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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No. 493/99

New Delhi: this the 1st day of MAY, 2000.

HON'BLE MR. S.R. ADIGE VICE CHAIRMAN(A).

HON'BLE MR. KULDIP SINGH, MEMBER (J)

1. Dr. Dinesh Kumar,
S/o. Late Sh. M.L. Sinha,
Retd. Principal Scientist, IARI,
R/o C-3, Pusa Apartments,
Sector 15, Rohini,
Delhi - 85.

2. Dr. G.C. Srivastava,
S/o Late Sh. Rajeshwar Lal,
Head, Division of Plant pathology,
IARI
New Delhi.
R/o EA-16, DDA (SFS) Flats,
Maya Enclave,
New Delhi - 64.

.... Applicants.

(By Advocate: Sri C.B. Pillai)

Versus

Union of India
through

1. The Secretary to the
Govt. of India,
Department of Agricultural Research
& Education,
Ministry of Agriculture,
Krishi Bhavan,
New Delhi.

2. The Director General,
Indian Council of Agricultural Research,
Krishi Bhawan,
New Delhi.

3. The Director,
Indian Agricultural Research Institute,
Pusa,
New Delhi

... Respondents.

(By Advocate: Shri V.K. Rao).

ORDER

HON'BLE MR. S.R. ADIGE VC(A).

Applicants seek the benefit of the
application of FR 22(1)(a)(i) in pay fixation in the

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revised scale of Rs. 4500-7300 w.e.f. 1.1.86 with all consequential benefits.

2. Admittedly applicants who were S-3 Scientists in the prerevised scale of Rs. 1500-1800 were granted the higher scale of Rs. 1800-2250 as personal to them w.e.f. 1.1.86 after 5 yearly assessment. Both these scales were replaced by a single revised scale of Rs. 4500-7300 w.e.f. 1.1.86. Applicants complain that respondents have fixed their pay in the revised scale of Rs. 4500-7300 w.e.f. 1.1.86 at the stage of Rs. 4650/- with reference to the lower post only which they would have been entitled to even without assessment benefit and thus the benefit of assessment has been denied to them.

3. Respondents in their reply challenge the OA on limitation as well as the merits. On the question of limitation respondents assert that applicants chose to sleep over their rights for more than 4 years and hence the OA is barred by limitation under section 21 A.T.Act. On merits, respondents refer to para 2 of their Circular dated 23.2.87 (Annexure-VI) wherein it had been clarified that in case of an employee being promoted to a higher post w.e.f. 1.1.86 his pay in the revised scale on 1.1.86 is to be fixed first with reference to pay in the lower post and then FR 22-C (now renumbered as FR(1)(a)(i)) is to be applied for fixation of pay in the higher post. However, since in the present case the revised scale both for the lower and the higher posts applicable in the case of the applicants i.e. Rs. 1500-1800 and Rs. 1800-2250 happen to be the same, i.e.

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Rs. 4500-7300, the benefit of FR 22(1)(a)(i) cannot apply.

4. There is merit in respondents' contention that ^{as} the revised scale both for lower and higher posts in the present case are the same i.e. Rs. 4500-7300, applicants cannot get the benefit of FR 22(1)(a)(i).

5. A close reading of FR 22(1)(a)(i) makes it clear that the benefits would be applicable in the cases where the pay scale in the lower post is different from that of the higher post. Further proviso to Rule 22(2)(a)(i) makes it clear that the pay scale in the lower post has to be different from that of the higher post. In the present case as the pay scale in the lower and higher post happens to be the same, the applicants cannot get the benefit of FR 22(1)(a)(i).

6. Applicants have contended that the benefit of assessment can be extended to them only if a similar option is given to them to get their pay fixed in the pre-revised higher scale and then fixing the same at the appropriate stage in the revised scale w.e.f. 1.1.86/ 1.1.87 but as correctly pointed out by respondents in their reply, applicants are trying to draw analogy with the cases in which the increments are involved whereas applicants' case is not one of those but the promotion/assessment.

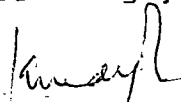
7. Applicants have also cited the case of one Dr. V. Balasubramanian in whose case orders were issued

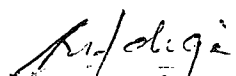
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on 11.7.96 (Annexure-A-X) giving him the benefit of FR 22(1)(a)(i) but a perusal of that order makes it clear that in his case his increment due fell on 1.1.86 which is not the case of applicants before us.

8. In the result, we find ourselves unable to grant the reliefs prayed for in the OA which is accordingly dismissed. No costs.


(KULDIP SINGH)
MEMBER (J)


(S.R. ADIGE)
VICE CHAIRMAN (A).

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