

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI.

Q.A. No. 1186/90

New Delhi this 31<sup>st</sup> day of August, 1994.

Hon'ble Mr. S.R. Adige, Member(A)

Hon'ble Mrs. Lakshmi Swaminathan, Member(J)

Shri Pritam Singh,  
s/o Dr. Kunwar Singh Bisht,  
r/o Village Pipli,  
P.O. Deolikhet, Ranikhet (Tehsil)

Distt. Almora ..... Applicant

By Advocate Shri G.D. Gupta,

Versus

Union of India through

1. Secretary to Government of India,

Ministry of Agriculture,  
Department of Agriculture, Research  
and Education,

Krishi Bhawan,  
New Delhi

2. Indian Council of Agricultural Research,

through its Director General,  
Krishi Bhawan,  
New Delhi

3. The Secretary,  
Indian Council of Agricultural Research,

Krishi Bhawan,  
New Delhi

4. Indian Veterinary Research Institute  
through its Director,

Izatnagar,  
Bareilly (UP)

..... Respondents

By Advocate Shri A.K. Sikri

JUDGMENT

By Hon'ble Mr. S.R. Adige, Member(A)

In this application, Shri Pritam Singh, Senior Computer, Category I has prayed for granting pay scale of Rs. 425-700 (pre-revised) with effect from the date he was appointed as Senior Computer i.e. 31.7.76 with all consequential benefits including arrears of pay and allowances, seniority,

and further promotions/induction to higher scale of Scientist Grades.

2. The applicant was appointed to the post of Senior Computer in the scale of Rs.330-560/- on 31.7.76 in the Indian Veterinary Research Institute (IVRI) under the Indian Council of Agricultural Research (ICAR). The post of Senior Computer as held by the applicant was included in the ICAR Technical Service which was constituted under the Technical Service Rules promulgated in March, 1978 but was given effect to from 1.10.75. On the basis of five years assessment, the applicant was promoted in the scale of Rs.425-700/- w.e.f. 1.7.82, which was later revised to Rs.1400-2300/- w.e.f. 1.1.86 on the basis of IVth Pay Commission recommendations. Meanwhile, the ICAR vide its letter dated 29.9.74 addressed to the Director, Institute of Agricultural Research Statistics, New Delhi (Annexure-A5) stated that in future all the posts of Senior Computers should be filled in by the persons possessed a degree in Mathematics/Statistics etc. as the essential qualification and the revised scale would be Rs.425-600/- instead of Rs.330-560/-. For those who did not possess the essential qualification it was stated, the lower revised scale of Rs.330-560/- only would be applicable. It appears that on the basis of that letter, the Computers/Senior Computers working in various Institutes under the ICAR started claiming the scale of Rs.425-600/- 425-700/- especially in the cases where the minimum qualification required was a degree in Mathematics/Statistics and also on the ground that the nature of duties of the said post of Computer/Senior Computer were identical to the nature of duties attached to the

said post of Computer/Senior Computer of the Institute of Agricultural Research Statistics, New Delhi (IARS) now Indian Agricultural Statistics Research Institute (IASRI). In this connection, a writ petition was filed in the Andhra Pradesh High Court in 1979 bearing Civil Writ No. 5741/79 'Shri Y.R. Sharma & another Vs. UOI & others'.  
The said writ petition was filed by/two Computers of Central Rice Research Institute, Cuttack working in All India Co-ordinated Rice Improvement Project, Rajendranagar, Hyderabad. The said writ petition was allowed by judgment dated 28.8.86 and they were ordered to be paid the same scale as was paid to the Senior Computers i.e. Rs. 425-600/- (Annexure -A6) and the appeal (No. 1474/86) filed by the Govt. of India was dismissed (Annexure-A7). The case of the petitioners was that/had the same qualifications and experience as were attached to the post of Senior Computer and since the scale of Senior Computer was Rs. 425-600/-, the same should be given to them. This contention appears to have been accepted and it was concluded that the employees designated as Computers and Senior Computers working in various Organisations under the ICAR and its various projects should be put on the same line of scale of Rs. 425-600/- and that too w.e.f. 1.1.73 or from the dates the petitioners in that case were appointed whichever was later. The applicant contends that on the basis of ICAR's letter dated 2.9.74 and also on the basis of Andhra Pradesh High Court's judgment referred to above, he became entitled to be given the scale

of Rs.425-600/- with effect from the date he was appointed as Senior Computer i.e., 31.7.76 and his representation was also forwarded by the Parent Organisation (IVRI) to the ICAR, but the same was rejected. Meanwhile, the ICAR itself by order dated 14.2.90 (Annexure-A16) announced that there would be no recruitment against the posts of Computer in the pay scale lower than Rs.1400-2300/- (pre-revised scale Rs.425-700/-) and the scale of pay of the present Computers at the Institutes which also included the IVRI who were appointed in the scale of Rs.1330-560/- (pre-revised) on or before 1.1.73 was raised to Rs.1400-2300/- w.e.f. 1.2.90. The applicant has impugned this order dated 14.2.90 to the extent that it denies the revision of pay scale of Rs.425-700/- to those who were appointed as Senior Computers after 1.1.73.

