Central Administrative Tribunal, Principal Bench

Original Applications Nos. 84,85 & 451 of 1999

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New Delhi, this the 29th day of September, 2000

Hon'ble Mrs. Lakshmi Swaminathan, Member(J)
Hon'ble Mr.V.K.Majotra, Member (A)

(1) Original Application No.84 of 1999

Dr.R.Rangaraju, S/o Late N.Ragupathi Nayanar, R/o G-14/781, Paschim Vihar, New Delhi-110087 - Applicant

(By Advocate Shri M.A.Krishnamoorthy with S/Shi M.A.Chinnasamy and R.Nedumaran)

Versus

1. The Director, Indian Agricultural Research Institute, New Delhi-110012.

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

3. Union of India through the Secretary to the Govt., Ministry of Agriculture, Krishi Bhawan, New Delhi-110001.

4. The Secretary to the govt., Department of Education, Ministry of Human Resource Development, Shastri Bhawan, New Delhi-110001. - Respondents

(By Advocate Ms.Gitanjali Goel)

(2) Original Application No.85 of 1999

Dr.K.V.Sadasivam, 8-A/100, WEA, Karol Bagh, New Delhi-110005 - Applicant

(By Advocate Shri M.A.Krishnamoorthy with S/Shi M.A.Chinnasamy and R.Nedumaran)

Versus

1. The Director, Indian Agricultural Research Institute, New Delhi-110012.

2. The Director General, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi-110001.

3. Union of India through the Secretary to the Govt., Ministry of Agriculture, Krishi Bhawan, New Delhi-110001.

4. The Secretary to the Govt.of India, Department of Education, Ministry of Human Resource Development, Shastri Bhawan, New Delhi-110001. - Respondents

(By Advocate Ms.Gitanjali Goel)

(3) Original Application No.451 of 1999

Dr. B.P.Sinha, S/o Sh.Ganga Prasad Singh, AN-9C,Shalimar Bagh,Delhi-110052 - **Applicant**

(By Advocate Shri M.A.Krishnamoorthy with S/Sri M.A.Chinnasamy and R.Nedumaran)

Versus

1. The Director, Indian Agricultural Research Institute, New Delhi-110012.

2. The Director General, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi-110 001.

3. Union of India through the Secretary to the Government, Ministry of Agriculture, Krishi Bhawan, New Delhi-110 001.

4. The Secretary to the Government of India, Department of Education, Ministry of Human Resource Development, Shastri Bhawan, New Delhi-110001.

5. The Secretary, Universty Grants Commission, Bahadur Shah Zafar Marg, New Delhi-110002.

6. The Registrar [Academic], Indian Agricultural Research Institute Deemed University, New Delhi-110012 - **Respondents**

(By Advocate Ms.Gitanjali Goel)

Common Order

By V.K.Majotra, Member(A) -

As the facts are identical and issue involved is common in all the three cases, they are being disposed of by this common order.

2. Dr.R.Rangaraju (applicant in OA 84/99), Dr. K.V. Sadasivam (applicant in OA 85/99) and Dr.Brijdhar Prasad Sinha (applicant in OA 451/99) who were working as Senior Scientist, Principal Scientist and Extension Specialist, respectively in Indian Agricultural Research Institute (for short 'IARI'), New Delhi, and retired on superannuation on attaining the age of 60 years on 31.12.1998, 31.12.1998 and 28.2.1999, respectively, have prayed in these OAs that the respondents be directed to enhance their age of retirement to 62 years.

3. The applicants have claimed that they are Members of Faculties of the IARI and are teaching students for the last several years. The IARI is an institute under the administrative control of Ministry of Agriculture and Indian Council of Agricultural Research (for short 'ICAR'). The Government of India, Ministry of Human Resource Development (Department of Education) vide their Notification dated 27.7.1998 directed the University Grants Commission (for short 'UGC') to revise the pay scales of Teachers in the Central Universities following revision of pay scales of Central Government employees on the recommendations of the Fifth Central Pay Commission (for short '5th CPC'). As regards the age of superannuation it was recommended that the age of superannuation of University and College Teachers would be 62 years and thereafter no extension in service should be given. The applicants have alleged that IARI has not implemented the enhancement of age of retirement with effect from 27.7.1998. The representations of the applicants requesting the respondents to continue them in service till the age of 62 years have remained unresponded. According to the applicants subjecting them to retirement at the age of 60 years despite Notification dated 27.7.1998 is arbitrary, unreasonable and violative of Article 14 of the Constitution of India. The applicants have sought setting aside of the orders of their retirement.

