

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1722
T.A. No.

1987

DATE OF DECISION 23.2.1990

Dr. J.C.L. Sethi and others Petitioner

Mr. Maesh Srivastava Advocate for the Petitioner(s)

Versus

Union of India and another Respondent

Mr. A.K. Sikri Advocate for the Respondent(s)
Mr. Ramji Srinivasan.

CORAM :

The Hon'ble Mr. G. Sreedharan Nair, V.C.

The Hon'ble Mr. P.C. Jain, M(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? X
2. To be referred to the Reporter or not? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? X
4. Whether it needs to be circulated to other Benches of the Tribunal? X

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Registration No. O.A.1722 of 1987

Date of decision 23.2.1990

Dr. C.L. Sethi and three others ..

Applicants

- versus -

The Union of India and another ..

Respondents

CORAM: Hon'ble Shri G.Sreedharan Nair, Vice-Chairman

Hon'ble Shri P.C. Jain, Member (Administrative)

Counsel for the applicants : Mr. Mahesh Srivastava.

Counsel for the respondents : Mr. A.K. Sikri

Mr. Ramji Srinivasan.

ORDER

(Passed by Hon'ble Shri G.Sreedharan Nair, Vice-Chairman):-

The applicants were Scientists in the Indian Agricultural Research Institute. From February, 1966, they became employees of the Indian Council of Agricultural Research, for short 'the ICAR'. With effect from 2.10.1975 the ICAR introduced the Agricultural Research Service, governed by the Agricultural Research Service Rules, 1975. The applicants were inducted into that Service. The said Service contains four grades, Scientist (S), Scientist 1 (S-1), Scientist 2 (S-2), ^{and} Scientist 3 (S-3). Though there is no grade in the Service above that of Scientist 3 (S-3), rule 12 of the Service Rules provides that a Scientist may be allowed to have a personal scale of pay higher than that of Grade S-3 while continuing in the service, in recognition of outstanding performance in service.

2. It is alleged by the applicants that with effect from 1.7.1982 they have been granted promotion from S-3 grade

to S-4 grade under the aforesaid rule 12 and the pay-scale of the S-4 grade was given as personal to them, fixing ~~from~~²⁰ basic pay of Rs.2000/- per mensem. It is alleged that prior to that they were drawing basic pay of Rs.1900/- in the grade of Scientist 3 having a scale of pay of Rs.1500-2000. It is stated that along with the applicants three other Scientists in S-3 grade, namely, Dr. Baldev, Dr. Verma and Dr. G.R. Sethi were also considered before the Recruitment Board but they were not assessed fit under rule 12. It is further stated that Dr. Baldev was assessed fit only on 1.7.1983 and the other two only with effect from 1.1.1984.

3. The grievance of the applicants is that while the basic pay of Dr. Baldev, Dr. Verma and Dr. Sethi ~~was~~^{is} fixed at Rs.2125.00 from the date of the assessment of their fitness, the applicants are drawing a lower salary. It is stated that the representation submitted by them against the anomaly was not accepted. Hence, they pray for commanding the respondents to rectify the anomaly and for stepping up of their salary. It is urged that F.R.31 (2) and F.R.22(a) (i) have to be applied in their case, and the non-application of the same is illegal and violative of Articles 14 and 16 of the Constitution of India.

4. In the reply filed on behalf of the respondents, it is stated that as per the Agricultural Research Service Rules, the substantive promotion is only up to the grade of S-3 and that under rule 12, in recognition of outstanding performance and research, a Scientist is only given the scale of pay of the grade S-4, as personal to him. It is pointed out that as on 1.7.1982^{the basic pay of} all the applicants and Dr. Baldev, Dr. Verma and Shri Sethi was Rs.1900/-, and that when the applicants were given the ^{scale} pay of S-4 grade, namely, Rs.1800-2050, ^{of the applicants} their basic pay was fixed at Rs.2000.00. It is

pointed out that the other three were given advance increments on their assessment for eligibility for the S-4 grade, and hence the pay of Dr. Baldev was fixed at Rs.2000.00 with effect from 1.7.1982. Subsequently, when he was assessed for grade S-4, his pay was fixed at Rs.2125.00 as on 1.7.1983 after giving him one increment in the scale of pay of the grade S-4. The respondents state that it was in the same manner that the pay of the other two were also fixed. The respondents thus justify the higher pay fixed in their case. It is contended that in the circumstances there is no scope for the application of F.R.31 (2). It has also been pointed out by the respondents that there is no concept of inter se seniority among the Scientists in a particular grade.

