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CENTRAL ADMINISTRATIVE TRIBUNAL:PRINCIPAL BENCH.

O.A. NO. 796/89

New Delhi this the 19th day of April, 1994.

Shri Justice V.S. Malimath, Chairman.

Shri P.T. Thiruvengadam, Member(A).

1. S.P. Singh
S/o Shri Ramjit Singh,
T-588, Nabi Karim, Gali Hanuman Mandir,
New Delhi.
2. Rama Kant Shukla,
S/o Shri K.N. Shukla,
T-588, Nabi Karim, Gali Hanuman Mandir,
New Delhi. ..Petitioners.

By Advocate Shri Mahesh Srivastava.

Versus

1. Indian Council of Agriculture Research,
Krishi Bhawan, New Delhi.
2. Indian Agriculture Research Institute,
Pusa Institute, New Delhi.
...Respondents.

By Advocate Shri H.C. Kapoor.

ORDER (ORAL)

Shri Justice V.S. Malimath.

The petitioners, Shri S.P. Singh and Shri Rama Kant Shukla, were originally appointed as Field Investigators in the Unit of the Nsper of Technology on ad hoc basis for a specific period. The consolidated pay offered to them was Rs.600/- which came to be increased to Rs.1000/-. There was an offer of appointment made which was accepted by the petitioners. The contractual appointment was made for a specific period which continued from time to time, on the same terms and conditions. The petitioners presented this application before the Tribunal in the year 1989 praying for a direction to the respondents to accord to them the benefit of the scale of pay of Rs.1400-2300, the pay scale attached to the post of Field Investigators in the I.C.A.R. The claim is

made invoking Articles 14 and 16 of the Constitution and the principle of equal pay for equal work. During the pendency of this application, nearly three years after the application was filed, their services were terminated by order dated 25.6.92, on the ground that their services are no longer required beyond the expiry of present sanction i.e. 20.6.1992 consequent upon the decision taken to wind up the project location at Mirzapur and Allahabad in respect of which the petitioners were employed. After the order of termination was made, the petitioners filed an application, MP 2037/92, in which they prayed for a direction to continue them tentatively/provisionally or/and direct the respondents to pay last drawn wages to the applicants till the decision of the application or/and direct the respondents not to employ any other person or persons except the applicants for the jobs, in question till the decision of the application. On the said application, the Tribunal made an order on 27.7.92 directing the respondents not to engage any fresh persons in place of the applicants. Two week's time was granted to file a reply to the respondents. The interim order was further continued. The application was ultimately directed to be heard at the time of the hearing of the main application. The question of allowing this application, MP 2037/92, does not arise as that application was only for an interim direction pending disposal of the O.A. Now, as the O.A. is being disposed of, the question of making any further direction in that application also does not arise.

2. On 15.4.1994, the petitioners have filed another application filing number of which is 3452. Obviously, the said application has not been processed as no M.A. number has been given by the office so far. This application purports to be one for amendment of the Original Application. The counsel for the petitioners invited our attention to Paragraph 10 of the application wherein it is prayed that the following be incorporated in Paragraph 8 of the O.A.:

"It is stated that the order of 25.6.92 copies of which has been filed in record as Annexure A1".

The counsel for the petitioners submitted that there is a typographical error and that the word "Stated" is not correct and that it should read as "set aside". Even if we accept this submission of the learned counsel for the petitioners, it certainly looks awkward. Be that as it may, even if we give a liberal meaning to the prayer as conveying that what is stated by way of amendment is setting aside the order of termination dated 25.6.92. the question of consideration is as to whether the application deserves to be allowed.

3. On the face of it, the application is highly belated. The order of termination is dated 25.6.92 and the application for amendment has been filed on 15.4.1994 challenging the order of termination dated 25.6.1992. As the date on which the amendment application was filed, the prayer of the petitioners for challenging the order of termination was clearly barred by limitation. There is no good or satisfactory reason for this inordinate delay. It is not as though the petitioners were not aware of the order

of termination. As a matter of fact, they have adverted to the same in M.P. No.2037/92. That application was only for an interim direction and not for amendment of the Original Application challenging the order of termination. The petitioners having been served with the order of termination and having been required to vacate the post ought to have challenged the order of termination immediately. That not having been done, there is no satisfactory explanation for this inordinate delay. Besides, we fail to see how such a prayer by way of amendment can be asked in the present proceedings. The Original Application, as already stated, is one for grant of equal pay for equal work. It has nothing to do with the termination of the petitioners' services on one ground or the other. The prayer challenging the termination is wholly unconnected with the prayer in the main O.A. which is for claiming equal pay for equal work. Looked at from any angle, it is not possible to accept the application for amendment. Hence, the application for amendment bearing filing No. 3452 is hereby rejected.

4. Hence, the only question that we are required to examine in this case is as to whether the petitioners are entitled to the scale of pay of Rs.1400-2300. The claim, as already stated, has been made on the assertion of the petitioners that in the I.C.A.R. the post of Field Investigators is in the pay scale of Rs.1400-2300 and that the petitioners have been appointed as Field Investigators and they are discharging the same duties and responsibilities as are being discharged by the Field Investigators in the I.C.A.R. Therefore, they claim that

they cannot be discriminated in the matter of pay scale when they are discharging the same duties and responsibilities. Apart from the assertion of the petitioners in this behalf, no material as such has been placed to prove that the duties, responsibilities and functions discharged by the petitioners as Field Investigators are the same as the duties, responsibilities and functions of the Field Investigators in the I.C.A.R. The respondents have stated in their reply that the petitioners were employed in a particular scheme which was sanctioned for a specified period and that they are not members of the regular staff of the I.C.A.R. They have further asserted in the reply to paragraphs (B), (D) and (F) that apart from the fact that they have engaged the petitioners against the scheme which is of temporary nature, they are not performing the same duties which are being performed by the Field Investigators in the I.C.A.R. Their work and responsibility are not similar, and hence the principle of equal pay for equal work does not apply. They have further pointed out that the elaborate rules regarding regular recruitment to the post of Field Investigators were not required to be filled up when the petitioners were appointed for short periods in the specific scheme. In other words, the scrutiny required and the standard required for regular Field Investigators was of a high order than the one which was required to be satisfied for making appointment for short periods in the specific scheme. We have already stated that the petitioners have not placed any material to show that they are similarly situate. The burden to prove that they are similarly situate is on the

petitioners. The respondents having specifically denied and there being no material in support of the petitioners claim, it has to be held that the petitioners have failed to make good the assertion that they are discharging the same duties as are being performed by the Field Investigators in the ICAR. Hence, the petitioners are not entitled to claim for grant of the scale of pay of Rs.1400-2300 in their favour.

5. For the reasons stated above, this petition fails and is dismissed. No costs.

P.T.Thiru-

(P.T. Thiruvengadam)
Member(A)

V.S. Malimath
(V.S. Malimath)
Chairman

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