

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. NO.2301/94

New Delhi, this the 12th day of January, 1995

Hon'ble Shri J.P. Sharma, Member (J)

Hon'ble Shri B.K. Singh, Member (A)

1. Agricultural Research Service  
Scientist's Forum, Izatnagar Unit,  
through Dr. Rameshwar Singh,  
s/o Shri Devi Singh  
aged about 40 years,  
R/o A-6/3, IVRI Campus,  
Izatnagar, Bareilly.

2. Dr. K.L. Raheja,  
s/o Shri H.D. Raheja,  
Aged about 43 years,  
R/o D-II, No.4, IVRI Campus,  
Izatnagar, U.P.

(Both working as ARS Scientist under  
ICAR posted at IVRI, Izatnagar) ... Applicants

By Advocate: Shri S.S. Tiwari

Vs.

1. Indian Council of Agricultural Research  
(ICAR) through Director General, ICAR,  
Krishi Bhavan, New Delhi.

2. Director, Indian Veterinary Research  
Institute, Izatnagar 243122,  
Bareilly, U.P.

... Respondents

O R D E R

Hon'ble Shri J.P. Sharma, Member (J)

The applicant association ~~with~~ its members  
are  
the Scientists presently working at Indian Veterinary  
Research Institute (IVRI), Izatnagar, U.P. Applicant  
No.2 is one of the aggrieved persons. Applicants  
were Scientist Grade S-2 in the pay scale of  
Rs.1100-1600 in the pre-revised scale. The members  
of the applicants association have also been  
designated as Sr. Scientist as given in para 4.3  
of the application. The pay scales of the Scientist  
have been revised by ICAR by the memo dated 9.3.89  
and the replacement scale of Scientist S-2 is

Rs.3000-5000 who were having 8 years of service as on 31.12.85 and those who had more than 8 years of service on that date the revised scale allowed Rs.3700-5700. The scale of Scientist S-3 was Rs.1500-2000 and designated as Scientist, Selection Grade in the scale of Rs.3700-5700, those who had on 31.12.85 16 years of service and designated as Scientist(Selection Grade). Another scale was given to Scientist S-3 who had more than 16 years of service designated as Principal Scientist and put in the scale Rs.4500-7300 which scale has also been granted to Scientist S-4 in the scale Rs.1900-2250 and Scientist S-5 in the scale of Rs.2000-2500. The Scientist S-6 in the scale of Rs.2500-3000 has been granted the scale of Rs.5900-7300. All the Scientists have been designated as Principal Scientist. ICAR issued an order on 28.1.93 and all the Scientist S-II holding that post on 31.12.85 were given revised pay scale of Rs.3700-5700. Two more notifications have been issued by the ICAR on 24.2.92 and 14.8.92 respectively. According to these, the Scientists placed in the pay scale of Rs.3700-5700 w.e.f. 1.1.86 were classified into two groups on the basis of date of obtaining Ph.D. degree. In the light of the above clarifications, the members of the Association mentioned in para 4.3 except at S.No. 41 and 42 who do not hold Ph.D degree were given the designation of Senior Scientist w.e.f. dates obtaining Ph.D. degree, for each one of them, which is subsequent to 1.1.86. The grievance of the Association is that Scientists being senior in the S-2 grade became junior to their juniors S-2 colleagues on 1.1.86 and juniors became senior to their seniors.

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The representation therefore was preferred to the respondents on which the respondents ICAR issued a letter dated 28.6.94 wherein the designation of all the applicants has again been changed from Senior Scientist to Scientist (Selection Grade) w.e.f. 1.1.86. This has been done by ICAR on relying upon Para 5 of ICAR order dated 28.10.91, which is quoted below:-

"The Scientists in the Senior scale of Rs.3000-5000 who do not have a Ph.D degree or an equivalent published work, or who do not meet the research standards of Senior Scientists but fulfil other criteria mentioned above and have a good record of research or participation in extension/research/Teaching, activities will be placed in the grade of Rs.3700-5700 on the recommendations of the Departmental Promotion Committee. They will be designated as Scientist(Selection Grade). Scientists in the Selection Grade will be created for this purpose by upgrading the posts held by them. They could offer themselves for a fresh assessment after obtaining a Ph.D degree and/or fulfilling the other requirements for promotion as Senior Scientist and if found suitable, could be given the designation of Senior Scientist.

#### RELAXATION

Scientist in the revised scale of Rs.2200-4000 for promotion to Scientist (Senior Scale)(Rs.3000-5000) and or Scientist(Selection Grade) (Rs.3700-5700) will also be entitled to the relaxation in the years of service by 3 years and 1 years respectively, if they hold Ph.D or M.Phil degree."

2. The present application has been filed on 16.11.94 assailing the impugned order dated 28.6.94 and 24.9.94. The aforesaid orders are quoted below:-

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INDIAN COUNCIL OF AGRICULTURAL RESEARCH  
KRISHI BHAWAN: NEW DELHI

NO.8(1)/92-Per.IV

Dt.28.6.1994

To

The Director/Project Director  
of All ICAR Institutes/Centres

Subject:- Career Advancement Scheme for ARS Scientists-  
change of designation from Scientist/(SG) to Senior  
Scientist.

Sir,

I am to say that instructions/clarification regarding change of designation from Scientist(SG) to Senior Scientist under the new career advancement scheme circulated by Council's letter No.1-14/87-Per.IV dated 28.10.1991 were issued vide Council's letter of even number dated 24.2.1992 and 14.8.1992.

