

~ 12

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application No. 323/2010

Date of decision: 20.07.2012.

CORAM:

**HON'BLE DR. K.B.S. RAJAN, MEMBER (J) &
HON'BLE MR. B.K. SINHA, MEMBER (A)**

A. Angel S/o Late Shri Ambrose Costa aged 59 years, Resident of 9/805, Chopasni Housing Board, 3rd Pulia, Nandanvan PO, Jodhpur - 342008, presently working on the post of Private Secretary (P.S.) in the Office of the Director, Central Arid Zone Research Institute, Jodhpur - 342 003.

..... Applicant

By Mr. S.K. Malik, Advocate.

Versus

1. The Secretary, Indian Council of Agricultural Research, Krishi Bhavan, New Delhi - 110 001.
2. The Under Secretary (Admn.), Indian Council of Agricultural Research, Krishi Bhavan, New Delhi - 110 01.
3. The Director, Central Arid Zone Research Institute, Jodhpur - 342 003.

..... Respondents

By Mr. V.S. Gurjar, Advocate.

O R D E R

[Per Dr. K.B. S. RAJAN JUDICIAL MEMBER]

The applicant in this case has made the following prayer through this O.A.

"8.(i) By an appropriate writ, order or direction impugned order dated 26.05.2009 at Annexure-A/1 be declared illegal and to be quashed and set-aside.

(ii) By an order or direction respondents may be directed to fix the pay of the applicant as PS in revised pay band PB-2 Rs. 9300-34800 with grade pay of Rs. 4800/- initially and grade pay Rs. 5400/- in PB-3 after completion of four years of service in the grade w.e.f. 01.01.2006 along with arrears of pay and allowances and interest @ 12% per annum.

(iii) By an order or direction respondents may further be directed to grant MAC;P w.e.f. 01.09.2008 in PB-3 with grade pay of Rs. 6600/- along with arrears of pay and allowances with interest @ 12% per annum.

✓

7/3

(iv) Exemplary cost be imposed on the respondents for causing undue harassment to the applicant."

2. An analogous prayer had been made by the IARI Stenographers Welfare Association (Division of Entomology), IARI, Pusa, New Delhi and others before the Principal Bench, New Delhi in OA No. 2083 of 2010 and the Principal Bench had passed the following order:-

"By way of aforementioned application filed under Section 19 of Administrative Tribunals Act, 1985, applicants have prayed for issuance of direction to extend the benefit of OM dated 7.11.2008 and 26.11. 2010 to them and to grant them grade pay of Rs.4600 in Pay Band 2 of Rs.9300-34800 w.e.f. 1.01.2006 and to further grant them the benefit of grade pay of Rs 4800 in aforementioned Pay band and grade pay of Rs 5400 in Pay Band-3. Applicants are working as Personal Assistants/Private Secretaries in Indian Agriculture Research Institute (IARI), Pusa, New Delhi. According to them they are discriminated against PAs/PSs posted in Indian Council of Agricultural Research (ICAR) headquarters. It is admitted position that Union Cabinet had approved the extension of benefit of revised pay scale of Rs.1640-2900 to the Assistants/Stenographers (Gr.-II) working at ICAR Hqrs and its Research Institutes with effect from the date of approval by Cabinet. The said decision of Union Cabinet was intimated by ICAR vide Office Order no. 15(8)/96-Estt.1 dated 16.06.1997 to all concerned constituents including IARI. In the said office order it was made clear that consequent to extension of revised pay scale of Rs.1640-2900 to the existing Assistants/Stenographers (Gr. II) working at the ICAR Research Institutes, the existing Recruitment Rules for the posts of Assistants/Stenographers (Gr.II) at the ICAR would cease to have effect and the RRs for the post of Asstts./Stenographers (Gr.II) applicable to such categories in ICAR Hqrs would apply to Asstts./Stenographers (Gr.II) in ICAR Research Institutes. For easy reference Office Order dated 16.06.1997 reads as under:

"Sub: Extension of revised pay scale of Rs.1640-2900 for the Assistants/Stenographers (Grade-II) of Indian Council of Agricultural Research Institutes- Implementation of Cabinet's decision regarding.

