

3
CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1495/99

New Delhi, this 31st day of May, 2000

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastri, Member(A)

Dr. Deo Pal
D-35, Pusa Complex, IARI
New Delhi-12 .. Applicant

(By Shri Mahesh Srivastava, Advocate)

versus

1. Indian Council of Agricultural Research
through its Secretary
Krishi Bhavan
New Delhi
2. Indian Agricultural Research Institute
through its Director
IARI, New Delhi-12 .. Respondents

(By Shri N.S.Daial, Advocate)

ORDER

Hon'ble Smt. Shanta Shastri

The applicant is challenging the orders dated 6.5.1999, 22.5.1999 and 23.6.1999 issued by the respondents pursuant to which it has been contemplated to reduce the pay and allowances and to effect recovery from the salary of the applicant in lump-sum.

2. The applicant is a Senior Scientist in the Division of Soil Science & Agricultural Chemistry, Indian Agricultural Research Institute, New Delhi. He was appointed as Scientist-II(S-2) in the Agricultural Research Service on 1.1.84 in the pre-revised scale of Rs.1100-1600. The same was revised to Rs.3700-5700 with effect from 1.1.86 and the applicant was redesignated as Senior Scientist. This scale has further been revised to Rs.12000-18300 from 1.1.96.

4

15

3. Respondent No.1 revised the pay scales of the ICAR Scientists as a follow up action of the recommendations of 5th Central Pay Commission and declared revised pay scales for the ICAR employees vide their letter dated 27.2.99. In Note I below para (i) of the letter it has been stated that the pay of Scientists (Selection Grade)/Senior Scientists with five years service as on 1.1.96 will be fixed at the minimum of Rs.14949/-. Thereafter, vide their letter dated 20.3.99, individual pay fixation was indicated with reference to different posts of Scientists/Sr. Scientists/Readers/Associate Professors. Accordingly, the pay of the applicant was fixed at Rs.15360 in the revised pay scale of Rs.12000-18300. Thereafter on 6.5.99, the respondents clarified certain doubts. One of the doubts was as to how to fix the pay of Readers/Scientists (Selection grade)/Sr. Scientists etc. etc. who have completed 5 years or more service as on 1.1.96 and who opted to draw increment falling on 1.1.96 in the revised scale of pay. The question was whether the increment in the revised scale is to be allowed before raising the pay to Rs.14940 or it is to be allowed over and above the minimum of Rs.14940. It was clarified that pay in such cases has to be fixed strictly in accordance with the provisions of Rule 7 of the CCS(Revised Pay) Rules, 1997 (RULES, for short). Wherever the pay gets fixed at a stage below Rs.14940, the pay may be stepped up to the stage of Rs.14940. Where the pay is so stepped up, next increment (irrespective of date of increment in the previous scale) shall be granted on completion of

16

qualifying service of 12 months from the date of the stepping of the pay in the revised scale on the analogy of the first proviso of Rule 8 of the RULES. It was further clarified vide letter dated 22.5.99 that proposal for re-fixation of pay of Senior Scientists (Rs.12000-18300) with effect from 1.1.96 with the date of next increment as on 1.1.97 had been approved by the Audit. With these instructions, applicant's pay has been proposed to be re-fixed at Rs.14940 in the scale of Rs.12000-18300.

4. Applicant's grouse is that he has been clubbed along with many others who were at lower stages in the pre-revised scale. Now all have been clubbed together and therefore his pay has been fixed at the minimum of Rs.14940 as per the note I attached to order dated 27.2.99. The case of the applicant is that it is not a case of stepping up of pay. The pay fixed at Rs.14940 is not covered under the second proviso to sub-rule 1 of Rule 7 or ^{note 6 or 7} note 9 to the sub-rule 1 of Rule 7 of the RULES. Learned counsel for the applicants states even senior scientists getting pre-revised Rs.4075 and Rs.4200 were granted the benefit of proviso 3 of sub-rule (i) of Rule 7, whereas senior scientists getting pay higher than Rs.4700 in the pre-revised scale are being discriminated against. The applicant is entitled to ^{the} date of next increment on 1.1.96 under note 2 of Rule 7.

A

17

5. ^{the} Applicant represented against this order on 17.5.99.

Further the applicant has also been asked to refund the excess amount paid to him on account of wrong initial pay fixation. Applicant has represented against that order also.