2. It has come to the notice of the council that in certain cases the Scientists who acquired Ph.D. qualification after 1.1.86 have been designated as Senior Scientist on the basis of these letters without obtaining recommendations of the DPC as required under the career advancement scheme. It is clarified that S-2 and S-3 Scientists who had been placed in the pay scale of Rs.3700-5700 w.e.f. 1.1.86 and who were possessing Ph.D. degree as on 31.12.85 could be designated as Senior Scientists without obtaining recommendations of DPC. However, the Scientists who were designated as Scientist(SG) w.e.f. 1.1.86 and had acquired Ph.D. degree from a date subsequent to 1.1.86 and also those Scientists who have been given the designation of Scientist(SG) after 1.1.86 under the provision of new career advancement scheme can be designated as Senior Scientist only after obtaining the recommendations of the DPC as provided in para 5 of the new Career advancement scheme. The Council's letter of 24.2.92 and 14.8.92 referred to in para 1 have to be read alongwith the career advancement scheme and not in isolation.

Receipt of this letter may please be acknowledged.

Yours faithfully,

sd/-

(M.S. Kaundal)  
Dy. Director(P-I)

Copy forwarded to:

1. All DDGs/ADGs, ICAR
2. P.S. to DG/PS to Secretary, ICAR
3. DD(P), ICAR/SA(R), ICAR
4. Per.I/II and III Section, ICAR
5. Secretary staff side, CJSIC, ICAR
6. Personal section of Minister(Agri) and MOS(DARE)
7. Guard file/spare copies.

sd/-  
(M.S. Kaundal)  
Dy. Director(P-I)

INDIAN VETERINARY RESEARCH INSTITUTE  
IZATNAGAR(U.P.)

No.F.15-1/91-E.I(Vol.II)

Dated 24.9.94

OFFICE ORDER

As per instructions received from the Council vide letter No.8(1)/92-Per.IV dated 28.6.94 only such of the Scientists (Sel.Grade) who were holding the Ph.D degree as on 31.12.85 could be designated as Sr. Scientist(S), with effect from 1.1.86 and all those Scientists who were designated as Scientist(SG) as on 1.1.86 and had acquired Ph.D degree from a date subsequent to 1.1.86 can be designated as Sr. Scientists only after obtaining recommendations of DPC as provided in Para 5 of New Career Advancement Scheme.

In pursuance of the above instructions of the Council, the orders issued vide this office orders of even number dated 18.12.92, 18.2.93, 2.4.93 and 14.6.93 designating a number of Scientists(SG), who acquired Ph.D degree at a date subsequent to 1.1.86 as Sr. Scientists and whose names are given in Annexure to this order, are hereby withdrawn with immediate effect, till their cases are considered by the DPC or until further orders, and they will be designated as Scientist(SG) till such time.

sd/-  
(K.S. Hira)  
Sr. Admn. Officer "

3. The applicants have prayed for a direction to the respondents to remove disparity with respect to designation between the senior and their junior colleagues and give designation of senior Scientist to the applicants w.e.f. 1.1.86 as has been given to their junior colleagues as prayed for in the presentation dated 4.3.1993 and respondents should count the length of service in the cadre of Senior Scientist from the date an individual employee joined as Scientist S-2.

4. We have heard the learned counsel for the applicant on admission and the learned counsel has fervently argued on the interpretation of the judgement in the case of Dr. S.M. Ilyas & Ors V. ICAR decided by Hon'ble Supreme Court on 13.11.92 in Civil Appeal No.2736/90-91. The operative portion of the judgement is quoted below:-


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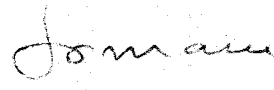
"We, therefore, allow this appeal and direct the respondents to issue appropriate orders so that any of the appellants or the like working as Scientist S-2 or S-3 on or before 31.12.85 earlier to any one of the Scientists getting benefit of the revised pay scales under the impugned notification dated 9.3.1989 also get a similar benefit of revised pay scale of Rs.4500-7300 in the case of S-3 and pay scales "of Rs.3700-5700 in the case of S-2. Such revised pay scales shall be given from 1.1.86 as given to S-2 and S-3 Scientists under the impugned notification. The respondents are directed to take suitable action in this regard and to pay the entire amount within six months from the date of this order."

There cannot be two opinions about the application of this judgement to the Scientist in ICAR but the only representation the applicants made was of March, 1993, a copy of which is annexed as Annexure 'F' where it is requested that judgement of Hon'ble Supreme Court in the case of Dr.S.M. Ilyas & Ors be implemented in 'letter and spirit!'. We find that the respondents by the impugned order dated 24.9.94 referred to above has withdrawn with immediate effect the orders issued vide office orders dated 18.12.92, 18.2.93, 2.4.93 and 14.6.93 designating a number of Scientists(SG), who acquired Ph.D degree at a date subsequent to 1.1.86 as Senior Scientists till such time the cases are considered by the DPC or until further orders, and they will be designated as Scientist(SG) till such time. Here it may be recalled that the ICAR introduced the different pay scales for Scientist w.e.f. 1.1.86 and in the scale Rs.3700-5700 the designation was given of Scientist(Selection Grade) by the order dated 9th March,1989. The S-2 Scientists in the scale of Rs.1100-1600 with 8 years standing till 31.12.85 were designated as Senior Scientist(Sr. Scale) and

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those exceeding 8 years, were designated as Scientist (Selection Grade). Since the respondents have withdrawn their orders issued from time to time and till that order is in force, the applicants have no cause of action and the application, therefore, is premature. The applicants have also not made any representation against the impugned orders challenged in this case. In view of this, the present application is dismissed at the admission stage as pre-mature with liberty to the applicants to assail the same if any grievance occurs to them by revival of earlier orders or by passing another order to their detriment. Application is disposed of accordingly.

  
(B.K. SINGH)  
Member (A)

  
(J.P. SHARMA)  
Member (J)

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