1. In pursuance of the decision of the Union Cabinet on the above subject in its meeting held on 29th April, 1997, the Competent Authority has been pleased to approve the unification of the cadres of Assistants/Stenographers (Gr.II) at the

ICAR Hqrs. and its Research Institutes with immediate effect. In pursuance of the aforesaid decision of the Union Cabinet the Competent Authority has also approved extension of the revised pay scale of Rs.1640-2900 to the existing Assistants/Stenographers (Gr.II) working at the ICAR Research Institutes with immediate effect.

2. Consequently the existing recruitment rules for the post of Assistants/Stenographers (Gr.II) at the ICAR Research Insttts. will cease to have effect and no recruitment will be made thereunder hereinafter. The existing recruitment rules for the posts of Assistants/Stenographers (Gr.II) at the ICAR Hqrs. shall henceforth apply to the Assistants/Stenographers (Gr.II) at the ICAR Research Institutes."

3. From the rules and bye- laws of ICAR placed on record by the applicants as Annexure A-6 to OA, it is noticed that said rules are applicable to ICAR Hqrs, its Institutes as well as other Units. In the said rule, the Constituent Units of the Society are defined such as Indian Council of Agricultural Research Headquarters, its Research Institutions, regional and sub-stations, research laboratories etc and Co-ordinated Projects managed and administered by the Society. Clauses (b) and (k) of said Rule 1 and 2 read as under:-

"Clause (b). In their scope and application these Rules extend to its Headquarters, all the Institutes and other units of the Indian Council of Agricultural Research.

Clause (k). "The Constituent Units of the Society" means the Indian Council of Agricultural Research Headquarters its Research Institutions, regional and sub-stations, research laboratories etc and Co-ordinated-Projects managed and administered by the Society".

4. In terms of letter dated 27.07.2000 issued by ICAR the revised/updated Recruitment Rules in respect of 16 categories of administrative posts under ICAR as approved by the Governing Body in its meeting held at Delhi on 28.4.2000 were notified for information, guidance and necessary action of all concerned

including Directors of all ICAR Research Institutes etc. The said letter reads as under:-

"F.No. 14-2/98-Estt-1 (Vol.II) Dated: July 27, 2000

To

The Directors of all the ICAR Research Institutes/Bureaux/PDs/NRCs.

Sub: Revision of Recruitment Rules for the administrative posts reg.

Sir,

The revised/updated Recruitment Rules in respect of following sixteen number of administrative posts under ICAR as approved by the Governing Body in its meeting held at New Delhi on 28.4.2000 and by President, ICAR are hereby notified for the information, guidance and necessary action of all concerned:

1. Senior Administrative Officer
2. Administrative Officer
3. Assistant Administrative Officer
4. Section officer
5. Assistant
6. Upper Division Clerk
7. Senior Finance & Accounts Officer
8. Finance and Accounts officer
9. Assistant Finance & Accounts Officer
10. Junior Accounts Officer
11. Private Secretary
12. Personal Assistant
13. Stenographer Grade III
14. Legal Advisor
15. Assistant Legal Advisor
16. Junior Law Officer

2. In terms of the Vth Central Pay Commission recommendations as implemented by the GOI and adopted by ICAR, the pay scales for the posts of Senior Personal Assistant (Rs.2000-3200) and Private Secretary (Rs.2000-3500) have been merged into a common pay scale of Rs.6500-10500. Thus these two separate grades with hitherto separate recruitment rules are hereby merged into a single designation, post and grade viz Private Secretary in the pay scale of Rs.6500-10500 under the ICAR system. The recruitment rules for the post of Private Secretary under ICAR system existing in this grade and pay scale have, therefore, been revised accordingly and as such with the notification of the revised recruitment rules for the post of Private Secretary, there cases to be any separate post with the designation as Senior Personal Assistant and all existing Senior Personal Assistants will henceforth be designated as Private Secretary.

