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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

C.P. NO.239/2006

in

O.A. NO.1784/2004

This the 3rd day of August, 2006

**HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)
HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J)**

Dr. R. L. Sharma S/O B.D.Sharma,
R/O 843-44, Rani Sati Nagar, Janpath,
P.O. Shyam Nagar, Ajmer Road,
Jaipur, Rajasthan and retired as
Principal Scientist from ICAR
Research Complex for NEH Region,
Umiam (Bara Pani), Meghalaya. ... Applicant

(By Shri S. S. Tiwari, Advocate)

versus

1. Dr. Mangla Rai,
Secretary (DARE) & Director General,
Indian Council of Agricultural Research,
Krishi Bhawan, Dr. R.P.Road,
New Delhi.
2. Shri K. K. Bajpai,
Director (Personnel),
Indian Council of Agricultural Research,
Krishi Bhawan, Dr. R.P.Road,
New Delhi. ... Respondents

ORDER

Hon'ble Shri V. K. Majotra, Vice-Chairman (A):

Through this application has been alleged deliberate violation
of directions of the Tribunal contained in order dated 2.6.2005
whereby OA No.1784/2004 was disposed of.

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2. The learned counsel of applicant contended that applicant's earlier OA No.246/1999 was disposed of vide order dated 29.11.1999 directing respondents to consider applicant's case for promotion from S-1 to S-2 grade from the earliest date from which officers mentioned in the OA had been so promoted and if applicant was promoted as S-2 in this manner on the same basis, he was to be promoted to a still higher grade and was to be entitled to all consequential benefits except monetary benefits in respect of back wages. The learned counsel further brought to our attention order dated 2.6.2005 in OA No.1784/2004 in which applicant was one of the applicants to the effect that applicant was to be promoted from grade S-1 to grade S-2 and further higher grade in accordance with the directions of the Tribunal dated 29.11.1999 in OA No.246/1999.

3. The learned counsel relying on Annexure CCP-IV which is office order dated 23.11.2000 then stated that ICAR had taken a view that applicant among others was to be considered for promotion to the grades S-2 and S-3 on the basis of five yearly *pro forma*/supplementary information/AARs for the period 1975-79. The learned counsel maintained that respondents have now vide order dated 28.3.2006 (Annexure CCP-II) ventured to take action for considering him, among others, for the next higher grade of S-3 after completion of five years service in grade S-2. Vide Annexure CCP-III dated 15.6.2006 IVRI, Izatnagar has forwarded forms for assessment/promotion to the grade of Seientist S-3, for onward



transmission to the Council's Headquarters/ASRB. The learned counsel maintained that while respondents were to consider applicant for promotion to grade S-3 on the basis of the same record of five years for which he had been considered for grant of grade S-2, respondents' action is deliberate violation of the directions of Tribunal.

4. Annexure CCP-IV dated 23.11.2000 has been relied upon on behalf of applicant to contend that respondents were considering applicant for promotion to S-2 grade and further promotion on the basis of ACRs for the periods ending 1975, 1976, 1977, 1978 and 1979, and as such their action for gathering ACRs for further periods for considering applicant for promotion to grade S-3 is unwarranted.

5. We have considered the contentions raised on behalf of applicant as also carefully perused the material available on record.

6. The Tribunal had made the following observations/ directions in order dated 29.11.1999 in OA No.246/1999:

“7. Having considered the aforesaid arguments and the pleadings on record, we are of the opinion that it is not necessary for the purpose of relief sought for by the applicant to go into the question as to the date of appointment of the applicant. The main grievance of the applicant is that certain persons whose names have been mentioned in paragraph 4.7 of the OA and who are admittedly appointed as S-I on dates subsequent to that of the applicant in 1975 have been promoted to S-II grade earlier to the applicant. The dates of joining/ appointment to SI grade of these Scientists begin with Dr. J.R. Rao (1.7.1976), Dr. H.C. Malviya (1.7.1976), Dr. M.N. Malhotra (25.9.1976), Dr. V.K. Srivastava and Dr. Ravi Chandra (1.7.1976), which are later than

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the date admitted by the respondents of the appointment of the applicant, namely, 18.12.1975. In case any of these have been considered for promotion from S-I to S-II earlier to the applicant then obviously the applicant has a cause for grievance.”

“In view of the abovementioned position, we are inclined to dispose of this OA with a direction to the respondents to consider the case of the applicant for promotion from S-I to S-II grade from the earliest date from which any of the aforementioned officers had been so promoted. If the applicant is promoted as S-II and on that basis promoted to still higher grade, he will be entitled to all consequential benefits except monetary benefits in respect of back-wages.”

OA No.1784/2004 was disposed of vide orders dated 2.6.2005 with the following observations:

“18. As a result of the above, the OA is allowed. The order dated 2.7.2002, Annexure-A to the OA is set aside. The respondents are directed to promote the applicants from Grade S-I to Grade S-II in accordance with the direction of the Tribunal dated 29.11.1999 reproduced above. The applicants will be granted benefit strictly in conformity with the order of this Tribunal as given in operative portion of the order in OA 246/1999 reproduced above.”

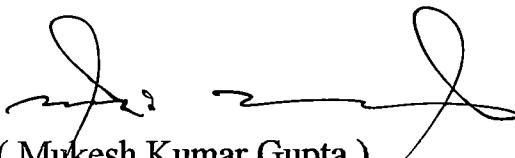
7. Reliance has been placed on Annexure CCP-IV dated 23.11.2000 contending that earlier on respondents were considering applicant for promotion to S-2 grade and S-3 grade on basis of ACRs for the years 1975-1979 and as such respondents' action to collect ACRs for further periods was unnecessary. It has further been contended on behalf of applicant that in terms of directions contained in order dated 29.11.1999 in OA No.246/1999, applicant ought to have been considered for further promotion from S-2 to S-3 on the basis of the same records as formed the basis of consideration for

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promotion to S-2 grade. In our considered view the expression "on the same basis" stated in orders dated 29.11.1999 in OA No.246/1999 does not imply that the provisions in the rules for promotion have to be given a go bye. This expression would mean that just as the records for a stipulated period are necessary for consideration for promotion from S-1 to S-2 grade, similarly records relating to the relevant period shall be considered for promotion from S-2 to S-3.

Respondents have accorded to applicant antedation of promotion to the grade of Scientist S-2 w.e.f. 1.7.1976 vide CCP-II dated 28.3.2006. Respondents' action towards considering applicant for the next higher grade of S-3 cannot be faulted. Applicant's claim has to be considered by respondents in terms of the relevant rules and instructions. Promotion to grades S-2 and S-3 cannot be on the basis of same records. The claim has to be considered after completion of five years service in grade S-2.

8. Having regard to the above discussion, we do not find any wilful and deliberate defiance of Tribunal's directions contained in order dated 2.6.2005 in OA No.1784/2004. The contempt petition is accordingly dismissed in *limine*.


(Mukesh Kumar Gupta)
Member (J)


(V. K. Majotra) 3/8/06.
Vice-Chairman (A)

/as/