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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.**

O.A.No. 295 of 2003.

Cuttack, this the 21st day of March, 2006.


BALARAM BEHERA APPLICANT.

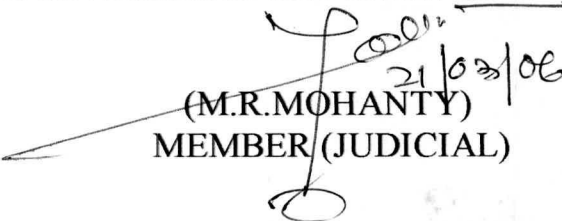
VERSUS

UNION OF INDIA & ORS RESPONDENTS.

FOR INSTRUCTIONS.

1. Whether it be referred to the reporters or not? Yes. →
2. Whether it be circulated to all the Benches of CAT or not? Yes. →


(B.N.SOM)
VICE-CHAIRMAN


(M.R. MOHANTY)
MEMBER (JUDICIAL)

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C O R A M:-

**THE HON'BLE MR.B.N.SOM, VICE-CHAIRMAN,
AND
THE HON'BLE MR.M.R.MOHANTY, MEMBER(J)**

BALARAM BEHERA, Aged about 49 years,
S/o. Late Joganath Behera,
Resident of Vill./Post: Baladiabandh,
Ps: Sadar, Dist. Dhenkanal,
At present working as Training Associate,
T-9 (LPM), in Krishi Vigyan Kendra,
CIFA, Kaushalyaganga,
Bhubaneswar-2, Dist. Khurda.

..... APPLICANT.

By legal practitioner:- Mr.K.C.Kanungo, S.Behera, Advocates.

-VERSUS-

1. The Indian Council of Agricultural Research represented through Director General, ICAR, Krishi Bhavan, New Delhi-1.
 2. Union of India represented through its Secretasry, Ministry of Finance, North Block, New Delhi-1.
 3. Deputy Director General (AE), ICAR, Krishi Anusandhan Bhavan, Pusa, New Delhi-12.
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4. Director, Central Institute of Fresh Water Acquaculture (CIFA),
Kaushalyaganga, Bhubaneswar-2, Dist. Khurda.

..... RESPONDENTS.

By legal practitioner:- Mr. S.B.Jena, Additional
Standing Counsel (Central).

ORDER

MR.M.R.MOHANTY, MEMBER(JUDICIAL):-

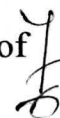
Applicant, Shri Balaram Behera, who is working as Training Associate, T-9(LPM) in Krishi Vigyan Kendra (in short K.V.K.) under Central Institute of Fresh water Aquaculture (in short C.I.F.A.) at Kaushalyaganga/Bhubaneswar, being aggrieved by the decision of the Respondent-Organization (in not extending him the benefit of U.G.C. pay package) has approached this Tribunal in the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985 for redressal of his grievances.

2. The brief facts of the case, according to the applicant, are that he joined as Training Associate under I.C.A.R. Research Complex for NEH Region on 17.01.1983 and was, subsequently, transferred to K.V.K/ CIFA/Bhubaneswar. The scale of Training Associate is in the grade of T-6. Applicant was promoted to T-7 grade (in the pay scale of Rs.3000-45000/-) with effect from 01.01.1989. It is the case of the Applicant that, in line with

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the report given by the M.V.Rao Committee, I.C.A.R. extended the UGC Pay package to the Scientists of I.C.A.R. (including Training Organizer (S-2) of KVK); whereas the said benefit was not extended to the Applicant. He was further promoted to the grade of T-8 (in the pay scale of Rs.3000-5000/-) with effect from 1.7.1997. While the matter stood thus, the report of the 5th Pay Commission (recommending revision of pay) was implemented by the ICAR, in respect of its employees, with effect from 04.12.1997 and the U.G.C. pay package for Scientists and Training Organizers (S-2) of KVK was also implemented with effect from 27.02.1999, but the Applicant, although a subject matter specialist, was denied of the said benefits. Being aggrieved, the Applicant represented (to Respondent No.1) for extension of the benefits of UGC pay package. Under Annexure-A/5 dated 3.2.2000, the I.C.A.R modified the Technical Service Rules (in short T.S.R.) and, as a result, the pay scales of T-7 and T-8 (i.e., Rs.3000-4500/- and Rs.3000-5000/- respectively) clubbed up to one uniform scale of pay i.e., Rs.10,000/- - Rs.15,200/-. However, the Applicant went on making successive representations (his last representation being filed on 25.02.2000 to Respondent No.1) for granting him the UGC pay package; where-after, Respondent No.1 sought for the comments of Respondent No.4. Under Annexure-9 dated 18.11.2000, comments (with recommendations of