3. This comes into force with immediate effect."

76

5. From the aforementioned it is clear that after 27.07.2000 common RRs are followed for PSs/PAs posted in ICAR Hqrs and its institutes including IARI. However, despite aforementioned Cabinet note, office order dated 16.06.1997, common RRs for PSs/PAs posted in ICAR Hqrs. and its Research Institutes, the benefits of Office Memo dated 7.11.2008 and office order dated 26.11.2010 are kept restricted to PA/PS in ICAR Hqrs. In terms of letter dated 18.04.2011, ICAR informed the Directors of all the Institute that matter was referred to Ministry of Finance (Deptt. of Expdr.) for concurrence but the same was not agreed to by them for reason that the pay scale at ICAR Hqrs. are patterned on the lines of Central Secretariat Services (CSS) whereas those at the institutes are akin to subordinate offices. It is not clear whether Ministry of Finance was apprised by ICAR of Cabinet Note placed on record at pages 81 to 85 of the paper book. For easy reference paras 11, 13, 14 & 15 of the said note are extracted hereinbelow:-

"11. The question concerning 'equal pay for equal work' and parity in the pay scales of similarly placed posts has been settled beyond doubt by the Central Administrative Tribunal, Principal Bench, New Delhi in the case of Shri S.R. Dheer and other Vs. Union of India in OA No. 2865/91 and 529/892 both decided on 4.2.1993, wherein the Hon'ble Tribunal held that once the nature, functions and work are not shown to be dissimilar, the fact that the recruitment was made in one way or the other is hardly relevant from the point of view of 'equal pay for equal work'. Therefore, there is no ground to deny the revised pay scale of Rs.1640-2900 to the similarly placed Assistants and Stenographers at the Institutes on par with their counterparts at the Council's Hqrs. because of the complete similarity in nature, functions and the work of the said posts. Incidentally, the Stenographers posted at the Institutes had been granted complete parity vis a vis their counterparts at Hqrs, in the pay scale of Rs.1400-2600 as on 1.1.1986 in accordance with the orders of the Govt. of India (Annexure VI).

12. xxx

xxx

13. This has been one of the long pending grievance of these categories of employees, causing a sense of deprivation, frustration and resentment amongst them and for which they have been agitating all along. Accordingly, this is a cause of grave concern to the ICAR and it is affecting adversely the functioning of administrative services in the system. Therefore, approval of the cabinet is sought to extend the revised pay scale of Rs. 1640-2900 to the Assistants and Stenographers (Grade II) working at the ICAR Research Institutes with effect from the date of approval by the Cabinet, to settle their long pending grievance.

14. This issue with the approval of Union Minister (Agriculture).

15. The proposal being reiterated was earlier shown in final form of Cabinet note (Annexure-1) to the Ministry of Finance and Deptt. of Personnel & Training before it was considered by the Cabinet in its meeting held on 25th September, 1996."

6. Learned counsel appearing for ICAR would also join the issue by submitting that the ends of justice would be secured if the Ministry of Finance is directed to re-examine the issue in the backdrop of the aforementioned Cabinet Note. In the circumstances we deem it appropriate to dispose of this OA with a direction to respondents No 1-3 to take up the matter with Department of Expenditure, Ministry of Finance for extending the benefits of OM No.F.No 7(28)2008-Estt.T dated 7.11.2008 (Annexure A-1) and Office order F.No. 7(300209-Estt.I dated 26.11.2010 (Annexure A-2) to applicants. While doing so, respondents No.1 to 3 would highlight the followings established facts:

1. Vide Cabinet note dated 7.4.1997 contained in F.No. No.F.15-8/9-Estt.I, Ministry of Agriculture proposed to extend the revised pay scale of Rs.1640-2900 admissible to Assistants and Stenographers (Grade II) working in ICAR Hqrs. to the employees working in ICAR Research Institutes with effect from the date of approval by the Cabinet, to settle long pending grievance of such employees posted in institute

2. Vide office order dated 16.06.1997, in pursuance of the decision of Union Cabinet, competent authority

approved extension of the revised pay scale of Rs 1640-2900 to the existing Assistants/Stenographers (Gr.II) working at the ICAR Research Institutes.

3. Vide letter dated 27.07.2000 common RRs for 16 administrative posts under ICAR were notified and copy was issued to all the Heads of the ICAR Research Institute.

