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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.646/2001

This the 12th day of Dec., 2002.

HON'BLE SHRI JUSTICE V.S.AGGARWAL, CHAIRMAN

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

Mr. Mollykutty K.P.,
Staff Nurse,
Indian Agricultural Research Institute,
Pusa, New Delhi. ... Applicant

(By Dr. M.P.Raju, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of Agriculture,
Krishi Bhawan, New Delhi.
2. Director General,
Indian Council of Agricultural Research,
Krishi Bhawan, New Delhi.
3. Director,
Indian Agricultural Research Institute,
Pusa, New Delhi. ... Respondents

(By Shri Ajay Jha, Advocate for Respondent No.3, none
for Respondents 1 & 2)

O R D E R

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

Applicant is aggrieved by orders of respondents dated 20.1.1999, 20.4.1999, 21.6.2000 and 30.6.2000 (Annexure-I colly.) whereby her pay has been reduced from the scale of Rs.5000-150-8000 to the scale of Rs.4500-12^{5^b}-7000. She is also aggrieved by refusal of respondents to consider applicant's upgradation under the Assured Career Progression Scheme.


2. According to applicant she was appointed as Nurse (Class III) on 23.6.1976. She has been working on the same post without any promotion since then. Although

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she possessed technical qualifications in general nursing and mid-wifery, she was placed in the auxiliary category hampering her further prospects in service. She made representations for inclusion in the technical category on the basis of her qualifications which did not elicit any positive response from respondents. She was appointed in the permanent post of Nurse on 1.4.1985 (Annexure-VII). Her request for inclusion in the technical services of ICAR was not agreed to and she was continued in the auxiliary category as per Annexure-X dated 27.6.1991. Her further representations for placement in the technical category also did not cut any ice with respondents. According to applicant, on the basis of the Council's clarification dated 22.12.1998 Staff Nurses who were holding the pay scale of Rs.5000-150-8000 were placed in the pay scale of Rs.4500-125-7000 w.e.f. 29.6.1996. The learned counsel of applicant stated that placement in the lower scale appears to be reduction to a lower scale which is contrary to FR-15. The learned counsel stated that if applicant had continued in the scale of Rs.5000-8000 and even if she had not been granted any promotion, she would have received financial upgradation to the scale of Rs.6500-10500 w.e.f. October, 2000 when she completed 24 years of service. The learned counsel stated that re-classification of applicant's post as T-II-III has resulted in her placement in the lower scale of Rs.4500-7000 for which no notice has been served upon her. She has sought quashing and setting aside of Annexure-I colly. and direction to respondents to



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consider her for financial upgradation benefits under the ACP Scheme taking into consideration more than 24 years of her service.

3. Admittedly, applicant has been working on the post of Nurse throughout her service of 24 years without any promotion. The learned counsel of respondents stated that cause of action, if any, accrued to her in 1983/1991 and as such her application is hopelessly barred by limitation. The learned counsel stated that representations of applicant were not acceded to by the competent authority. He further stated that applicant was not downgraded from a higher scale to a lower scale. The pay scale of Rs.1400-2300 (pre-revised) for those Staff Nurses who were in the pay scale of Rs.1400-2600 (pre-revised) in the auxiliary category was merely a change of category from auxiliary to technical. Applicant was adjusted as T-II-III in the pay scale of Rs.4500-125-7000 w.e.f. 29.6.1996 attached to the so categorised post, instead of Rs.5000-150-8000, while her pay was protected in the lower scale. The learned counsel stated that applicant is not entitled to avail of the benefit of the ACP scheme. The learned counsel also brought to our notice option exercised by applicant for change of category of post to technical in terms of respondents' circular dated 20.8.1996. Vide office order dated 30.11.1996 she was changed over to technical (medical and para medical) category on the basis of above option.

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4. Earlier on, applicant had filed OA No.686/1998 praying that she should be treated as a technical employee from the date of her appointment and given all consequential benefits. That OA was disposed of vide order dated 17.4.1998 (Annexure-XXI) whereby respondents were asked to dispose of her representations by a speaking order in accordance with law. Respondents have communicated rejection of applicant's representation on 6.6.2000. In this light, the present OA is within limitation.

5. ICAR vide Annexure-XVIII dated 20.8.1996 approved re-classification of posts into technical, administrative and supporting categories. The posts in auxiliary and administrative (non-ministerial categories) were abolished. As a result of re-classification of posts the sanctioned strength of the Institutes in different categories: technical, administrative and supporting, was modified without increasing/decreasing the overall number of posts. Options were called from the staff to exercise ^boption for change of category in terms of ICAR's circular dated 20.8.1996 ^{as per b}in terms of the relevant rules of different categories of posts. The learned counsel of respondents has placed on record option of applicant exercised on 23.9.1996. She was working as Staff Nurse in the scale of Rs.1400-2600 (pre-revised) which was classified as auxiliary/administrative (non-ministerial) category. She opted for the new category 'Technical' w.e.f. 29.6.1996. As such, applicant's category was changed to technical (medical and para medical) vide office order dated 30.11.1996.

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Applicant cannot validly have any grievance against the re-categorisation of her post as technical (medical and para medical) w.e.f. 30.11.1996 on the basis of her option for change of category of post in terms of ICAR's circular dated 20.8.1996.

6. However, it is an admitted fact that applicant has been working in the same post since 1976 without any promotion. It is a sad commentary on the state of affairs. Applicant has not been provided any opportunity for advancement in the organisation. She has had no incentive for personnel development as well. An organisation which does not provide opportunities to its employees to move upwards is bound to suffer from increased administrative cost, misallocation of personnel, low morale and ineffectual performance. Respondents have adopted a dynamic assured career progression mechanism in the shape of ACP scheme based on the recommendations of the Fifth Central Pay Commission as a safety net to deal with the problem of genuine stagnation and hardship faced by employees due to lack of adequate promotional avenues. It is sad that respondents have not considered applicant for grant of two financial upgradations in terms of the ACP scheme although she has completed 24 years of service as Staff Nurse.

7. Although we do not find any infirmity in applicant's re-categorisation as T-II-III (Staff Nurse) w.e.f. 29.6.1996 in terms of respondents' letter dated 20.8.1996 and applicant's consequential option, we find no justification in denying the benefit of ACP scheme to

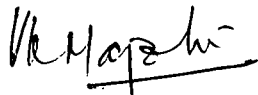
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applicant. Considering that allocation of the scale of Rs.4500-7000 w.e.f. 29.6.1996 to applicant is in order, in the facts and circumstances of the case, respondents are directed to consider granting financial upgradation to applicant to the scale of Rs.5500-9000 as she has completed more than 24 years of service on the same post under respondents without any promotion till now. This exercise should be carried out within a period of three months from the date of communication of these orders in terms of the Assured Career Progression Scheme. In case applicant is found to be fulfilling the conditions for grant of benefits under the ACP scheme, she shall be granted consequential benefits with effect from the date she became eligible for benefits under the aforesaid scheme.

8. The OA is allowed in the above terms. No costs.



(V. K. Majotra)
Member (A)



(V. S. Aggarwal)
Chairman

/as/