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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No.473/1998

New Delhi this the 10<sup>th</sup> day of August, 2004

Hon'ble Shri Justice V.S. Aggarwal, Chairman  
Hon'ble Shri S.A. Singh, Member (A)

Dr.Y.C.Arya (late)  
Through LRs.

1. Mrs. Bimla Devi Arya,  
Wife of the deceased
2. Shri Alok Arya  
Son of the deceased

Both resident of:

H-1, Pusa Apartments,  
Sector-15, Rohini, Delhi.

..Applicant

(By Advocate Shri B.B.Ravel )

VERSUS

1. Indian Council of Agricultural  
Research through its Director  
General, Govt. of India,  
Krishi Bhawan, New Delhi.
2. The Director,  
Indian Agricultural Research  
Institute (IARI), Pusa, New Delhi.

..Respondents

(By Advocate Shri V.K.Rao learned  
counsel with Sh.Satish Kumar )

O R D E R

Hon'ble Shri S.A.Singh, Member (A)

The applicant had joined the Punjab Agricultural University on 16.9.1968 as Associate Professor and was selected for the post of Head, Department of Farm Operations and Management (DFOM) against advertisement No.12/72 of the Indian Council of Agricultural Research. The applicant submitted his technical resignation and after acceptance of the same, he joined the ICAR as Head, DFOM on 8.2.1973.

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2. He was inducted into Agricultural Research Service (ARS) on its constitution on 1.10.1975 as Scientist S-3 grade.

3. Persons working with Govt. of India had been given the benefit of revised pay scale on the recommendations of the IVth Pay Commission with effect from 1.1.1986. However, persons working in the ICAR, which had become an autonomous body from 1966, had been given UGC pay package consequent upon implementation of the IVth Pay Commission's report retrospectively from 1.1.1986 vide ICAR's letter dated 9.3.1989.

4. The specific grievance of the applicant is that his pay has not been fixed correctly on his joining the ICAR as Head, DFOM and after revision of the pay on implementation of the IIIrd Pay Commission. He has also not been given increments, as applicable ~~for~~ two probation periods. He was on probation after he joined as Head, DFOM and again after his induction into ARS. His first probation period was completed on 8.2.1975 and before he was confirmed he was inducted into ARS w.e.f. 1.10.1977. It was only on 23.1.1987 i.e. after nearly a gap of 9 1/2 years, the respondents issued a letter appointing the applicant on substantive capacity, after satisfactory completion of probation period.



5. The specific grievance of the applicant is that he had been appointed as Head, DFOM in the scale of Rs.1100-50-1400 with the starting salary of Rs.1300/-P.M. i.e. with four advance increments vide order dated 3.1.1973. However, when this scale of Rs.1100-1400 was revised to Rs.1300-1700 w.e.f. 1.1.1973 as a consequence of recommendations of the 3rd Pay Commission the four advance increments given to him on his appointment were not given on the revised scale. Hence, his starting salary of Rs.1300/-PM was not revised to Rs. 1500. By not making the revision, the applicant contends, he has lost the benefit of the four increments, given to him on his appointment as Head, DFOM..

6. His second pleading is that during the two periods that he was on probation, first, on fresh appointment as Head, DFOM and then subsequently on induction into ARS, he was not given increments he was entitled to on being confirmed. He was entitled to advance increments as per FR 22 (B).

7. Because of faulty fixation of his pay first, on initial joining in ICAR and subsequently on his confirmation in the substantive capacity, he was entitled to advance increment. In view of these, he has prayed for the following reliefs;-

8(i) Direct the Respondents to fix up his substantive pay by adding 4 advance increments plus 4 increments for the probationary period upto 1st October, 1977 in

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view of the order dated 23 January, 1987 confirming him on completion of probation retrospectively from 1st October, 1977 and nine other increments from 1st October, 1977 to 23 January, 1987 totalling to 17 increments as on 23 January, 1987 in the pay scale of Principal Scientist of Rs.4500-7300 is only 16 years, the applicant should be fixed at Rs.7300/- as on 23 January, 1987 followed by four stagnation increments of Rs.200/- adding stagnation pay of Rs.800/- till date of retirement on the pay of Rs.7300 + 800 = 8100.