4. As per the counter of the respondents these OAs are misconceived. The ICAR is a society registered under the Societies Registration Act, 1860 for the purpose of research particularly in the field of agriculture. Being an autonomous body it has its own rules and bye-laws. The ICAR has several Institutes

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under it in the country. The IARI is one such research institute. Among others the IARI has the status of a deemed university. According to the respondents such status has been given for the purpose of recognition of degrees issued by IARI and is not considered as a university within the meaning of Section 4 of the UGC Act. The respondents have maintained that no notification of the Central Government is applicable to the employees of ICAR till the same is approved by the Governing Body of the society. Though the Central Government has increased the age of superannuation of its employees, the same cannot be made applicable to the staff of ICAR and the research institutes coming under it without the approval of the Governing Body as per the rules and bye-laws of ICAR. The respondents have pointed out that the applicants have not challenged Rule 33(a) of bye-laws which needs amendment before enforcing any change in the age of superannuation. Rule 33(a) reads as follows:-

> "The age of retirement of Scientific and technical personnel in the service of the council shall be 60 years. No extension of service shall be given but where absolutely essential in the interest of research, the council may re-employ outstanding scientists on suitable terms with the prior approval of the President".

The respondents have explained that the matter was considered by the Ministry of Personnel, Public Grievances and Pension, Department of Personnel & Training and the ICAR was directed as under:-

> "In view of this, it would be desirable that the Deptt. of Agriculture, Research and Education may drop the proposal to increase the age of retirement of Scientists/ Teachers in ICAR/ State Agriculture Universities. However, if at all they propose to move the Cabinet on the issue it may be done only if there is explicit commitment that the age of retirement of scientists/ teachers under ICAR shall be same as UGC. Otherwise the Deptt.

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of Agriculture Research and Education may await a decision regarding the age of retirement of Scientists in case the Govt. decides to modify its earlier order. Mere parity with the pay scales and allowances of universities teachers is not enough ground for increasing the age of retirement in ICAR/ State Agricultural universities".

However, the proposal to enhance the age of retirement to 62 years for Scientists/ Teachers in the ICAR was recommended by the President of the ICAR and submitted to the Cabinet for approval and as per the procedure the matter is required to be placed before the Governing Body for amendment of rules after its approval by the Cabinet.

5. A Committee under the Chairmanship of Dr. K.L.Chaddha had recommended on 30.11.1998 among other items such as pay package and certain conditions of service, raise in the retirement age for Scientists/ Teachers in ICAR from 60 to 62 years. However, this recommendation is under consideration of the Cabinet after approval by the President of the ICAR.

6. The respondents have refuted the claim of the applicants that they are Teachers/ Lecturers. According to the respondents, they are Scientists engaged for research, education and extension activities. For becoming a Faculty Member, a Scientist has to apply as per the guide-lines. Thus, all Scientists of ICAR are not Faculty Members and have to retire at the age of 60 years. The respondents have clarified that the recommendation of enhancement of the age of superannuation of Universities and Colleges Teachers as per letter dated 27.7.1998 applies to Teachers in all the Universities (excluding Agricultural Universities) and colleges (excluding agricultural, medical and veterinary science colleges). The applicants have filed

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rejoinders as well.

7. We have heard the learned counsel of both sides and carefully considered the material available on record filed by the parties.

8. The learned counsel of the applicants has contended that IARI enjoys the status of a deemed university since 1958 under the UGC Act,1956 and is authorised to award Post-graduate degrees in Agricultural Sciences. Apart from Basic and Applied Research, the IARI has the primary function of teaching at the Post-graduate level and organisation of special short-term training programmes in several aspects of Agricultural Sciences. As per the regulations relating to post-graduate education and training programmes at the IARI "all Scientists including those working at regional stations of IARI and who satisfy the prescribed qualifications are eligible to apply for Membership of the Faculty". Referring to Post-graduate school calendar for 1993-94 the learned counsel pointed out that the applicants have been shown as Members of the Faculties, Under letter dated 27th July,1998 whereby the pay scales and the age of superannuation of University and College Teachers were revised, the scheme relating to the revision of pay scales and other terms and conditions of service is applicable to deemed universities as well. The learned counsel of the applicants relied on the case of Lloyds Bank Ltd., New Delhi Vs. Panna Lal Gupta and others, AIR 1967 SC 428 stating that it was held therein that "what determines the status is a consideration of the nature and duties of the function assigned to the employee concerned". The applicants though initially appointed as Scientists have been discharging the functions of Faculty Members

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and teaching the post-graduate students. Thus, the benefit of enhancement in age of superannuation should be given to the applicants also who are Faculty Members of IARI. The learned counsel of the applicants also informed that the applicants had applied for Membership of the Post-graduate Faculty and they have been functioning as Members of the Faculty for the last many years.

