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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 565 of 1990

New Delhi this the 13th day of May, 1997

**HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)**

1. The Welfare Association of Young Agricultural Research Scientists of India represented by its Vice-President DR. H.S. Gill, Scientist.
2. Dr. H.S. Gill Scientist, Grade S-1, S/o Shri Shangara Singh, Division of Soil and Agronomy, Central Soil Sanlinity Research Institute, Karnal-132001.Applicants

Shri D.K. Sinha with Shri S.S. Tiwari, Counsel for the applicants.

Versus

1. Indian Council of Agricultural Research through its Secretary, Krishi Bhavan, Dr. Rajender Prasad Road, New Delhi-110 001.
2. Ministry of Agricultural Research and Education through its Secretary, Department of Agricultural Research and Education (DARE), Krishi Bhavan, Dr. Rajinder Parshad Road, New Delhi.
3. Union of India through its Secretary, Ministry of Finance, New Delhi-110 001.Respondents

Shri A.K. Sikri with Shri V.K. Rao, Counsel for the respondents.

ORDER

Hon'ble Mr. K. Muthukumar, Member (A)

The applicant-Association through its President, who is a Scientist Grade S-1 in the

Agricultural Research Service (ARS) under the respondents along with another has sought for a direction to the respondents to give the applicants the benefit of assessment/DPC for S2 Grade after completion of 5 years of service from the respective date of joining and subsequently place them in next selection grade of Rs.3700-5700 after total 8 years of service from the date of joining.

2. The brief facts relevant in this case, are as follows:-

The respondents by their letter dated 9.3.1989 introduced revised pay scales in respect of Agricultural Research Scientist of the ICAR and the research institutes. These revised scales came into force with effect from 1.1.1986. The option to draw salary in the revised scale was also to be exercised within three months from the date of issue of this letter and it was also provided that if the intimation regarding the option was not received within the prescribed time, the Council-employee would be deemed to have opted for the revised scales of pay with effect from 1.1.1986. It was provided as a result of the adoption of the UGC pay package as reflected in the aforesaid revision of scales of pay, the scheme of assessment, recruitment etc. stood modified with effect from 1.1.1986 and comprehensive instructions therefor would be issued shortly. The UGC pay package as introduced in the revised scales of pay provide for a revised scale of

pay for the existing grades of S-0 and S-1 to S-6 Scientists in the ARS. The grievance of the applicants is in regard to the benefit of Senior Scale in the revised scale of Rs.3000-5000 and the selection grade of Rs.3700-5700. The circular of 9th March, 1989 ibid provides for the replacement scale for S-2 in the pre-revised scale of 1100-1600 as follows:-

Scientist S-2	Pre-revised	Revised
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with total service in	1100-1600	3000-5000
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ARS as on 31.12.1985

upto 8 years.

Scientist S-2	1100-1600	3700-5700 (with selection grade)
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with total service in the

ARS as on 31.12.1985 exceeding

8 years.

From the aforesaid it would be clear that the Scientist S-1 will be eligible for replacement scale of 3000-5000 if he had 8 years of service as on 31.12.1985. Under the old assessment scheme for the aforesaid category of Scientist S-1, the scheme provided for assessment at the end of 5 years whereupon the S-1 Scientists were considered for pre-revised scale of 1100-1600. Now under the aforesaid scheme, the replacement scale will be available only in respect of S1 Scientists who have 8 years of service as on 31.12.1985. In other words, if the S-1 Scientist falls short of 8 years

service as on 31.12.1985, he will be given only the replacement scale of 2200-4000 as on 1.1.1986.

Similarly under the old scheme, the next higher grade will be available after the expiry of 5 years in the S-1 grade whereas under the present scheme, the selection grade will be available only to those Scientists who have had 16 years of service as on 31.12.1985. The applicants contend that the respondents have given favourable consideration to all Scientists in S-1, S-2 and S-3 grades as and when they complete 8 years or 16 years of service as the case may be, whereas they have completely ignored the career advancement which was available to S-1 Scientists under the earlier promotion policy by which such Scientists would be eligible for promotion to S-2 even after 5 years whereas under the present scheme unless and until they have 8 years of service as on 31.12.1985 they will not be eligible to be placed in the scale of Rs.3000-5000.

To illustrate this further, the applicants have given some examples. If a Scientist S-1 is appointed on 1.1.1981, he would be eligible for assessment under the old scheme on or after 31.12.1985 whereas under the new scheme, he would not be eligible for assessment for senior scale as he had not completed 8 years of service as on 31.12.1985. On the other hand, a Scientist S-1 appointed on 1.1.1978 would have been eligible for being placed at Rs.3700-5700 as they would have

