

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 04th day of August, 2004.

Original Application No. 319 of 2001.

C O R A M : Hon'ble Mr. Justice S.R. Singh, Vice-Chairman.
Hon'ble Mr. D.R. Tiwari, Member- A.

1. Dr. S.N. Tripathi, Sr. Scientist, Indian Grassland and Fodder Research Institute, Jhansi under Indian Council of Agricultural Research, M/o Agriculture, Govt. of India.
2. Dr. Murari Mohan Roy, Sr. Scientist, Indian Grassland and Fodder Research Institute, Jhansi under Indian Council of Agricultural Research, M/o Agriculture, Govt. of India.
3. Dr. U.P. Singh, Senior Scientist, Indian Grassland and Fodder Research Institute, Jhansi under Indian Council of Agricultural Research, M/o Agriculture, Govt. of India.

.....Applicants

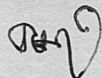
Counsel for the applicants :- Sri A.D. Prakash
Sri H.P. Pandey

V E R S U S

1. Union of India through Secretary, M/o Agriculture, Govt. of India, Krishi Bhawan, New Delhi.
2. Director General, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi.
3. Director, Indian Grassland and Fodder Research Institute, Gwalior Road, Jhansi.

.....Respondents

Counsel for the respondents :- Sri B.B. Sirohi



O R D E R

By Hon'ble Mr. Justice S.R. Singh, VC.

The applicants, who are Sr. Scientists under the Indian Council for Agricultural Research (ICAR), Ministry of Agriculture, Govt. of India, posted presently at Indian Grassland and Fodder Research Institute, Jhansi (in short 'The Institute') are aggrieved by the order dated 27.09.2000 (annexure-1) where two advance increments given to them earlier has been withdrawn.

2. The council by their letter dated 27.02.1999 (Annexure- 5) revised the pay scales of ICAR Scientists as a follow-up action of recommendations of the Fifth Central Pay Commission subject, of course, to various provisions of the scheme of revision of pay scales as contained in the said letter and the regulations to be framed by the ICAR. The revision of pay scales of ICAR Scientists, it would appear from the letter, was in furtherance of the cause of Agricultural Research and Education in the country and for its uninterrupted growth. It would further appear from the letter that while finalising the revised pay scales of the ICAR Scientists, the Council and the Government of India look into cognizance the recommendations of 5th Central Pay Commission and Ministry of Human Resource and Development notification for revision of the pay scales of teachers of the Universities and Colleges besides the recommendations made by the ICAR Committee constituted for the purpose.

3. It would appear from the clause I of the letter dated 27.02.1999 that different scales of pay have been introduced for the post of Scientist, Scientist (Sr. Scale), Scientist (Selection Grade)/Sr. Scientist, and Principal Scientist besides certain other posts referred to in the

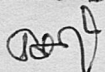
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letter dated 27.02.1999. The pre-revised scale of pay of scientist (Selection Grade)/Senior Scientist was Rs. 3700-125-4950-150-5700 which has been revised to Rs. 12000-420-18,300. Note appended to para 1 of letter visualises that the pay of Scientists (Selection Grade)/Sr. Scientists with 5 years service as on 01.01.1996 would be fixed at the minimum of Rs. 14,940/-. The letter further provides for incentives for Ph.D/M.Phil by way of advance increments/increment as under :-

- "(a) Four and two advance increments will be admissible to those who held Ph.D and M.Phil Degrees, respectively, at the time of recruitment as scientists.
- (b) One increment will be admissible to these scientists with M.Phil degree, who acquire Ph.D within two years of recruitment.
- (c) A Scientist with Ph.D will be eligible for two advance increments when he moves into the selection grade as Sr. Scientists.
- (d) A Scientist will be eligible for two advance increments as and when he acquires a Ph.D. Degree in his service career. "

Apart from incentives aforesaid, Career Advancement is also provided for in the following manner :-

- "(a) Minimum length of service for eligibility to move into the grade of Scientist (Senior Scale) would be four years for those with Ph.D, five years for those with M.Phil and words are illegible.....Grade of Scientist (Selection Grade)/Sr. Scientist, the minimum length of service as Scientist (Senior Scale) shall be uniformly five years.
- (b) For movement into grades of Sr. Scientist and above, the minimum eligibility criterion would be Ph.D. These Scientists without Ph.D can go upto the level of Scientist (Selection Grade).
- (c) A Sr. Scientist with a minimum of eight years of



service will be eligible for consideration for appointment as a Principal Scientist.....
(Emphasis supplied)."