4. Rules of ICAR are equally applicable to Hqrs. of ICAR and its Institutes and other units.

5. In order dated 22.12.2009 passed in OA no.1499/2009 this Tribunal had viewed that 6th CPC has accepted historical parity between SO/PS of CSS with CSSS. Relevant excerpts of judgment read as under:-

"In this background, we examine the issue raised by the rival parties for our determination. The 6th CPC has analysed the parity aspect for the posts being compared in this OA and the Government has also passed orders. We take the following extracts of relevant part of these for our adjudication.

Recommendation No. 03.01.09 of the Sixth Central Pay Commission (Pages 65-66)

"3.1.9 Accordingly, the Commission recommends upgradation of the entry scale of Section Officers in all Secretariat Services (including CSS as well as non participating/ ministries/ departments/ organizations) to Rs.7500-12000 corresponding to the revised pay band PB 2 of Rs.9300-34800 along with grade pay of Rs.4800. Further, on par with the dispensation already available in CSS, the Section Officers in other Secretariat Offices, which have already had an established parity with CSS/CSSS, shall be extended the scale of Rs.8000-13500 in Group B corresponding to the revised pay band PB 2 of Rs.9300-34800 along with grade pay of Rs.4800 on completion of four years service in the lower grade. This will ensure full parity between all Secretariat Offices. It is clarified that the pay band PB 2 of Rs.9300-34800 along with grade pay of Rs.4800 is being recommended for the post of Section Officer in these services solely to maintain the existing relativities which were disturbed when the scale was extended only to the Section Officers in CSS. The grade carrying grade pay of Rs.4800 in pay band PB-2 is, otherwise, not to be treated as a regular grade and should not be extended to any other category of employees. These recommendations shall apply mutatis-mutandis to post of Private Secretary/equivalent in these

services as well. The structure of posts in Secretariat Offices would now be as under:-

Post	Pre-revised scale	Corresponding revised pay band and grade pay
LDC	Rs.3050-4590	PB-1 of Rs.4860-20200 along with grade pay of Rs.1900
UDC	Rs.4000-6000	PB-1 of Rs.4860-20200 along with grade pay of Rs.2400
Assistant	Rs.6500-10500	PB-2 of Rs.9300-34800 along with grade pay of Rs.4200
Section Officer	Rs.7500-12000 Rs.8000-13500* (On completion of four years)	PB-2 of Rs.9300-34800 along with grade pay of Rs.4800 PB-2 of Rs.9300-34800 along with grade pay of Rs.5400* (on completion of four years)
Under Secretary	Rs.10000-15200	PB-3 of Rs.15600-39100 along with grade pay of Rs.6600
Director	Rs. 14300-18300	PB-3 of Rs.15600-39100 along with grade pay of Rs.7600

* This scale shall be available only in such of those organizations/services which have had a historical parity with CSS/CSSS. Services like AFHQSS/AFHQSSS/RBSS and Ministerial/ Secretarial posts in Ministries/Departments organizations like MEA, Ministry of Parliamentary Affairs, CVC, UPSC, etc. would therefore be covered.

II Section II of part B on the revised pay scales for certain common categories of staff notified in the Gazette of India on 29.08.2008 (pages 68-69)

Sl.No.	Post	Present Scale	Revised Pay scale	Corresponding Pay Band & Grade Pay	Para No. of the report
				Pay Band Grade Pay	
1.	2	3	4	5 6	7
<u>OFFICE</u>	<u>STAFF</u>	<u>IN THE</u>	<u>SECRETARIAT*</u>		
1.	Section Officer/ PS/ equivalent	6500-10500	7500-12000 8000-13500 (On completion of four years)	PB-2 4800 PB-3 5400 (On completion of four years)	3.1.9 (Modified by Govt)

*This scale shall be available only in such of those organization/services which have had a historical parity with CSS/CSSS. Services like AFHQSS/AFHQSSS/RBSS and Ministerial/Secretariat posts in Ministries/Departments organizations like MEA, Ministry of Parliamentary Affairs, CVC, UPSC, etc. would therefore be covered.

III Para 2 (i) of the Ministry of Finance, Department of Expenditure, Implementation Cell U.O. No. 7.1/1/2008-IC dated 30.10.2008(page.70)

Department of Agricultural Research & Education may please refer their file No. 7 (28)/2008-Estt.1 regarding the subject cited above.