completed 8 years of service as on 31.12.1985. Thus, the applicants pointed out that although the earlier appointee was only 3 years junior, he would not be considered eligible even for assessment for the senior scale 3000-5000 itself. The applicants contend that the option given in the scheme did not provide for any alternative, if any Scientist does not want to opt for UGC pay package. The contention of the applicants is that while the revised pay scales were introduced with effect from 1.1.1986 retrospectively, the personnel policy was modified much later, i.e., after 3 years after the issue of the letter dated 9.3.1989 which sought to provide for assessment only after 8 years at every stage as compared to a period of 5 years under the old promotion policy of the respondents. It is stated that only by the Circular dated 6.7.1990 it was provided that such of those ARS Scientists who did not opt for the UGC pay package would continue in the pre-revised scale and opt for the career progression scheme as was obtaining before adoption of UGC pay package, and even at that time the new promotion policy was not indicated. Therefore, the applicants contend that the several Scientists who joined ICAR on or after 1.1.1986 but before the original notification dated 9.3.1989 were not given any chance to exercise their option and this had adversely affected the prospects of early promotion of Scientists as they were assured of eligibility for promotion on the basis of 5 years assessment as

provided in the ARS Rules, 1988, which the respondents had unilaterally changed to 8 years under the new scheme. When this matter was raised with the respondents and they were required to provide for the replacement scale of Rs.3000-5000 after the completion of 5 years of service and subsequently Rs.3700-5700 on their completion of 8 years of service as agreed to in the case of S-3 Scientists, this was not considered by the respondents and it was clarified that the demand could not be agreed to as the old promotion scheme had ceased to be operative from 1.1.1986. The applicant contend that what the respondents have granted was not a UGC pay package in full but a modified one. They are also aggrieved that the respondents imposed UGC pay package without giving any chance to S-1 Grade Scientists who joined the service before March, 1989 as per the terms and conditions of the ARS Rules, 1988. The other ground taken by the applicants who joined as Scientist S-1 in the ARS on an All India basis and who are appointed with the same service conditions as applicable to the erstwhile Scientists S-2 and S-3 is that there is no logic to discriminate the applicants by merely fixing an arbitrary cut-off date. They further contend that all the Scientists who joined before the date of original notification dated 9.3.1989 should be treated equally with Scientists S-2 and S-3 and should be assessed after

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a period of 5 years for grant of scale of Rs.3000-5000 and should be subsequently placed in the scale of Rs.3700-5700 after the completion of 8 years of service. Another ground taken by the applicants is that the cadre of Scientists in the grade of S-1, S-2 and S-3 are to be considered together and the condition of service for all of them should be the same and this has been disturbed by putting the applicants S-1 in an disadvantageous position and by bringing an arbitrary cut-off date as on 1.1.1986 and that too retrospectively by an administrative order dated 9.3.1989, the respondents have discriminated against them and denied the benefit of assessment after 5 years as was available under the previous scheme.

3. The respondents have contested the pleas taken by the applicants. They denied that the scheme had been unilaterally imposed on the applicants or Scientists S-1 grade and it was upto the Scientists to exercise option in the revised scale and if they had any reservation, they had the right not to opt for the revised scale and continue in the pre-revised scales and career progression, i.e., before the issue of the UGC pay package. The applicants having not availed off the facility of opting out of the new scheme and having been the recipients of the benefits of the new scheme, they are now estopped from challenging this circular of 9.3.1989. The applicants have also drawn arrears in the revised pay scales. According to the scheme

of the respondents with the introduction of the UGC pay package for the Scientists with effect from 1.1.1986, the assessment, promotion etc. would be as per the pattern decided by the ICAR consequent on the revised pay package. The old scheme for promotion was continued to be applicable to those who did not opt for the revised scheme. The applicants had allowed themselves to be governed by the new package as per the 9.3.1989 circular and if they did not opt out of the UGC pay package, they would have continue in the pre-revised scales and career progression then obtaining. The applicants cannot demand the old career progression scheme while at the same time accepting the revised pay scales and they cannot be allowed to pick and choose part of the previous scheme and part of the new scheme to suit them. The respondents further contend that after considerable deliberation, the UGC pay package was adopted along with the revised scheme of assessment and promotion. The old scheme for promotion of Scientists has ceased to operate with effect from 1.1.1986. It was declared by the respondents vide their letter dated 6.7.1990 that the ARS Scientists who do not opt for the UGC pay package would continue in the pre-revised scale along with career progression then obtaining. It was open to them to opt out of the UGC pay package as well as the career advancement scheme. The respondents have denied that the Scientists in the grade S-1 have been neglected under the new system. They have averred that the career advancement scheme

vide their letter of 20.10.1990 has been formulated specifically for the S-1 Scientists and they have also equal opportunity. They also contend that when these Scientists adopted for the pay package of UGC with retrospective effect, they were supposed to be aware of the career advancement of the UGC on which basis the respondents had to formulate scheme for its Scientists. The Scientists under the ICAR including Scientists of the S-1 grades accepted the UGC pay package and they can have no right now to claim certain advantages of the old system and at the same time claiming for UGC pay package. They submit that in the pre-revised scales, Scientists in the ICAR were in 9 grades i.e. from S-1 to S-8 and these grades were reduced into 5 revised grades on UGC pattern. Therefore, it was but natural that a certain sections of the Scientists were placed in more advantageous position. They contend that whenever any revision of pay scale takes place, certain sections receive more benefits than others depending on the length of service. Revised scales were introduced with effect from 1.1.1986 and if a S-1 Scientist does not complete 8 years of service as on 31.12.1985, he could not be considered for replacement scale of 3000-5000 as the revised scales were based on the length of service as part of career advancement scheme introduced by the respondents and this applies unilaterally to all the Scientists as on position on 1.1.1986 and thereafter.