(iii) Also direct the Respondents to fix the applicant in the equivalent applicable replacement scale available to him with effect from 1st January, 1996 i.e. Fifth Pay Commission Pay Scale/U.G.C Pay Scale.

8. Needless to mention that the respondents have strongly contested the averments of the applicant stating that the application is totally misconceived. They have agreed that the applicant was initially appointed w.e.f. 8.2.1973 in the pay scale of Rs.1100-1400 which was subsequently revised to Rs.1300-1700 and the decision of this revision was made by the ICAR vide their letter dated 16.10.1980. They have stated that in the offer of appointment, only initial stage of Rs.1300 was recommended and there was no stipulation that the authorities recommended the advance increments. Further the pay of the applicant has been fixed from time to time as per rules and there was no financial loss to the applicant. He was getting increments regularly.

9. Respondents pleaded that it is not correct on the part of the applicant to consider himself as a probationer because as per rules, Probationer is a person recruited against a permanent vacancy with definite conditions of probation, such as passing of

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departmental examination (s) during probation. The applicant was not inducted in this manner. He was a person who was placed 'on probation'. In such case, the term 'on probation' means that he is merely on trial pending regular appointment and such persons will be treated as purely officiating Govt. servants for all purposes and not as Probationers. Further, there is no order according to which during the period of probation increments cannot be drawn. His increments w.e.f. 8.2.73 were drawn in the pay scales drawn by him from time to time and hence his request for granting 16 increments in the scale of Rs.4500-7300 was not as per rules. Therefore, no harassment has been caused to the applicant. He is not entitled to stagnation increment on any point. Moreover, the applicant was working in the pay scale of Rs. 4500-7300 and is thus not entitled for stagnation increments.

10. We have heard the counsel for the respondents and gone through the documents placed on record. During earlier hearing of this OA, the Tribunal had passed the order dated 9.11.2001 which reads as under:-

"3. While perusing the voluminous pleadings we have come across ICAR's letter date 12.5.95 addressed to Director, IARI, New Delhi stating that the case of applicant's pay fixation has been examined by the ICAR and it has been observed that the case has not been properly examined in IARI. Accordingly the Director, IARI was requested to examine applicant's pay fixation case from the date of his appointment in pay scale of Rs. 1100-1400 w.e.f. 8.2.73 till the date of his induction in A.R.S. and

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subsequent refixation in consultation with Chief Finance and Accounts Office w.e.f. 1.1.1982..

4. No materials have been shown to us as to what action was taken by IARI on the aforesaid letter dated 12.5.95 which are specific in their contents.

5. In the light of ICAR's own letter dated 12.5.95 stating that applicant's pay fixation case has not been properly examined in IARI, we dispose of this O.A. with a direction to IARI, New Delhi to examine applicant's claims for proper pay fixation by a detailed, speaking and reasoned order, in accordance with rules and instructions, and the specific directions contained in aforesaid letter dated 12.5.95, under intimation to ICAR as well as to applicant, within three months from the date of receipt of a copy of this order. If any grievance still survives it will be open to applicant to seek revival of this OA. through an MA by impugning the orders passed by respondents in implementation of these directions".

11. In compliance with the above directions, the respondents had passed the order dated 6.3.2002 which we reproduce in full:

Whereas Dr. Y.C.Arya has filed the Original Application being No.473/1998 therein the orders dated 21/24.1.97, 3.2.97, 3.2.97, 11.6.97 and 9.10.97.

Whereas the Hon'ble Central Administrative Tribunal vide its order dated 9.11.2001 disposed of the said O.A. with the direction that the claim of Dr.Y.C.Arya for proper pay fixation be disposed of by a detailed, speaking and reasoned order.

