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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 350/97

New Delhi, this the 11th day of August, 2000

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE CHAIRMAN (J)
HON'BLE MR. GOVINDAN S. TAMPI, MEMBER (A)

In the matter of:-

Dr. S.C. Yadav,
s/o Sh. J.S. Yadav,
aged about 39 years,

r/o 17, Shiv Nagar IVRI Road,
Izatnagar Bareilly,

and working as Scientist (Sr. Scale)
under ICAR and presently posted
at IVRI Izatnagar, Bareilly (U.P) Applicant
(By Advocate: Sh. S.S. Tiwari)

VS.

1. I.C.A.R. through its
Director General,
Krishi Bhawan,
New Delhi.
2. Director,
I.V.R.I.,
Izatnagar,
Bareilly (U.P). Respondents
(By Advocate: Sh. R.S. Aggarwal)

ORDER (ORAL)

By Hon'ble Sh. V. Rajagopala Reddy, Vice Chairman (J)

The applicant was working in PL 480 Project in RBS College as Sr. Research Assistant for about 4 1/2 years. According to the applicant his service was on regular basis. He was subsequently appointed while working in the said college as Scientist S-1 in the pay scale of Rs.700-1300 (pre-revised) in Agricultural Scientist Recruitment Board and was posted at IVRI, Izatnagar on 27.2.86. On joining the said post the applicant was given the minimum of scale, of Rs.700-1300 in spite of the fact that his last pay in RBS College was Rs.860/- p.m. The applicant, therefore, made a request for protection of his pay. After the revision of the pay scales the applicant's pay was fixed at the minimum of the pay scale, i.e., at Rs.2200 instead of Rs.2500/-. Hence, according to

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the applicant he suffered a loss of Rs.300/- p.m. He represented to the respondents for pay protection and in the office order dated 26.7.85 he was allowed the pay protection provisionally. But in the impugned order the same was withdrawn on the ground that the applicant might not have continued in the office in PL 480 Project in which he was working. Action was also been taken for recovery of the extra amount paid on that account. This order is under challenge in the OA.

2. The case of the respondents is that as the applicant has resigned from his previous post, the applicant was not entitled for pay protection. As he was selected as a direct recruit his pay was fixed at minimum of the scale to which he was entitled to. The pay was protected initially on the ground that he has given an undertaking that as and when the ICAR did not approve the pay protection the same will be withdrawn and excess amount paid will be recovered back.

3. We have given careful consideration to the contentions raised by the learned counsel. Learned counsel for applicant has not, however, brought to our notice any rule or instruction by which the respondents is enjoined to protect his pay. He relies upon the proceedings dated 12.11.81 given by the ICAR. Para 3 of the above proceedings which is sought to be relied upon only says that wherever the protection of pay has been recommended by ASRB his pay to be fixed under normal rules and where the fixation of pay at the minimum of time-scale of the post in the Council involves fall in emoluments as compared to what was drawn by the officer in the previous post, such cases will be considered sympathetically on merits. This shall be done in consultation with Finance. (emphasis supplied). In the proceedings dated 27.10.90 IVRI,

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which is a part of the ICAR, in which the applicant is working, the recommendation was made for protection of his pay reconsidering the case of the applicant sympathetically. Learned counsel for the applicant also brought our attention to the proceedings of the IVRI dated 28.10.99, Central Avian Research Institute dated 17.11.98. In the later proceedings it was also stated that Dr. C.M.Mohapatra and Dr. N.K.Pandey both of them are working in the units of ICAR after resigning in their earlier organisations in similar projects. From the above it is clear that the applicant is entitled for consideration sympathetically of his case as regards the pay protection. In the impugned order it does not seem that they exercised any such consideration in regard to the applicant. The only reason for withdrawing the pay protection was that the applicant might not be permanently continued in the PL 480 Project in which he was recruited. When Dr. Pandey, who was also working in Indo UK Project in Jabalpur which was also time bound project and Dr. Mohapatra who was also working in ICAR at Bhubaneshwar which was also a project for a short while, there can be no good reason for not considering the case of the applicant in accordance with the circular dated 12.11.81.

4. The impugned orders are, therefore, quashed. We direct the respondents to consider the case of the applicant in accordance with the proceeding relied upon in circular dated 12.11.81 sympathetically and pass appropriate orders within a period of three months from the date of receipt of a copy of this order. OA is, accordingly, disposed of. No costs.

(GOVINDAN S. TAMPI)
Member (A)

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(V. RAJAGOPALA REDDY)
Vice Chairman (J)