4. We have heard the learned counsel for the

parties and have given our careful consideration to the rival contentions.

5. It is made clear in the respondents order dated 9.3.1989 as a result of the adoption of U.G.C. pay package, the scheme of assessment, recruitments etc. stood modified with effect from 1.1.1986. By a subsequent order dated 6.7.1990, it was made clear that such of those Scientists who do not opt for the UGC pay package would continue in the pre-revised scales and would be covered by career progression scheme applicable under old scheme.e, i.e., before the adoption of UGC pay package. It is no doubt true that there was some delay in the actual notification of the revised scales and career advancement scheme as effective from 1.1.1986 but the intention was clear right from the very begining, even at the time of introduction of revised scale by the order dated 8.3.1989 with retrospective effect from 1.1.1986. Now the applicants' contention is that some of the S-1 Scientists who were recruited in 1981 would not have completed 8 years as on 31.12.1985 for being given the replacement scale of 3000-5000 as on 1.1.1986, whereas under the earlier scheme they would have been given the prrevised scale of 1100-1600 by this date. The adoption of revised scale with effect from 1.1.1986 by the respondents cannot be taken to be arbitrary just to deny the interest of S-1 grade Scientists. There is no challenge in the application to the introduction of the revised scales and the career advancement scheme

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with effect from 1.1.1986. Besides, the respondents have explained that the postcentred system was replaced by the ScientistCentred System following recommendations of the Gajendra Gadkar Committee and this system was also further replaced by the UGC pay package following the recommendations of the M.V.Rao Committee and the changes have been brought about after proper process and consideration by the experts in the field. The contention of the applicants is that some of the S-1 Scientists who are appointed after 1.1.1986 but before 9.3.1989 have been given a raw deal as the condition of the service has been changed in the light of the fact that at the time of their appointment, they were told that their career progression was based on the 5 years assessment. This contention, to our mind, is not a sound one. The process of revision of scales of pay along with suitable modification in career advancement has not been done hastily or arbitrarily. The respondents have taken into account the relevant merits of the scheme prevalent in the ICAR as well as under the UGC and after due deliberations adopted the UGC scheme and also introduced UGC pay package with corresponding formulation of the career advancement scheme. The revised career advancement scheme is applicable to all the grades of Scientists. Even in respect of Scientists S-2 who had not completed 16 years of service on 31.12.1985 would not have been placed in the selection grade of 3700-5700 whereas under the

old scheme, he would have been considered for S-3 scale of 1500-2000 (replacement scale 3700-5700) after completion of 10 years. Thus, it is not as though the scheme has been particularly designed to help the Scientists of S-2 and above grades only. The applicants contention that the respondents should have allowed Scientists S-1 to choose between the revised pay scales of the 4th Pay Commission along with the then existing promotion scheme and the new UGC pay package is not tenable. The respondents after accepting the expert committee's recommendations, decided to accept the UGC pay package with effect from 1.1.1986. So it does not lie with the applicants to raise this contention. In any case, there is no challenge in this application to the entire UGC pay package and revised career advancement scheme as adopted and introduced for the Scientists.

6. We have also referred to the case of Smt. Grace Mathew Vs. The Director, Central Marine Fisheries Research Institute, Kochi and 2 Others O.A. No. 1742 of 1991 and the orders of the respondents dated 15.12.94 and 25.1.1995 cited by the applicants in the rejoinder. We find that in this case it was rightly held that Smt. Grace Mathew an S2 Scientist w.e.f. 1.7.86 who had completed more than 8 years of service on 1.7.76 and as S2 Scientist on 31.12.1985 was entitled to be fixed in the scale of Rs.3700-5700 in terms of the orders of the respondents dated 9.3.1989 introducing the revised scales of pay. Based on this judgment which was

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also upheld by the Hon'ble Supreme Court, the respondents had issued the aforesaid order dated 15.12.1994 and 25.1.1995. These orders do not in any way alter the position in regard to the validity of introduction of revised pay scales with effect from 1.1.1986 in terms of the orders dated 9.3.1989 with the stipulation for eligibility for the revised scales of Rs.3000-5000 for S2 Scientists Senior Scale, and Rs.3700-5700 for Scientist2 Selection Grade, in respect of Scientists who have completed 8 years and 16 years of service as on 31.12.1985, respectively.

7. In the light of the facts and circumstances of the case and in the conspectus of the discussion in the aforesaid paragraphs, we do not find any merit in the application. Accordingly the application is dismissed. There shall be no order as to costs.



(K. MUTHUKUMAR)
MEMBER (A)



(A.V. HARIDASAN)
VICE CHAIRMAN