Whereas I have gone through the entire records pertaining to the pay fixation of said Dr.Arya and his pay has been fixed on the post held by him at IARI from time to time as follows:-

| Post/Pay scale                                   | Date of apptt./<br>increment | Pay                          |
|--|------------------------------|------------------------------|
| Appointed as Head, DFOM<br>(Rs.1100-50-1400 )    | 8.2.73                       | Rs.1300/-                    |
| Scale of Head, DFOM<br>Revised (Rs.1300-50-1700) | 8.2.73                       | Rs.1400/-<br>+ Rs.10/-<br>PP |
|  | 1.2.74                       | Rs.1450/-                    |
|  | 1.2.75                       | Rs.1500/-                    |

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|--|-----------|------------|
| Appoinment as S-3 Sci.<br>(Rs.1500-60-1800-100-2000)<br>by induction.  | 1.10.75   | Rs.1500/-  |
|  | 1.2.76    | Rs.1560/-  |
|  | 1.2.77    | Rs.1620/-  |
|  | 1.2.78    | Rs.1680/-  |
|  | 1.2.79    | Rs.1740/-  |
| Appointment in the grade<br>S-3 Sci as personal to him<br>in the pay scale of<br>Rs.1800-100-2000-125/2-2250 | 1.7.79    | Rs.1800/-  |
|  | 1.7.80    | Rs.1900/-  |
|  | 1.7.81    | Rs.2000/-  |
|  | 1.7.83    | Rs.2125/-  |
|  | 1.7.85    | Rs.2250/-  |
| Scale revised to<br>Rs.4500-150-5700-200-7300<br>w.e.f. 1.1.1986.  | 1.1.86    | Rs.5250/-  |
|  | 1.1.87    | Rs.5400/-  |
|  | 1.1.88    | Rs.5550/-  |
|  | 1.1.89    | Rs.5700/-  |
|  | 1.1.90    | Rs.5900/-  |
|  | 1.1.91    | Rs.6100/-  |
|  | 1.1.92    | Rs.6300/-  |
|  | 1.1.93    | Rs.6500/-  |
|  | 1.1.94    | Rs.6700/-  |
|  | 1.1.95    | Rs.6900/-  |
|  | 1.1.96    | Rs.7100/-  |
| Scale revised to<br>Rs.16400-450-20900-500-<br>22400 w.e.f. 1.1.1996   | 1.1.96    | Rs.18200/- |
|  | 1.1.96    | Rs.18650/- |
| Retired on   | 31.1.1996 |            |

Whereas the aforesaid shows that the pay of Dr.Y.C.Arnya has been initially fixed at pay scale of Rs.1300/-. The said pay scale has been fixed vide letter dated 3.1.1973.

Whereas the said pay has been fixed initially at Rs.1300/- on 8.2.1973 keeping in view that Dr.Arya was drawing the said pay in the Punjab Agricultural University. His pay was refixed at Rs.1400/- plus Rs.10/- in view of the directions/clarifications contained in ICAR letter dated 16.10.1980.

Whereas it is also clear from the aforesaid that on 1.10.1975, Dr.Arya was inducted on the

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introduction of ARS as Scientist S-3 in the pay scale of Rs.1500-60-1800-100-2000. The pay was fixed at the same stage because it was a case of induction only. The pay was fixed at the next higher grade on 1.7.1979 as per FR 22 (a) (i) at Rs. 1800-100-2000-125/2-2250.

Whereas it is also clear that the pay has been revised on 1.1.1986 in the pay scale of Rs.4500-150-5700-200-7300 in accordance with Revised Pay Rules, 1986. The pay was refixed on 1.1.1996 in the revised scale of Rs.16400-450-20900-500-22400. He stood superannuated on 31.1.1996. Thus the pay of Dr.Arya has been fixed from the date of his initial joining of the Institute on 8.2.1973 in accordance with various rules and instructions. It is significant to point out that Dr.Arya was drawing a pay of Rs.1410/- on 8.2.73. Therefore, when he joined the Institute on 8.2.73, his pay has been protected. Thereafter increments in accordance with the various rules and instructions have been given to him.