3. The respondents in their reply have resisted ~~the~~<sup>the 1<sup>st</sup></sup> claims made in the O.A. and point out that a similar application filed by one Shri Verghese Jacob (O.A. No. K-340/88) before the Ernakulam Bench of the Tribunal was dismissed vide order dated 17.8.89 on the ground that there could not be a retrospective revival of a grievance which was not felt when the alleged discrimination was in force. The respondents have contended that the relief of pay scale Rs.425-700/- w.e.f. 31.7.76 is hopelessly time barred. It is further submitted that the applicant cannot impugn the order dated 14.2.90 which was issued totally in different context. That apart, it is contended that the post of Senior Computer against which the applicant joined on 31.7.76 was originally in the

scale of Rs.130-300/- which was subsequently revised to Rs.330-560/- on the recommendations of Third Pay Commission. The respondents contend that with the introduction of Technical Service Rules, the posts carrying qualifications which were attached to the post of Senior Computer in IVRI, were placed under Category II in the pay scale of Rs.425-700/- elsewhere, but the said post was replaced in Category I in the scale of Rs.330-560/- in IVRI because no post of Senior Computer in the higher grade of Rs.425-700/- was sanctioned for the Organisation. The applicant is also not covered under Rule 5.1 of Technical Services Rules according to which the persons holding positions in the merged grade of Rs.425-700/- and possessing qualifications prescribed for Category II would be fitted in the scale of Rs.425-700/- as the pay scale of Senior Computer was merged in the grade of Rs.130-300 (Rs.330-560/-) although he possessed the qualifications for Category -II. It was only by promotion that the applicant was granted scale of Rs.425-700 w.e.f. 1.7.82 which he accepted, and the respondents state that he cannot as a belated and afterthought now claim the said pay scale of Rs.425-700/- w.e.f. 31.7.76. The respondents have urged that the order dated 14.2.90 is not at all applicable to the applicant and under its garb, he is trying to rake-up an old and belated issue for which the application is hopelessly time barred. It has been urged that the Andhra Pradesh High Court's judgment does not help the applicant as the said decision was to replace the scale of Rs.330-560/- with that of Rs.425-600/-, and

not Rs.425-700/- Had the applicant been allowed the scale of Rs.425-600/- pursuant to that decision, even then he was not eligible to be inducted into ARS because only those persons of Technical or Scientific Category were eligible who were holding the posts in the scale of Rs.425-700/- or above on the date of constitution of service i.e. 1.10.75. Further it has been pointed out that the applicant has been in the scale of Rs.425-700 (replaced by Rs.1400-2300) since 1.7.1982, i.e., much before the respondents' impugned circular dated 14.2.1990 granting this scale w.e.f. 1.2.1990 to Computers who were appointed prior to 1.1.1973, and, therefore, he cannot use this circular to claim Rs.425-700 w.e.f. he joined as Jr. Computer, i.e., 31.7.1976 as the circular does not apply to him.

4. In the rejoinder the applicant has denied the averments made in the reply and has reiterated the O.A.'s contents.

5. We note that the applicant has filed this O.A. against his being placed in the lower scale Rs.330-560 and claiming the higher scale Rs.425-700 w.e.f. 21.7.1976, as late as 7.6.1990, i.e., nearly 14 years after being placed in the lower scale and nearly 8 years after he had ceased to be in the lower scale and had been placed in the higher scale (1.7.1982). In our view, the ratio in Jacob's case (supra) (which fully discusses the A.P. High Court's judgments relied upon by the applicant) is fully applicable in the present

case, and Shri G. D. Gupta for the applicant has not shown us any materials to enable us to conclude that the Tribunal's said judgment does not presently hold the field. He has sought to use the impugned circular of 14.2.1990 to base his claim for the pay scale Rs.425-700 from 31.7.1976 but the respondents have correctly pointed out that the said circular was issued in a different context and raises the scale of Computerors appointed before 1.1.1973 to Rs.1400-2300 (pre-revised Rs.425-700) w.e.f. 1.2.1990 whereas the applicant (who incidentally was not a Computer, but a Junior Computer) was already in that scale of Rs. 1400-2300 for over 7½ years before, i.e., on 1.7.1982. It might have been different if the applicant had not been in the scale of Rs.1400-2300 as on 1.2.1990 and was claiming this scale from that date on the ground that it was illegal to discriminate between those Computerors appointed before 1.1.1973 and those appointed after that date with reference to grant of this scale from 1.2.1990, but as the applicant was in this scale well before that date, the impugned circular does not help him to challenge successfully the ratio in Jacob's case (supra) to secure the scale of Rs.425-700 retrospectively w.e.f. 31.7.1976.

6. In the result, the impugned circular warrants no interference and this application is dismissed.  
No costs.

*Lakshmi Swaminathan*  
( Mrs. Lakshmi Swaminathan )  
Member (J)

*S. R. Adige*  
( S. R. Adige )  
Member (A)

/as/