6. Learned counsel for the respondents submits that the pay fixation which was done earlier was wrong and therefore had to be corrected. Respondents are well within their right to rectify their orders and ask for the refund of the amount which has been paid in excess. The pay of the applicant has been rightly fixed under Rule 7 of the RULES and with due concurrence of the Ministry of Finance. Pay fixation has to be done according to the formula given in Rule 7(1) and if the emoluments so arrived at are less than Rs.14940 the same are to be stepped up to Rs.14940. In the applicant's case he was drawing pay of Rs.4950 on 31.12.95 and as per the formula his emoluments worked out to Rs.13020 in the revised pay scale. If one increment is added as on 1.1.96 in the revised scale the total comes to Rs.13440. The immediate next stage is Rs.13680. Since this amount is less than Rs.14940, applicant's pay has to be stepped up to Rs.14940 according to note I in the letter dated 27.2.99 as he has put in more than 5 years service in the grade of Senior Scientist as on 1.1.96. There is no question of depriving of the increment to the applicant. Learned counsel for the respondents informs further that the respondents have issued further clarificatory letter on 9.9.99, according to which the applicant is entitled to one increment on 1.1.96, he being in the 10th stage in the pre-revised scale. Since this increment has been

N

granted to him as per clarification issued on 9.9.99, nothing survives now in the petition. It has become infructuous. Further, according to this clarification, the next date of increment will fall on 1.1.97 i.e. after completion of 12 months of service from 1.1.96. 18

7. The Applicant states that he is now satisfied with the order issued on 9.9.99 except for the fact that the date of next increment is to be after 12 months from 1.1.96. According to the applicant, it is not a case of stepping up as claimed by the respondents. The date of next increment should therefore be 1.1.96 in the case of the applicant and not 1.1.97. Thus the issue is now narrowed down to deciding upon the date of next increment.

8. We have heard the learned counsel for both the parties and have considered the pleadings and submissions made by them. A reading of Rule 7 of RULES shows that if the pay is fixed according to Rule 7(1) of the RULES where there is no stepping up of the pay, the concerned employee is entitled to draw his increment in the new pay scale from the date of next increment in the pre-revised scale. In all other cases where there is stepping up either due to bunching or due to total emoluments arrived at under Rule 7 being less than the minimum of the new scale, the employee becomes entitled to ^{the} date of next increment after completing 12 months of service in the revised scale.

ll

19

9. According to us, the applicant seems to have proceeded on the wrong premise that the minimum of the pay scale is Rs.14940 and not Rs.12000. The minimum of Rs.14940 has been allowed in the case of ICAR Scientists as a special dispensation. As already pointed out, if the applicant's pay is to be fixed according to Rule 7(1), his pay would work out to only Rs.13020 and with one increment it would come to Rs.13440. In normal course, he would have got the pay fixed at the next stage in the revised scale i.e. Rs.13680. This is less than Rs.14940/-.

10. If we take second proviso relating to bunching, then also even with increments as the applicant was in the 10th stage in the pre-revised scale, he still would not have got Rs.14940. His pay would have got fixed at Rs.13680. It is only because of the note 1 under para (1) in the letter of 27.2.99 that the applicant has been assured the minimum of Rs.14940. Again if we take proviso 3 and allow 3 increments, then also the applicant would not have got Rs.14940. Therefore, it is to be accepted that the applicant's pay has been stepped up or he would not have got even the minimum of Rs.14940. Thus this being a case of stepping up as rightly pointed out by the respondents, applicant's next date of increment will have to be, after 12 months from 1.1.96 ^{or} 1.1.97. It should not be also overlooked that he has been granted one increment as on 1.1.96 and he cannot therefore be given an extra increment in the same year. This way also applicant's date of next increment is to fall only on 1.1.97. Also it must be borne in mind that the orders dated 6.5.99 and 9.9.99 are

20

clarificatory in nature and the clarifications are with specific reference to the mode of pay fixation and the date of next increment in the case of those employees whose increment falls on 1.1.96. We are satisfied ~~and~~ we do not find any valid reason to interfere with the orders of the respondents. The applicant has no case.

that the respondents' action is in order and they are justified in directing the recovery of the excess paid. h

ii. In the result, the OA fails and is dismissed accordingly. No costs.

Law f

(Smt. Shanta Shastry)
Member(A)

V. Rajagopala Reddy

(V. Rajagopala Reddy)
Vice-Chairman(J)

/gtv/