2. The proposal of the administrative department has been considered in this Department. The proposal is concurred with subject to the following modifications which are in consonance with the pay scales granted by the Government to various common category posts in the Central Government:-

(i) Government has approved the following pay structure for Assistants and Section Officers in the Central Secretariat and the same may be extended to Assistants/PAs and Section Officers/Private Secretaries in the ICAR Headquarters only:-

Post	Pre-revised scale	Corresponding revised pay band and grade pay
Assistant/Personal Assistant	Rs.6500-10500	PB-2 of Rs.9300-34800 along with grade pay of Rs. 4200

Section Officer/Private Secretary	7500-12000	PB-2 of Rs.9300-34800 along with grade pay of Rs.4200
	Rs.8000-13500 (on completion of four years)	PB-3 of Rs.15600-39100 along with grade pay of Rs. 5400 (On completion of four years)

IV. Office Memorandum F.No. 7 (28)/2008-Estt.I dated November 7, 2008 (Page 72)

The undersigned is directed to state that in pursuance of Ministry of Finance, Department of Expenditure O.M. No. 7/23/2008-E.III (A) dated 7.10.2008, the applicability of Part B of the First Schedule to the CCS (Revised Pay) Rules, 2008 in ICAR was examined by a Group of Officers constituted vide Council's O.O. No. 7 (28)/2008-Estt.1 dated 3.10.2008. The recommendations of the Group of Officers was accordingly referred to the Ministry of Finance for soliciting their approval. In this regard, the Ministry of Finance vide their U.O.No. 7.1/1/2008-IC dated 30.10.2008 has approved that the pay structure for Assistants and Section Officers in the Central Secretariat may be extended to the Assistants/Personal Assistants and Section Officers/Private Secretaries in Indian Council of Agricultural Research Hqrs as follows:-

Post	Pre-revised scale	Corresponding revised pay band and grade pay
Assistant/Personal Assistant	Rs.6500-10500	PB-2 of Rs.9300-34800 along with grade pay of Rs. 4200
Section Officer/Private Secretary	7500-12000	PB-2 of Rs.9300-34800 along with grade pay of Rs.4200

	Rs.8000-13500 (on completion of four years)	PB-3 of Rs.15600-39100 along with grade pay of Rs. 5400 (on completion of four years)
--	--	--

- As applicable and implemented in the Central Secretariat."

The proposal in the manner indicated hereinabove would be initiated by Respondents No 1-3 within two month from the date of receipt of a copy of this order and final decision on the same would be taken within 4 months thereafter.

OA is accordingly disposed of. No costs".

7. After exchange of pleadings, when the case was heard, the Counsel for the applicant relied upon a decision of the Principal Bench in the case of **Shri S.R. Dheer** (a Private Secretary in the Central Administrative Tribunal) and argued that the rationale applied in this case is fully applicable to the facts of the case of the applicant. He has further argued that in so far as Headquarters and Institutes of IARI are concerned, there is no separate Recruitment Rules and in fact even later shift from Institute to Headquarters and vice versa is permitted. A copy of the Recruitment Rules has been made available by the Counsel for the applicants. In addition, the counsel referred to another decision of the Principal Bench of the Tribunal, in respect of the same IARI and filed by the Stenographers Association before the Principal Bench vide the extract of the order made above.

8. Counsel for the respondents has not denied the fact of the recruitment rules being the same as for Headquarters and the institutes.

9. The decision by the Principal Bench deals exactly with the same subject as in this OA and hence, we have no hesitation to hold that the same would hold good in the case of the applicant as well.



10. As the Ministry of Agriculture and the IARI are above the respondent No. 3 of the OA in the administrative hierarchy and as the subject matter in OA No. 2083 of 2011 of the Principal Bench is the same as in this OA, the decision by the said Ministry and IARI in compliance of the order of the Tribunal in the aforesaid OA shall abide the applicant herein as well. Respondents are directed to act accordingly.

11. No costs.



(B K Sinha)
Administrative Member



(Dr. K B S Rajan)
Judicial Member

pps