

Central Administrative Tribunal
Principal Bench

O.A.No.1350/96

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 13th day of May, 1998

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Dr. P.N.Bahl
s/o late Shri Jai Kishan Bahl
r/o A/9, Nirman Vihar, I.P.Extension
Delhi - 110 092. ... Applicant

(By Shri G.D.Gupta, Advocate)

Vs.

1. Union of India through the
Secretary to the Govt. of India
Ministry of Agriculture
Krishi Bhawan
New Delhi.
2. Director General Indian Council of
Agricultural Research
Krishi Bhawan
New Delhi. ... Respondents

(By Shri V.K.Rao, Advocate)

O R D E R

The applicant while working as Assistant Director General (ADG) in the Indian Council of Agricultural Research (ICAR) was asked to also look after the work of DDG in addition to his own duties vide order dated 6.8.1992, Annexure 'B'. The same is reproduced below:

"Consequent upon the transfer of Dr.R.S.Paroda, Dy. Director General (CS) on deputation with FAO, it has been decided with the approval of Competent Authority that Dr.P.N.Bahl, Asstt. Director General (FC-1), in addition to his own duties will look after the work of DDG(CS) with immediate effect, till the post of DDG(CS) is filled up on regular basis or until further orders whichever is earlier. For this, Dr.P.N.Bahl will not be paid any extra remuneration."

2. The applicant submits that vide his letter dated 19.10.1992 he had requested that he may be permitted to officiate as DDG(CS) and was given to understand that in the first week of April, 1993 DG, ICAR approved on the file that he may be given the benefit of the enhanced pay. He also submitted a representation to the

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Secretary, ICAR sometime in December, 1993 as no formal orders were issued to that effect. In the meantime, the applicant superannuated on 31.3.1993. He is aggrieved that his representations were turned down vide respondents letter, Annexure 'A', dated 30.5.1995. He made further representation and received the reply on 12.1.1996 stating that the applicant had been informed while being given the acting charge of the post of DDG, that no extra remuneration would be given. The applicant submits that he has been discriminated inasmuch as in a number of other cases of officers, similarly placed as applicant, the benefit of enhanced pay has been given. In this connection, he has cited the names of Dr.A.M.Michael, Director, IARI, New Delhi, Dr. Kalla, Director, NAARM, Hyderabad and R.K.Patel, Director, NDRI.

3. The respondents in their reply have raised a preliminary objection that the application is barred by limitation as he has claimed allowances for the period between 6.8.1992 to 31.3.1994 while he has filed the application only on 27th May, 1996. On merits they say that the applicant was not formally appointed to the post of DDG and the impugned order, Annexure 'A' was purely an interim measure till the regular incumbent joined the said post of DDG on regular selection by ASRB. They admit that because of his representations, an attempt was made to formulate a proposal for granting him extra remuneration but the competent authority, namely, President, ICAR did not agree. As regards the cases cited by the applicant, the respondents say that higher pay scale was agreed to in their case because they were the senior most for holding the next higher post whereas this was not so in respect of the applicant. They submit

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that applicant was asked to look after the work of DDG at his own request over looking the claim of the senior most on condition that no extra remuneration will be paid to him. It is, according to the respondents at after thought that later he made representations for obtaining the benefit of the officiating pay of the post of DDG.

4. I have heard the counsel on both sides. I do not find that the OA is barred by limitation as the respondents themselves have given a reply to his representation on 12.1.1996. Shri G.D.Gupta, learned counsel for the applicant relies on the decision of this Tribunal in OA No.2354/89, Shri S.N.Sethi Vs. Union of India and Others. In that OA, the applicant while working as Chief Engineer was asked to hold, in addition to his own duties, the current charge of the higher post of Member till such time a regular appointment was made. There also the relevant order stipulated that the applicant would not be entitled to any additional remuneration even though there was no limit on the functions to be discharged as a Member. The OA was allowed and the respondents were directed to refix the applicant's pay in terms of FR 49(I) against the post of Member(A).

5. I am satisfied that the ratio in OA No.2354/89 applies equally to the present OA. The applicant was discharging the duties of DDG from 6.8.1992 till the date of his superannuation. Moreover, there was no limit on the nature of duties/functions to be discharged by the applicant. As he had not been given officiating promotion after following the prescribed procedure he would not be entitled to the pay of the post of DDG.

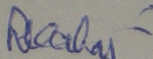
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However, following the decision in S.N.Sethi (Supra) he would be entitled to additional remuneration as per FR 49(1). Accordingly, the respondents are directed to allow the additional remuneration to the applicant under FR 49(1). This should be done within a period of one month from the date of receipt of a copy of this order. They would also pay the arrears arising therefrom to the applicant within a period of two months thereafter.

The OA is disposed of as above. No costs.


(R.K. Ahooja)
Member(A)

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