

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

T.A. NO.29/1999
(CWP NO.492/1997)
with
O.A. NO.228/2000

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This the 11th day of October, 2002.

HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE-CHAIRMAN (J)

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

T.A. NO.29/1999 (CWP NO.492/1997)

1. Malaria Research Centre Employees Welfare Association (Regd.) through Shri Inder Singh (President), 2, Nanak Enclave, Radio Colony, New Delhi-110009.
2. Pravin Kumar, Vice President, Malaria Research Centre Employees Welfare Association (Regd.), 2, Nanak Enclave, Radio Enclave, New Delhi-110009. ... Applicants

-versus-

1. Malaria Research Centre through its Director, 22, Shyam Nath Marg, Delhi-110054.
2. Indian Council of Medical Research through its Director General, Ansari Nagar, New Delhi.
3. Union of India through its Secretary, Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi. ... Respondents

O.A. NO.228/2000

1. Malaria Research Centre Employees Welfare Association (Regd.) through Shri Inder Singh (President), 2, Nanak Enclave, Radio Colony, New Delhi-110009.
2. Chand Singh, General Secretary, Malaria Research Centre Employees Welfare Association (Regd.), 2, Nanak Enclave, Radio Enclave, New Delhi-110009. ... Applicants

-versus-

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1. Malaria Research Centre through its Director,
22, Shyam Nath Marg,
Delhi-110054.
2. Indian Council of Medical Research through its Director General,
Ansari Nagar, New Delhi.
3. Union of India through its Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan, New Delhi. ... Respondents

Advocates : Shri C.N.Sreekumar for Applicants

Shri V.K.Rao for Respondents

O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

These applications have been filed by applicant No.1 which is a registered body of the employees working under respondent No.1, i.e., Malaria Research Centre. There are 57 such employees stationed in Delhi and 44 are stationed in UP. All these employees are members of applicant No.1 association. The second applicants in these applications are office bearers in applicant No.1 association.

2. Malaria Research Centre was set up to control endemic malaria in India. In 1985 steps were taken to start another project, namely, Integrated Diseases Vector Control (IDVC) to deal with study and control of diseases spread from vector such as malaria, filaria and other vector borne diseases. 12 field stations were established all over India by respondent No.1 in which there are about 400 subordinate employees under different categories of posts. IDVC project set up in 1986 recruited various categories of staff in the year 1986-87 on a running pay scale along with admissible benefits as

applicable to permanent Government employees such as contributory provident fund, medical benefits, bonus, leave etc. However, with effect from 1988 onwards appointments were made on consolidated salary basis without any other benefits excepting leave benefits. These appointments were made on ad hoc basis for an initial period of three months or six months or one year. Applicants in TA-29/1999 have alleged that although they have been working since 1986-87, their services have not been regularised and that their service conditions have been changed suo motu withdrawing the regular pay scales and placing them on a consolidated salary basis. Respondent No.1 is stated to have recommended regularisation of the IDVC project but applicants' services have not yet been regularised and they have not been placed in the appropriate running pay scale. Applicants in TA-29/1999 have sought regularisation of their services in the appropriate running pay scale from the date of their joining respondent No.1, with all consequential benefits.

3. In OA-228/2000, applicants are aggrieved that they are not being paid equal pay for equal work though regular employees doing the same work and working in the same organisation are placed in regular pay scales, and that applicants have been discriminated against and denied the same wages as the regular employees. They have sought equal pay for equal work to the members of the applicant association in Groups 'A', 'B', 'C' and 'D' categories along with other benefits as applicable to regular employees.

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4. The learned counsel of applicants contended that the Governing Body of the Council (ICMR) has the same powers in the matter of expenditure from the funds of the Council as the Government of India possess in respect of the expenditure from public funds, property save in the matter of pay, allowances and concessions to Government servants on foreign service, which will not be greater than those admissible under the code rules of the Government. He further stated that in the 77th meeting of the Governing Body of ICMR held on 2.8.2000, the recommendations made in the report of Dr. Y.P.Rudrappa Committee were deliberated and the Governing Body accorded approval to the proposal for permanency of staff on long term projects with service of more than five years subject to a re-deployment plan to be formulated and accepted by the Ministry of Health. The learned counsel relied on order dated 4.12.2001 passed by CAT, Madras Bench in Dr. Shyamala Balasubramanian & Ors. v. ICMR & Ors. (OA No.1332/2000) stating that in a similar case relating to the Regional Centre for Clinical Research in Human Reproduction (HRRRC) under the ICMR where the applicants were continuously working for a number of years, respondents were directed to consider their cases for regularisation. He further relied on CAT, Madras Bench order dated 10.7.2002 in G.R.Srinivasan & Ors. v. ICMR & Ors. (OA No.7/2001) wherein in a similar case, respondents were directed to consider regularisation/absorption of applicants as accorded to other similarly situated persons.

