

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2268/92
T.A. No.

199

(32)

DATE OF DECISION

24.12.97

Sh. J. Chakraborty

Petitioner

Sh. C. Hari Shankar

Advocate for the Petitioner(s)

VERSUS

UOI & Ors

Respondent

Shri K.R. Sachdeva

Advocate for the Respondent

CORAM

The Hon'ble Shri S.R. Adige, Vice Chairman(A)

The Hon'ble Smt. Lakshmi Swaminathan, Member(J)

1. To be referred to the Reporter or not? *Yes*

2. Whether it needs to be circulated to other Benches of the Tribunal? *X*

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

Central Administrative Tribunal
Principal Bench

O.A. 2268/92

New Delhi this the 24 th day of December, 1997

(33)

Hon'ble Shri S.R. Adige, Vice Chairman(A).
Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Shri I. Chakraborty,
Senior Analyst-cum-
Controlling Officer,
Food Research and Standardisation
Laboratory,
Navyug Market,
Ghaziabad.

... Applicant.

By Advocate Shri C.Hari Shankar.

Versus

1. The Secretary to the
Government of India,
Ministry of Health and
Family Welfare,
Nirman Bhawan,
New Delhi.

2. The Director General
Health Services,
Nirman Bhawan,
New Delhi.

3. The Director,
Food Research and
Standardisation Laboratory
Navyug Market,
Ghaziabad(UP)

... Respondents.

By Advocate Shri K.R. Sachdeva.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Meber(J).

The applicant has impugned the order dated 17.7.1989 by which he was appointed as Head of the office under Rule 14 of the Delegation of Financial Power Rules, 1978 (for short 'the DFP Rules') without any extra remuneration.

2. The applicant was working as Senior Analyst in Food Research and Standardisation Laboratory (FRSL), Ghaziabad. By the impugned order dated 17.7.1989, on retirement of Shri R.K.

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Rao, OSD, FRSL w.e.f. 30.6.1989, the Director General of Health Services in exercise of the powers vested in him vide Schedule-I of the DFP Rules, had declared the applicant as Head of Office. In this order, it has been further stated that pending the appointment of a regular Director and until further orders, the applicant is declared as Controlling Officer under SR 191 and he is authorised to countersign all T.A. Bills of officers and staff of the FRSL, Ghaziabad and below his own rank. It is also stated that the applicant will perform the above duties in addition to his own duties as Sr. Analyst without any extra remuneration. He submits that by notification dated 6.9.1989, the applicant's name was notified to sign the reports of the Laboratory as its Head of Office, although it is seen that the complete notification has not been placed on record. Shri Hari Shankar, learned counsel for the applicant, has submitted that under identical conditions Dr. K.C. Guha, Chief Technical Officer, at CFL Calcutta, had assumed charge of the laboratory on the retirement of Shri B.R. Roy and on his failing to get the pay scale of Director, he had filed O.A. 648/86 which was allowed by the Tribunal (Calcutta Bench) by order dated 18.5.1987. He relies on this order which has been followed by the Tribunal (Principal Bench) in **R. Krishna Rao Vs. Secretary to the Govt. of India & Ors.** (O.A. 84/91), decided on 21.4.1992.

3. The respondents have filed their reply and we have also heard Shri K.R. Sachdeva, learned counsel. They have submitted that the applicant was holding the regular post of Senior Analyst and had been promoted to the post of Chief Technical Officer on ad hoc basis and getting the benefit of that post. They have, therefore, submitted that he is not entitled to any additional remuneration under FR 49(iii).

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They have also submitted that in the case of Dr.K.C. Guha, he was CTO on regular basis but in the case of the applicant he was in a lower post as Senior Analyst. They have submitted that the additional remuneration under FR 49(iii) is applicable only in the case when the officer is formally appointed to hold the charge of full duties (including statutory duties) of the post of additional charge with the specific observation that he is entitled to additional remuneration. They have, therefore, prayed that the application may be dismissed.

4. After careful consideration of the pleadings and the submissions made by the learned counsel for both the parties, we are of the view that this application has to be rejected. His case is not in all fours with the case of Dr. K. C. Guha (*supra*) in which the Calcutta Bench of the Tribunal had allowed the application on the facts of that case which has been followed in R. Krishna Rao's case (*supra*). Under FR 49, it is provided that no additional pay is admissible if he is appointed to hold the current charge of the routine duties irrespective of the duration of the additional charge. In the present case, the applicant was holding the regular post of Senior Analyst and was promoted to the post of CTO on ad hoc basis only when the order dated 17.7.1989 was passed in which it was stated that pending appointment of regular Director and until further orders, he was declared to hold that post as Head of Office for certain purposes mentioned therein. Para 5 of the order also states that he will perform the above duties in addition to his own duties as Sr. Analyst without any extra remuneration. Dr. Guha on the other hand had held the post of regular CTO at Central Food Laboratory, Calcutta when he was given additional

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as Director of the Laboratory.
charge In the circumstances of the case, therefore, the applicant cannot claim the same benefits that were given to Dr. Guha. In the facts and circumstances of the case, therefore, the claim of the applicant that he should ^{be} declared entitled to get the additional remuneration for his holding the charge of the post of Director is not maintainable.

5. In the result, the application fails and is dismissed. No order as to costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

Adige
(S.R. Adige)
Vice Chairman (A)

SRD