4. On the basis of the aforesaid letter dated 27.02.1999 the pay of the applicants as on 01.01.1996 came to fixed by giving them two advance increments which has been withdrawn by means of the impugned order dated 27.09.2000 (Annexure- 1) and their pay in the scale of Rs. 12,000-420-18,300 has been re-fixed in the manner indicated in the order dated 27.09.2000. The ground of withdrawal of the two advance increments given to the applicants earlier as shown in the impugned order is that they were awarded Ph.D Degree after 01.01.1996 and, therefore, they were not entitled to two advance increments as per circular dated 27.02.1999.

5. The question that calls for determination is whether the applicants who under the ICAR admittedly acquired Ph.D Degree after 01.01.1996 were promoted to the post/Grade of Senior Scientist w.e.f 01.01.1986 and who were rightly given two advance increments as per ICAR circular dated 27.02.1999? It has been submitted by Sri H.P. Pandey, learned counsel for the applicants that two advance increments are admissible to a Scientist irrespective of the grade as and when he acquired Ph.D Degree in his service career. For the respondents, on the other hand, it has been submitted that the applicants were not entitled to two advance increments as per ICAR circular dated 27.02.1999 for the reason that they were already working on the post of Senior Scientist as on 01.01.1996 for which Ph.D Degree was the minimum eligibility criteria. Reliance has been placed on the ICAR letters dated 28.03.2001 and 24.03.1999 and certain other letters, besides the judgment of Ernaçulam Bench in O.A 1160/2000 (Dr. A. Laxminarayana Vs. U.O.I & Ors.) decided on 08.10.2002.

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6. We have given our anxious consideration to the submissions made across the Bar. A reading of ICAR circular dated 27.02.1999 makes it abundantly clear that object of giving advance increments is to encourage higher learning and research in the field of Agricultural Education. This evident from expression : "In furtherance of the cause of Agricultural Research and Education in the country and for its uninterrupted growth" used in the preamble of the circular. A Scientist who holds Ph.D Degree at the time of recruitment became eligible for four advance increments. This clause of circular is prospective in its operation and will apply to a Scientist appointed on or after 27.02.1999. Similarly a Scientist with Ph.D will be eligible for two advance increments when he moves into the Selection Grade as Senior Scientist. Two advance increments is admissible also to a Scientist " as and when he acquires a Ph.D Degree in his service career". This last sub clause of the Incentive Clause of the circular is applicable to a Scientist (irrespective of his grade) for whom Ph.D Degree was not the minimum eligibility criterion at the time of his appointment to the post/grade held by him/her as on 27.02.1999. The word 'Scientist' used in the last sub clause (c) includes Sr. Scientist, of course, to the condition that Ph.D Degree was not the minimum eligibility criteria at the point of entry into the grade of Sr. Scientist.

7. In its letter dated 28.03.2001 (CA-1), the ICAR, while clarifying the issue whether the Scientists who had obtained the Ph.D. Degree prior to 01.01.1996 would be entitled to two advance increments under one of the incentives for Ph.D/M.Phil has clarified as under :-

" The matter was taken up with the Ministry of Finance. It is clarified by the Ministry of Finance that while there may be no objection to granting incentives of two advance increments for acquiring

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Ph.D at any time in the service career of the Scientist, the benefit can be given only from the date from which benefit other than pay scale is made applicable i.e. 27.07.1998 (or the date of acquisition of degree whichever is later). This incentive will be admissible to all Scientists provided the post held by them on aforesaid dated of 27.07.1998 (or the date of acquisition of Ph.D degree if it falls after 27.07.1998) does not require them to have a Ph.D as a must/minimum eligibility condition for recruitment/appointment."

