-EB-40-2040 with basic pay at Rs.1500/-, was appointed as Junior Stenographer in ICAR in October, 1991 in pursuance of an advertisement dated ^{3.4}~~30.3.1990~~. The Government of Manipur had issued no objection certificate in favour of the applicant for appointment as Junior Stenographer in ICAR. It is alleged that the respondents have not protected the pay of the applicant under FR 22. The learned counsel stated that FRs & SRs are applicable to ICAR mutatis mutandis. Relying on FR

11

22 (I) (a) (2) and FR 22 (IV), she stated that the applicant having been appointed under ICAR from the State Government of Manipur to a post carrying duties and responsibilities of greater importance~ than those attached to the post earlier held by him under the State Government, his initial pay must be protected. Applicant's representation has been rejected by the respondents vide Annexure A-2 dated 5.6.1992 stating that appointment of the applicant as Junior Stenographer was a fresh appointment, and as such the question of pay fixation/protection does not arise. The applicant has sought fixation of his basic pay at Rs.1500 which he was drawing earlier in the Government of Manipur prior to joining as Junior Stenographer in ICAR. Clauses (I)(a) (1) and (2) of FR 22 read as follows :

"F.R. 22. (I) The initial pay of a Government servant who is appointed to a post on a time-scale of pay is regulated as follows :-

(a) (1) Where a Government servant holding a post, other than a tenure post, in a substantive or temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity, as the case may be, subject to the fulfilment of the eligibility conditions as prescribed in the relevant Recruitment Rules, to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time-scale of the higher post shall be fixed at the stage next above the notional pay arrived at by increasing his pay in respect of the lower post held by him regularly by an increment at the stage at which such pay has accrued or rupees twenty-five only, whichever is more.

Save in cases of appointment on deputation to an ex-cadre post, or to a post on ad hoc basis, the Government shall have the option, to be exercised within one month from the date of promotion or appointment, as the case may be, to have the pay fixed under this rule from the date of such promotion or appointment or to have the pay fixed initially at the stage of the time-scale of the new post above the pay in the lower grade or post from which he is promoted on regular basis, which may be

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refixed in accordance with this rule on the date of accrual of next increment in the scale of the pay of the lower grade or post. In cases where an ad hoc promotion is followed by regular appointment without break, the option is admissible as from the date of initial appointment/promotion, to be exercised within one month from the date of such regular appointment.

Provided that where a Government servant is, immediately before his promotion or appointment on regular basis to a higher post, drawing pay at the maximum of the time-scale of the lower post, his initial pay in the time-scale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post held by him on regular basis by an amount equal to the last increment in the time-scale of the lower post or rupees twenty-five, whichever is more.

(2) When the appointment to the new post does not involve such assumption of duties and responsibilities of greater importance, he shall draw as initial pay, the stage of the time-scale which is equal to his pay in respect of the old post held by him on regular basis, or, if there is no such stage, the stage next above his pay in respect of the old post held by him on regular basis:

Provided that where the minimum pay of the time-scale of the new post is higher than his pay in respect of the post held by him regularly, he shall draw the minimum as the initial pay:

Provided further that in a case where pay is fixed at the same stage, he shall continue to draw that pay until such time as he would have received an increment in the time-scale of the old post, in cases where pay is fixed at the higher stage, he shall get his next increment on completion of the period when an increment is earned in the time-scale of the new post.

On appointment on regular basis to such a new post, other than to an ex-cadre post on deputation, the Government servant shall have the option, to be exercised within one month from the date of such appointment, for fixation of his pay in the new post with effect from the date of appointment to the new post or with effect from the date of increment in the old post."

2. Drawing our attention to ~~to~~ Government of India, Ministry of Finance O.M. dated 4.2.1964, the learned counsel stated that when a State Government

11

servant is appointed to a post under the Central Government and the post carries duties or responsibilities of greater importance than those attaching to the post held by him under the State Government, the initial pay of the official in the post may be fixed under FR 22-C {now FR 22 (I) (a) (1)}.

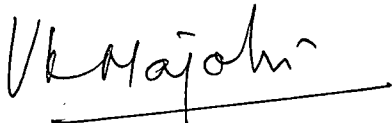
3. It is relevant to mention here that the applicant has not placed any material before us to establish that the duties or responsibilities in the post of Junior Stenographer in ICAR are of greater importance than those attached to the post of Stenographer under the State Government of Manipur. In this view of the matter, the provisions of FR 22 (I) (a) (1) are not applicable. The provisions of FR 22 (I) (a) (2) provide that if the new post does not involve assumption of duties and responsibilities of greater importance, even then the concerned government servant shall draw as initial pay the stage of the time-scale which is equal to his pay in respect of the old post held by him on a regular basis. This provision is not applicable to a State Government servant appointed to a post under the Central Government. This relates to a Central Government servant appointed to a post, again, under the Central Government.

4. The applicant has been appointed as Junior Stenographer ^{in ICAR} as a fresh appointee though on the consent of the State Government of Manipur. In such a case where the fresh post does not involve higher or superior duties

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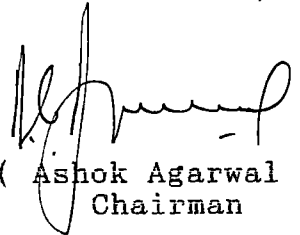
or responsibilities, the terms and conditions as stated in the offer of appointment shall be applicable.

5. In view of the reasons recorded and discussion made above, this OA is dismissed in limine being devoid of merit.



(V.K.Majotra) 11.9.2001
Member(A)

/as/



(Ashok Agarwal)
Chairman