Therefore, there is no mistake or wrong fixation of pay of Dr.Y.C.Arya. His representation is, therefore, accordingly rejected".

12. From the reading of this Office order, it is seen that the applicant was appointed as Head, DFOM in the pre-revised scale of Rs.1100-50-1400 on 8.2.1973 and his pay was fixed at Rs.1300/- PM. It is also noted that this scale was revised w.e.f. 8.2.73 and the pay of the applicant was fixed at Rs.1400+10 PP in the revised scale of Rs.1300-50-1700. The relevant extracts of the order appointing the applicant as Head, DFOM, read as under:

"1. The post is temporary and carries the pay-scale of Rs.1100-50-1400. On appointment he will draw an initial pay @ Rs.1300/- per month in the above time scale. He will be entitled to draw such allowances (dearness allowance and house rent allowances etc.) as are admissible to other staff of corresponding grade and status under the ICAR.

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10. His appointment under the Council will be considered to be a fresh



appointment, and he will not be entitled to any travelling and or conveyance allowance for joining the post at the I.A.R.I, New Delhi.

11. Other conditions of service will be governed by the relevant rules and orders which may be issued from time to time by the I.C.A.R".

13. From the above Memo, it is clear that the applicant was appointed in the pay scale of Rs.1100-50-1400 and that on appointment, he would draw an initial pay @ Rs.1300/- in the time scale which is equivalent to granting four advance increment.

14. It is also not in dispute that the pay scale of Head, DFOM was revised to Rs.1300-50-1700 with effect from 1.1.1973. However, on the date of issue of the Memo. dated 3.1.1973, appointing the applicant as Head, DFOM, the revised scale had not been notified. The notification was made on 9.3.1989 with retrospective effect. It is, therefore, logical to consider that the pay scale mentioned in the appointment Memo dated 3.1.1973 as Rs.1100-50-1400 would have to be read as Rs.1300-50-1700. The initial starting salary fixed as Rs.1300 will need to be changed to Rs.1500/-after adding four advance increments. We, therefore, find merit in the submissions of the applicant that his initial starting salary ought to have been revised to Rs.1500 when the scale was revised to Rs.1300-1700.

15. With regard to the contentions of the applicant that he was a probationer and as such he was

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entitled to increments in terms of FR 22-B (i) is concerned. We find that the explanation note to FR 22-B (i) reads as under:-

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" A "Probationer" is a person recruited against a permanent vacancy with definite conditions of probation, such as passing of a departmental examination (s) during probation. A person who is placed "on probation" need not necessarily be a "probationer". The term "on probation" in such cases means that he is merely "on trial" pending regular appointment and such persons will be treated as purely officiating Government servants for all purposes and not as "probationer".

16. From the plain reading of the above, it is clear that the applicant cannot claim to be a probationer and rules applicable to probationuwould not apply for pay fixation in his case.

17. In view of the above, this OA is disposed of with the following directions:

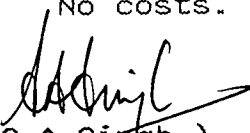
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Respondents will revise the initial starting salary of the applicant as Head, DFOM to Rs. 1500/-PM. This revised salary will take effect from 8.2.1973.


(ii) Respondents will revise the pay of the applicant for subsequent years as per law, rules and instruction on the subject, by revising their order dated 6.3.2002 as a consequence of the refixation of the initial pay as Head, DFOM as indicated in (i) above;

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(iii) Respondents will refix the pay as directed above and pay the difference in pay and in pensionary benefits, if any, within a period of four months from the date of receipt of a copy of this order.

No costs.

  
( S.A. Singh )  
Member (A)

  
( V.S. Aggarwal )  
Chairman

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