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Respondent No.4) were stated to have been sent to Respondent No.1. The Applicant, again, represented to Respondent No.1 on 06.11.2001 reiterating his prayers; upon receipt of which, the Respondent No.1 sought further comments from the Respondent No.4 under Annexure - A/10 dated 31.01.2002. By the letter under Annexure-A/11, dated 26.02.2002, comments (along with recommendations) were stated to have been forwarded to Res. No.1. On 19.8.2002, by virtue of Annexure-A/6, the designation of the Applicant as Training Associate was changed to that of Senior Training Associate. The representations for grant of U.G.C. pay package having been turned down by the Respondents, the Applicant has moved this Tribunal in the present O.A. seeking the following relief:-

“...to direct the Respondents to implement the UGC Pay package in case of the applicant so as to enable him to draw the revised scale and all other incidental service benefits with arrears with effect from 1.1.1989’

To quash Annexure-6 for the ends of justice;
and

To quash Annexure-13 for the ends of justice”.

3. Respondents have filed a counter opposing the prayer of the Applicant AND rejoinder to the counter as also been filed by the Applicant.

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4. We have heard the learned counsel appearing for both the parties and perused the materials placed on record.

5. The main grounds taken by the Applicant are that (i) by granting UGC pay package to the Scientists and by denying the same in case of subject matter specialists like Training Associates in the KVKs, the I.C.A.R has meted out discrimination; (ii) whereas the Librarians, (who are governed by the Technical Service Rules, on the basis of the report of Dr.K.L.Chadha Committee) could be extended the UGC pay scale, the Applicant, in the same analogy, should have been granted the UGC pay package, (iii) the change of designation as Senior Training Associate was a deliberate action of the Respondents purportedly to deprive the Applicant of the benefit of UGC pay package in future and (iv) the nature of duties of Scientists, (i.e., teaching, research and extension) is one and the same as that of the Technical Associates in the field of agriculture and allied science.

Respondent/ICAR, who have filed their counter have opposed the prayer of the Applicant. Although they have admitted that the duties and responsibilities of all Training Associates working in KVK's run by ICAR, SAU, CU and NGO are same, the UGC pay package has been extended to the Training Organizers and Training Associates of KVKs run only by the SAU, CU and NGO and not to such personnel of the ICAR; on the ground

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that the Training Associates are categorized as technical personnel, being governed under the Technical Service Rules of the I.C.A.R. and that grant of UGC pay package to Librarian of ICAR has not been accepted by the Ministry of Finance. It has been submitted that no designation/nomenclature of the post of Training Associate was in existence under any of the functional group in Appendix-II of the ICAR Technical Service Rules. In order to provide the benefit of assessment promotion, the post of Training Associate is re-designated as Sr. Training Associate under the functional group, i.e., Field/Farm Technicians". It has been submitted by the Respondents that Scientist and the Technical Staff of ICAR belong to two separate categories.

6. This matter was taken up for admission on 5.6.2003. While directing issuance of notices to Respondent-ICAR, this Tribunal, as an ad interim measure, stayed the operation of Annexure-A/6 dated 19.8.2002; wherein the designation of the Applicant as Training Associate to that of Senior Training Associate has been changed.

7. We have considered the rival submissions made at the Bar. The Applicant filed a rejoinder and a written note of submission. We have also taken note of the same. The sole point for consideration is as to whether the benefit of UGC pay package is applicable in case of the

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applicant having discharged the same duties and responsibilities of his counterparts in SAU, CU and NGO run by the I.C.A.R.