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5. On the other hand, the learned counsel of respondents stated that recommendations of the Rudrappa Committee and the Governing Body of ICMR are merely recommendatory in nature and the Government is required to take a decision on these recommendations depending on various factors, including Government policy and prevailing orders. So far as Rudrappa Committee is concerned, it had recommended that out of 13 field stations, 8 may be continued and field stations at Delhi, Allahabad, Car-Nicobar, Haldwani and Rourkela which had completed their mandate be terminated. However, the Governing Body of the ICMR in its meeting held on 28.1.1999 went beyond the recommendations of the Rudrappa Committee and without adequate functional justification, recommended continuance of units at other places except Delhi, namely, Allahabad, Car-Nicobar, Haldwani and Rourkela. In its meeting held on 2.8.2000 the Governing Body approved ICMR's proposal for permanency of staff in long term projects with service of more than five years and for staff with less than five years of service, it was recommended that the terms and conditions would be strictly contractual. The learned counsel stated that the Governing Body did not go into the details whether the terms and conditions of all the existing employees are also contractual or not. He relied on the following:

- (1) Order dated 30.10.1998 of the Orissa High Court in B.K.Behera & Ors. v. Union of India & Ors., O.J.C. No.5246/1997; and

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(2) State of Himachal Pradesh v. Ashwani Kumar & Ors.,
1996 (1) SLR 647 (SC).

In the former case, relating to petitioners working in sub-stations of Malaria Research Centre it was directed, "in case the project continues beyond 31.3.1999, services of the petitioners may not be interfered with except in accordance with law and such continuation will depend upon continuation of the project. Question of regularisation and getting such other benefits at par with regular employees does not arise at this stage unless the establishment itself is a permanent one which is not the case at present." The petitioners were, however, given leave to make a representation to the authorities to seek consideration for according financial benefits at par with the employees working under the similar circumstances in other centres of the same project.

6. The learned counsel of respondents stated that applicants do not have any right for regularisation of their services, however, they would be continued in service as long as the project continues on the terms stated in the order of the Hon'ble High Court of Orissa in the case of B.K.Behera (supra). The learned counsel further stated that applicants also do not have any right of a regular pay scale.

7. We have considered the rival contentions carefully. There is no dispute about the powers of the Governing Body relating to matter of expenditure from the

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funds of the Council and also approval of the Governing Body for the proposal for permanency of staff on long term projects with service of more than five years subject to a re-deployment plan being formulated and accepted by the Ministry of Health as stated in the minutes of the 77th meeting of the Governing Body of ICMR held on 2.8.2000. However, we agree with respondents that recommendations of the Rudrappa Committee and Governing Body of ICMR are recommendatory in nature and unless these are accepted by the Government in terms of the policy and orders prevailing, they cannot be implemented. It has not been shown to us that the project has been accorded permanency by the Government and a re-deployment plan has been formulated and accepted by the Ministry of Health. In such circumstances, though the project in question may have continued for a long number of years, it has not been established that it has been accorded a permanent status. It seems that the project has been continued from year to year on the basis of funds allocated on annual basis. In these circumstances, present TA No.29/1999 has to be disposed of in a similar way as the Hon'ble High Court of Orissa had disposed of the case of B.K.Behera (supra) with the following observations :

The services of applicants may not be interfered with except in accordance with law till such time that the project is continued. The question of regularisation of their services does not arise at this stage unless the establishment is made

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permanent by the Government, which is not the case at present.

8. As regards OA No.228/2000, from the material available on record, it is established that whereas applicants had commenced their service in 1986-87 on a running pay scale ^{it} ~~which~~ was discontinued w.e.f. 1988 according a consolidated salary to them. This OA is disposed of with an observation that applicants may make a comprehensive representation to their authorities to consider granting them pay and allowances and other financial benefits at par with the employees working under the similar circumstances in the same project. If such employees have been placed in regular pay scales and draw certain other benefits, applicants be also considered for grant of similar pay scales and other benefits provided that they are doing identical work and have been exhibiting the same output of work. Such representation should be sympathetically considered within a reasonable period and should be disposed of by a speaking ^{and} ~~reasoned~~ order ^{to be} ~~and~~ communicated to applicants.

9. No order as to costs.

^h 10. Let a copy of this order be placed in OA 228/2000. ^h

(V. K. Majotra)
Member (A)

(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

/as/

Principle Officer
Court Officer
Central Administrative Tribunal
Principal Bench, New Delhi
Faridkot House,
Copernicus Marg,
New Delhi-110001