9. Ms.Gitanjali Goel, learned counsel for respondents had controverted the claims made by the applicants very systematically and emphatically, which we appreciate, relying on the documents on record. She at the out set pointed out that the applicants have not filed any appeal against the orders of retirement, consequently the same have become final. The learned counsel of the respondents maintained that the deemed university status for IARI is only for the purpose of revision of pay scales and until the recommendation about the age of superannuation for IARI is approved by the Cabinet and later by the Governing Body of the ICAR, it cannot be made applicable to them. From the memorandum of appointment of the applicants it is clear that various terms and conditions of service of the applicants will be regulated by the ICAR, mutatis mutandis, in accordance with the principles of fundamental and supplementary rules and such other rules and orders as are issued by the Government of India from time to time. Whereas the recommendation regarding the age of superannuation was under consideration of the Cabinet, the Cabinet has referred the matter to a Group of Ministers.

10. The learned counsel of the respondents stated that the applicants are Scientists and have been

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availing themselves of various benefits as Scientists such as accelerated promotions every five years. Now they want to take benefit as Faculty Members also which would not be possible unless the same is approved by the Cabinet and the Governing Body of the ICAR. Relying on the case of Dr.S.M.Ilyas and others Vs. ICAR & other. (1993) 1 SCC 182 the learned counsel maintained that the service conditions of University Teachers as decided by the Government of India are applicable mutatis mutandis to ICAR Scientists engaged in teaching, research and extension. However, the issue in the case of Dr. S.M.Ilyas (supra) in any case was of pay scale and was not of the age of superannuation. The revised pay scales were made applicable in respect of Scientists of ICAR.

11. According to the learned counsel of the respondents as per letter dated 27.7.1998 issued by the Department of Education relating to revision of pay scales of Teachers in Central Universities, the age of superannuation of University and College Teachers would be 62 years but the scheme shall apply to the Teachers in the Universities (excluding agricultural universities) and colleges (excluding agricultural, medical and veterinary science colleges). She further contended that although the applicants have been assigned teaching duties but their basic functions are research and extension as per their service conditions and they have not been appointed as Members of Faculty, though they had made their applications for the same. The recommendations regarding enhancement of age of superannuation shall be made applicable to them only after the Group of Ministers make a positive recommendation and the same is approved by the Cabinet

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and concurred by the Governing Body of the ICAR.

12. From the documents filed by the respondents we find that the applicants had been appointed as Scientists and various terms and conditions of their service were regulated by the ICAR mutatis mutandis in accordance with the principles of fundamental and supplementary rules and such other rules and orders as are issued by the Government of India from time to time. Though they have been teaching the post-graduate students yet that is only one part of their job and they are essentially Scientists engaged in research and extension. We are inclined to agree with the respondents that the IARI has been given the status of deemed university only for the limited purpose of recognition of degrees and it is not considered as a university within the meaning of Section 4 of the UGC Act. The enhancement in age of superannuation by the Central Government for their staff cannot be made applicable to the staff of ICAR/ IARI unless it is approved by the Governing Body of the ICAR as per rules and bye-laws of ICAR. From the documents submitted by the respondents it is established that the proposal for enhancement of age of superannuation of the Scientists of the ICAR/IARI from 60 to 62 years is pending consideration of the Group of Ministers. It is only after the recommendations of the Group of Ministers are approved by the Cabinet the issue will be placed before the Governing Body of the ICAR for amendment of the rules relating to age of retirement. It is only after amendment of rules in respect of age of retirement that benefit claimed in the present OAs can be given to the applicants and other Scientists similarly placed.

13. Having regard to the above discussion we are

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afraid that no direction can be issued at our end and relying on an order dated 23rd March,2000 passed in OA 2560 of 1998 Dr.Moti Lal Madan & ors Vs. Union of India & others, and six other connected cases, by this Tribunal in which one of us {Mr.V.K.Majotra, Member(Admnv)} was a member; and taking cognizance of the fact that the issue is under consideration of the Cabinet, all that can be done for the applicants in the present OAs is to request the Cabinet to take an early decision in the matter.

14. The present OAs are accordingly disposed of in afore-stated terms. No order as to costs.

(V.K.Majotra)
Member (A)

(Mrs.Laksmi Swaminathan)
Member (J)

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