8. It is not in dispute that the Applicant belongs to Technical Service and his conditions of service are governed by Technical Service Rules of ICAR whereas Training Organizers and Training Associates of SAU, CU and NGO run by the I.C.A.R. belong to Agricultural Research Service; both forming two distinct categories. It has been admitted by the Respondents that the duties and responsibilities discharged by the Applicant are one and the same as that of the Training Organizers and Training Associates of SAU, CU and NGO. It is also not in dispute that the institutions like, CAU, CU and NGOs are the separate entities not directly under the administrative control of I.C.A.R. and that these Institutions are having separate set of rules. However, the fact remains that the I.C.A.R. is the funding agency. It is also not in dispute that there are two separate set of recruitment rules in respect of Training Associates under the I.C.A.R. and the Training Associates and Training Organizers under the CAU, CU and NGOs. In this backdrop of the case, with a view to bring harmony, the Tribunal is at first required to consider as to whether the Training Organizers and Training Associates working under the State Agricultural Universities, Central Agricultural Universities, Central Universities and

NGOs are the employees under the I.C.A.R. as that of the Applicant. As we find from the averments, there has been no scrap of paper produced before us to show that the Training Organizers and Training Associates under the SAU, CAU, CU and NGOs are similarly situated as that of the applicant, notwithstanding the fact that their nature of duties in so far as KVK is concerned are one and the same. This being the situation, we are unable to hold that the Applicant is similarly situated as that of the Training Associates under the SAU, CAU, CU and NGO, particularly when the employer is not the same. That apart, adoption of UGC pay package by the I.C.A.R. in case of Training Organizers and Training Associates under the SAU, CAU, CU, NGOs ipso facto does not confer any right on the Applicant, whose service conditions are governed under a separate set of rules, that he should also be extended the benefit of U.G.C. pay package.

9. The scope of the Tribunal is to see as to whether the Departmental authorities have violated the conditions of service and/or any right flowing from any statutory rules, executive instructions and circulars, of the aggrieved employee and as to whether they have discriminated such employee in the matter of grant of any benefits arising there from. In the instant case, the applicant has alleged non-extension of UGC pay package to the applicant who is working as Training Associates recruited under the

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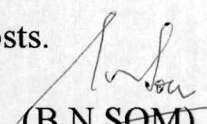
Technical Service Rules. It is not the case that the ICAR have granted such UGC pay package to other Training Associates who are recruited through Technical Service Rules. It is also not the case of the Applicant that differentiation is based on no rational nexus with the object sought for to be achieved. The Hon'ble Supreme Court in the case of **State of U.P. vs. J.P.Charuasia (AIR 1989 SC 19)** have held as under:

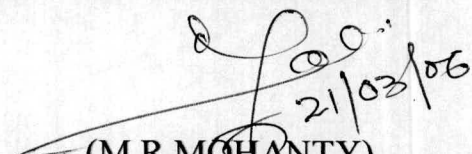
“..Fitment of pay depends upon several factors. It does not just depend upon either the nature of work or volume of work done. Primarily it requires among others, evaluation of duties and responsibilities of the respective posts. More often functions of two posts may appear to be the same or similar, but there may be difference in degrees in performance. The quantity of work may be the same, but quality may be different that cannot be determined by relying upon averments in affidavits of interested parties. The equation of posts or equation of pay must be left to the executive government. It must be determined by expert bodies like pay commission. They would be the best judge to evaluate the nature of duties and responsibilities of posts”.

10. Having regard to the facts and circumstances of the case and having regard to the settled position of law, as extracted above, we are unable to hold that the Applicant is sailing in a same boat as that of the Training Associates and Training Organizers under the SAU, CAU, CU and NGOs.

11. With regard to change of designation, the Respondents have submitted that no designation/nomenclature of the post of Training Associate was in existence under any of the functional group in Appendix-II of the ICAR Technical Service Rules and that in order to provide the benefit of assessment promotion, the post of Training Associate is re-designated as Sr Training Associate under the functional group, i.e., Field/Farm Technicians. This being the intention of the Respondents, we do not find any justification that the designation of the Applicant has been changed to his disadvantage and we hope and trust that the Respondents will safeguard the interest of the Applicant as per his entitlement.

12. In the above circumstances, we do not see any merit in this O.A., which is accordingly dismissed. In view of dismissal of this O.A. interim order dated 5.6.2003 stands vacated. There shall be no order as to costs.


(B.N.SOM)
VICE-CHAIRMAN


(M.R.MOHANTY)
MEMBER(JUDICIAL)