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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No.1736/1993

THURSDAY, THIS THE 11TH DAY OF APRIL, 2002

HON'BLE Mr. S. DAYAL .. MEMBER(A)

HON'BLE Ms. MEERA CHIBBER .. MEMBER(J)

Dr. Murtaza Ali Khan,
S/o Mustafa Ali Khan,
R/o 17/1, Type A,
9, Govindpur Colony,
Allahabad, District Allahabad,
Presently posted as Sr. Scientist,
CICFRI, Barrackpore, Riverine Division,
24, Panna Lal Road,
Allahabad. ... Applicant.

(By Advocate Shri Ramachandran)

Versus

1. Indian Council of Agricultural Research, through its President, Krishi Bhavan, Dr. Rajendra Prasad Road, New Delhi-1.
2. Director, Personnel, Indian Council of Agricultural Research, Krishi Bhavan, Dr. Rajendra Prasad Marg, New Delhi-1.
3. Director, Central Inland Capture Fisheries Research Institute, Barrackpore-743 101.
4. Union of India, through Secretare (DARE), Department of Agricultural Research and Education, Krishi Bhavan, Dr. Rajendra Prasad Road, New Delhi. ... Respondents

(By Advocate Shri J.N. Tewari)

ORDER - (ORAL)

Hon'ble Mr. S. Dayal, Member (A):

This application has been filed for declaring that the applicant as having been inducted to Grade S-I in the

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pay scale of Rs.700-1300/- with effect from 1.10.1975.

A further declaration is sought for treating the petitioner to have attained Gr.S-II with effect from 1.7.1979, Gr.S-III with effect from 1.1.1985 and the grade of Principal Scientist with effect from 1.1.1986. The applicant also seeks compensation for financial loss arising because of his late promotion.

2. The applicant has claimed that he was inducted on 15.4.1968 as Research Assistant and was promoted to the next higher post of Senior Research Assistant on 7.1.1971 in the Central Inland Fisheries Research Institute. He was selected by the Union Public Service Commission in the Central Institute of Fisheries Education and joined a post carrying the scale of Rs.350-900/- on 17.7.1973. It is claimed that the post was a Class-II Gazetted post and carried a scale of Rs.350-900/- which was revised to Rs.650-1200/- with effect from 1.1.1973 on account of the recommendation of the III Pay Commission. The applicant has claimed that he joined the post on deputation and retained the lien in CIFRI, Barrackpore. The Agricultural Research service was constituted on 1.10.1975, at the time the applicant was serving as Fisheries Training Superintendent in the pay scale of Rs.650-1200/-. He returned to CIFRI, Barrackpore on 7.4.1978. It is claimed that in 1979, the Central Institute of Fisheries Education was also transferred to ICAR. He claims that at the time of constitution of Agricultural Research Service, the grades of Rs.425-700/- and Rs.650-1200/- were abolished and the grade of Rs.425-700/- was merged with grade Rs.550-900/- and the grade of Rs.650-1200/- was merged with S-1 in

the scale of Rs.700-1300/-. On his return, the applicant was inducted in the grade of 'S' with effect from 1.10.1975 and he claims that he was denied the benefit of merger ^{and} assigned to a lower pay scale. The applicant has claimed the relief in the back-drop in these facts.

3. We have heard Shri Ramachandra, learned counsel for the applicant who has submitted his vakalatnama for the applicant.

4. The learned counsel for the applicant has drawn our attention to the booklet Agricultural Research Service published by the Indian Council of Agricultural Research, New Delhi. In chapter III of the booklet, the Initial Constitution of Agricultural Research Service has been given. In para 3 of the chapter, it has been stated that induction had been done in equivalent grade^s with effect from 1.10.1975. It is also stated that the grade of induction of a person have been determined having regard to the post held by him prior to induction. The only exception that was in the cases of Scientists holding the post of Rs.425-700/- and Rs.650-1200/- in which case the induction was done in the grade of Rs.550-900/- and Rs.700-1300/- respectively. It was also mentioned that persons who were not absorbed at the time of initial constitution of service will be considered again for appointment to the service at a subsequent stage or stages. It is stated that a person who does not desire to be absorbed in service to continue to hold the position

already held by him provided he informs the Council within a period of six months about his intent. Chapter IV relates to future maintenance of service in which Section 5(vi) provides that service rendered by the Research Assistants in the scale of Rs.425-700/- will be equated with service 'S' and the service rendered in the scale of Rs.650-1200/- will be taken as having been rendered in grade S-1.

5. The learned counsel for the applicant has also placed before us a letter of the Secretary, I.C.A.R., addressed to Directors of various Institutes dated 18.9.1976 (Annexure-RA2) in which it has been mentioned in para 2(vi) that the service rendered in the deputation post in an other organisation in an equivalent or higher post will also be taken for reckoning the period of 5 years.

6. The respondents in their counter reply have mentioned that the applicant was on deputation to Central Institute of Fisheries Education at Bombay, which was an Institute of I.C.A.R. from 17.7.1973 to 8.4.1978. At the time of proceeding to deputation post, he was working in the scale of Rs.550-900/-. The Agricultural Research Service was constituted on 1.10.1975 when the applicant was on deputation. The applicant was inducted as 'S' in the grade of Rs.550-900/- because he was holding a technical/scientific post in the said pay scale.

therefore,

7. The sole issue before us as to whether the applicant can get the benefit of pay scale which he was enjoying

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while on deputation or whether he should have been inducted at the time of initial constitution of Agricultural Research Service on 1.10.1975 on the basis of pay scale in which he was working in the parent organisation before proceeding on deputation. The respondents had been directed by us to file an affidavit clarifying as to how the applicant was to be fixed under the induction Scheme since he was drawing the pay of senior Research Assistant in the scale of Rs.550-900/-. The respondents have filed their affidavit in which they have mentioned that the applicant had retained lien in CIFRI in the pay scale of Rs.550-900/- and therefore, he was inducted in the scale of Rs.550-900/- on 1.10.1975 in Agricultural Research Service. They have also clarified that the Central Institute of Fisheries Education, Bombay, became a part of ICAR only on 1.4.1979, by which time the applicant had gone back to his parent organisation. Since they have maintained that since the applicant was inducted in grade 'S' on 1.10.1975, he was not entitled to promotion to next higher scale as on dates claimed by him.

8. The applicant's contention that service on deputation was required to be counted towards 5 years period for considering the next promotion of the applicant, ^{amounts to} The applicant, in effect [&] claiming the benefit of the scheme under which the Agricultural Research Service officers will be treated from the date of the start

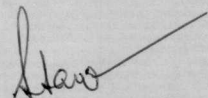
of the Scheme when he was not in his parent organisation. This is not permissible since the applicant was in the scale of Rs.550-900/-. We find that he was rightly inducted as Scientist 'S' on 1.10.1975. His claim is therefore without merit.

9. The learned counsel for the applicant also places before us the Office Order filed with M.A. No.5310/2001 in which a prayer has been made that the applicant has been wrongly promoted with effect from 27.7.1998 and he should have been promoted with effect from 1.1.1986. The passage of this order gives a fresh cause of action to the applicant regarding the date of promotion to the cadre of Principal Scientist. The applicant may represent against this order to the respondents and file an O.A. challenging the order dated 31.05.2001 by which he has been given the scale of Principal Scientist of Rs.16,400-22,400/- with effect from 27.7.1998.

10. Subject to the above, the O.A. is dismissed.
No order as to costs.



MEMBER (J)



MEMBER (A)

psp.