5. After hearing counsel on either side, we are of the view that there is no foundation for the alleged grievance of the applicants.

6. It is clear from a perusal of the Agricultural Research Service Rules, 1975, for short the Service Rules, that there are only four grades in the Service, Scientist(S), Scientist 1 (S-1), Scientist 2 (S-2) and Scientist 3 (S-3). Applicants, ~~and~~ Dr. Baldev, Dr. Verma and G.R. Sethy were all in the grade S-3, which grade carries a pay-scale of Rs.1500-60-1800-100-2000. By the order dated 1.10.1984, the first applicant was allowed the pay-scale of Rs.1800-100-2000-125/2-2250 as personal to him with effect from 1.7.1982. The said scale of pay is that of Scientist 4 (S-4) which is the initial grade in the Research Management ^{Positions} ~~Possessions~~ of the ICAR Agricultural Research Service. Admittedly, this has been done in accordance with rule 12 of the Service Rules which is extracted hereunder:-

"Notwithstanding anything contained in these rules, a scientist may be allowed to have a personal scale of pay higher than that of Grade S-3 while

continuing in the Service, in recognition of outstanding performance in research. For this purpose, an appropriate procedure for assessment shall be prescribed by the Controlling Authority, in consultation with the Board."

The grant of the higher pay to the other applicant is also based on the same rule. The fallacy of the plea of the applicants lies in the wrong assumption that what has been allowed is a promotion to a higher grade and appointment to it. Actually, the order dated 1.10.1984 does not spell out any such promotion or appointment in a higher grade. Indeed, rule 12 does not warrant the same. The merit promotion contemplated under the Service Rules is laid down in rule 19, which relates only to promotion from one grade to the next higher grade. Since S-3 is the highest grade, there cannot be any merit promotion to a higher grade. What is permitted under rule 12 is only the grant of personal scale of pay higher than that of the grade S-3, while continuing in the service in the grade of S-3. This is in recognition of outstanding performance in research. So much so, even after the order dated 1.10.1984 the applicants continue in the grade S-3, but of course with the pay-scale of Rs.1800-2250 which is ¹⁰scale of pay of the grade S-4, allowed as personal pay.

7. In addition to the system of merit promotion from one grade to the next higher grade, there is also the scheme for grant of advance increment within the same grade, after assessment in that behalf. Provision to this effect is contained in rule 19 of the Service Rules.

In accordance with the scheme, Dr. Baldev, Dr. Verma and G.R. Sethi were allowed one advance increment in the grade of S-3 with effect from 1.7.1982. As on that date,

pay of the applicants as well those three was Rs.1900.00. When those three were allowed advance increments their pay was fixed at Rs.2000.00. As regards the applicants, since they were allowed the pay-scale of S-4 grade, namely, Rs.1800-2250, as personal to them with effect from 1.7.1982, their pay was also fixed at Rs.2000.00. It may be noted that after the stage of Rs.2000.00, the increment of Rs.125.00 in the scale of pay of Rs.1800-2250 is biennial. Hence, while Dr. Baldev was allowed the scale of pay of grade S-4 pursuant to the subsequent assessment as on 1.7.1983, his pay was fixed at Rs.2125.00, and when Dr. Verma and Sethi were allowed the scale of pay of the grade S-4 with effect from 1.1.1984 consequent upon the assessment, their pay has also been fixed at Rs.2125.00. Naturally, as the applicants are eligible for the increment only as on 1.7.1984, they cannot claim basic pay of Rs.2125.00 prior to that.

8. From the foregoing discussion, it is clear that there is no real foundation for the alleged grievance of the applicants. There is no scope at all for the application of F.R. 31 as prayed for by the applicants, for the applicants have not been appointed to any higher posts. As pointed out earlier, even after the order dated 1.10.1984 under which they have been allowed the scale of pay of the S-4 grade, they are actually continuing in the S-3 grade only. Nor is there any ground for stepping up of the pay of the applicants. F.R.22 (a)(i) relied upon by the applicants has no relevance as there has not been an appointment to a new post as is required

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therein. The plea of violation of Articles 14 and 15 is also equally unsustainable.

9. In the result, the application is dismissed.

Cum 23/2/90
(P.C.Jain)
Member (A)

Cum 23/2/90
(G.Sreedharan Nair)
Vice-Chairman