The aforestated clarification also indicates two advance increments would be admissible to a Scientist on acquisition of Ph.D Degree "at any time in his service career". It can, however, be given from 27.07.1998 i.e. the date from which the benefit other than pay scale was made applicable or the date of acquisition of Ph.D. Degree, which ever is latter. Further the incentive will be admissible to " all Scientists" w.e.f 27.07.1998 or the date of acquisition of Ph.D. Degree which ever is later and the rider ; "provided the post held by them on aforesaid date of (27.07.1998) (or the date of acquisition of Ph.D. Degree, if it falls after 27.07.1998) does not require them to have a Ph.D as a must/minimum eligibility condition for recruitment/ appointment" attached to last clause of the letter dated 28.03.2001 is incompatible with the policy and objective of giving incentives by way of advance increments as per circular dated 27.02.1999 at least in case of Senior Scientists appointed prior to 01.01.1996 when Ph.D. Degree was not the minimum eligibility condition for appointment to the post. The letter dated 28.03.2001 read with corrigendum dated 30.03.2001 was issued for clarifying the case of these Scientists who had obtained Ph.D Degree prior to 01.01.1996 and it will have no application to Senior Scientists appointed prior to 01.01.1996 from which date Ph.D Degree came to be prescribed as eligibility

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criterion vide circular dated 27.02.1999 itself and who acquire Ph.D Degree after 01.01.1996. We may refer to a subsequent clarification given by the ICAR vide letter No. 1(15)98-per-IV dated 19.04.2004 (produced during the course of argument) in response to certain points of doubt mentioned therein. The points of doubt 1 and 2 and clarifications thereon are quoted below for ready reference :-

<u>Points of Doubt</u>	<u>Clarifications</u>
1. What would be the effective date of 4/2 advance increments for possessing Ph.D/ M.Phil degree respectively at the time of appointment as Scientist in the pay scale of Rs. 8000-13,500/-.	4/2 advance increments will be admissible to those who hold Ph.D and M.Phil Degree respectively at the time of appointment as Scientists in the scale of Rs. 8000-13,500/-. These advance increments will be effective from 27.07.1998 and not from 01.01.1996. The notification dated 27.02.1999 and any other clarification issued by the Council in this regard will stand modified to this extent.
2. How to apply the provision according to which a Scientist with Ph.D become eligible for two advance increments when he moves into the selection grade as Sr. Scientist.	A Scientist (Sr. Scale) with Ph.D will be eligible for two increments on appointment as Sr. Scientist through Career Advancement Scheme. <u>On the same analogy a non Ph.D Scientist (including those in Sr. Scale)</u> who has been allowed the grade of Scientist (Sel. Grade) would be entitled to two advance increments for acquiring Ph.D. Degree as well as 2 advance increments for being designated as Sr. Scientists on acquisition of Ph.D Degree. This will however, be effective from 27.07.1998, the date on which the revised career advancement scheme has been made effective.

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8. The clarification aforesaid is not very helpful in resolving the controversy in hand though it is suggestive of the proposition that a non Ph.D Scientist including those in Senior Scale who had been allowed selection grade would be entitled to two advance increments for acquiring Ph.D. Degree as well as two advance increments for being designated as Senior Scientist on acquisition of Ph.D. Degree w.e.f 27.07.1998 i.e. the date on which the revised Career Advancement Scheme has been made effective for the date on acquisition of Ph.D Degree, which ever is later. Decision of the C.A.T, Ernaculam Bench in O.A 1160/00 (Dr. A. Laxminarayana Vs. U.O.I and Ors.) relied upon by the respondents is not very helpful. For the applicant therein had been a Sr. Scientist "obviously with Ph.D qualified even as on 01.01.1986" whereas in the instant case, the applicants acquired Ph.D. Degree much after 01.01.1996. We are of the view that this matter needs to be re-examined at the level of ICAR in the light of the observations made in this judgment. It is not disputed that clause IV of the ICAR circular/letter dated 27.02.1999 clearly visualises that further clarifications, if any, may be sought from ICAR. Therefore, in our opinion, the Secretary, ICAR is the proper authority to look into the matter and take appropriate decision in regard to the applicants' claim for two advance increments and to issue such clarifications in consonance with the object and policy in the circular dated 27.02.1999 as may deem fit and proper. The interim order dated 19.03.2001 staying the operation of the order dated 06.03.1999 shall remain stayed pending decision by the Secretary, ICAR which we hope, may be taken within a period of three months from the date of communication of this order. It is further clarified that the applicants shall have the liberty to challenge the decision of the Secretary, ICAR, if goes against them.



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9. The O.A is disposed of accordingly in terms of the above direction with no order as to costs.

D. J. A.

Member- A.

R. J.

Vice-Chairman.

/Anand/