

# CENTRAL ADMINISTRATIVE TRIBUNAL

## ERNAKULAM BENCH

**ORIGINAL APPLICATION NO:491/2004**

**DATED THE 19<sup>th</sup> DAY OF SEPTEMBER, 2006**

**CORAM:**

**HON'BLE SMT. SATHI NAIR,                      VICE CHAIRMAN**

**HON'BLE SHRI GEORGE PARACKEN, MEMBER(J)**

1. Dr.P.Chandrapal  
Research Officer(Medical),  
Human Reproduction Research Centre(HRRC)  
S.A.T.Hospital, Medical College P.O.,  
Thiruvananthapuram.
2. Dr.Soumini Nair,  
Research Officer (Medical).  
Human Reproduction Research Centre(HRRC)  
S.A.T.Hospital, Medical College P.O.,  
Thiruvananthapuram.
3. V.Nirmala Kumari  
Research Officer(Non-Medical)  
Human Reproduction Research Centre(HRRC)  
S.A.T.Hospital, Medical College P.O.,  
Thiruvananthapuram.
4. B.Kanakamma  
L.D.Clerk/Typist.  
Human Reproduction Research Centre(HRRC)  
S.A.T.Hospital, Medical College P.O.,  
Thiruvananthapuram.
5. V.Gopalakrishnan Nair,  
Driver  
Human Reproduction Research Centre(HRRC)  
S.A.T.Hospital, Medical College P.O.,  
Thiruvananthapuram.

By Advocate Mr.C.P.Sudhakara Prasad Sr.

V/s.

1. Union of India, Ministry of Health and Family Welfare,  
Nirman Bhavan, New Delhi  
represented by its Secretary.

2. Indian Council of Medical Research,  
Anzari Nagar,  
Post Box No.4911, New Delhi-110 028.  
Represented by its Director General.
3. Human Reproduction Research Centre(HRRC)  
Thiruvananthapuram,  
represented by the Professor and Head of the  
Department of Obstetrics and Gynaecology,  
S.A.T. Hospital,  
Medical College P.O., Thiruvananthapuram.
4. The Principal Medical College,  
Thiruvananthapuram - 695 011. ... Respondents

By Advocates  
Mr.TPM I Khan SCGSC (R 1-3) rep.  
by Mr.Rajeev.  
Mr.K.Thavanony G.P.(R-4)

This OA having been heard on 19th September, 2006, the Tribunal  
on the same day delivered the following:-

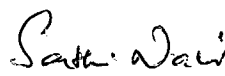
(ORDER)

Hon'ble Smt.Sathi Nair, Vice Chairman

Counsel for applicant is absent. It is noticed that on the last  
date of hearing i.e on 25/8/2006 also the counsel was absent.

OA is dismissed for want of prosecution. No costs.

  
**GEORGE PARACKEN**  
**JUDICIAL MEMBER**

  
**SATHI NAIR**  
**VICE CHAIRMAN**

abp

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

OA 491/2004

Thursday this the 23rd day of November, 2006

CORAM

HON'BLE MR. N. RAMAKRISHNAN, ADMINISTRATIVE MEMBER  
HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

- 1 Dr.P.Chandrapal  
Research Officer (Medical)  
Human Reproduction Research Centre (HRRC)  
S.A.T.Hospital Medical College PO  
Thiruvananthapuram.
- 2 Dr.Soumini Nair,  
Research officer (Medical)  
Human Reproduction Research Centre (HRRC)  
S.A.T.Hospital Medical College PO  
Thiruvananthapuram.
- 3 V.Nirmala Kumari,  
Research Officer (Non-Medical)  
Human Reproduction Research Centre (HRRC)  
S.A.T.Hospital Medical College PO  
Thiruvananthapuram.
- 4 B.Kanakamma, L.D.Clerk/Typist,  
Human Reproduction Research Centre (HRRC)  
S.A.T.Hospital Medical College PO  
Thiruvananthapuram.
- 5 V.Gopalakrishnan Nair,  
Driver  
Human Reproduction Research Centre (HRRC)  
S.A.T.Hospital Medical College PO  
Thiruvananthapuram. ....Applicants

(By Advocate M/sC.P.Sudhakara Prasad  
Elvin Peter PJ and PN Santhosh (by Mr.S.Ramesh)

V.

- 1 Union of India, Ministry of Health and  
Family Welfare, Nirman Bhavan, New Delhi  
represented by its Secretary.
- 2 Indian Council of Medical Research,  
Anzari Nagar, Post Box No.4911,  
New Delhi-110 029  
represented by its Director General.

2

- 3 Human Reproduction Research Centre (HRRC)  
Thiruvananthapuram, represented by the  
Professor and Head of the Department  
of Obstetrics and Gynecology, SAT Hospital,  
Medical College PO, Thiruvananthapuram.
- 4 The Principal,  
Medical College,  
Thiruvananthapuram-695011. .... Respondents

(By Advocate Mr. TPM Ibrahim Khan, SCGSC for R.1 to 3  
Mrs. Lalitha Nair rep. By Mr. Thavamani, GP for R.4)

The application having been finally heard on 23.11.2006, the Tribunal on the same day delivered the following:

### **ORDER**

**Hon'ble Mr. George Parackal, Judicial Member**

The applicant has filed the present O.A aggrieved by the Annexure.A9 letter dated 5.5.2004 issued by the Respondent No.1, namely, the Ministry of Health and Family Welfare, Government of India, the Annexure A-10 letter dated 13.5.2004 and the Annexure.A-11 letter dated 18.5.2004 issued by the Respondent No.2, namely, Indian Council of Medical Research. According to Annexure.A9 letter the entire issue of granting 40% fitment benefit to the employees in the long term Extra-Mural Project was examined by the Respondent No.3 in consultation with the Ministry of Finance and their advice/clarification was that the project staff of ICMR are not entitled for 40% fitment benefit. The Ministry of Finance had directed the ICMR also to rescind their order extending 40% fitment benefit to the employees of those long term Extra-Mural Project in ICMR including the IDVC Project with effect from 1.4.98. The Annexure A-10 order of the ICMR was by way of compliance of the aforesaid direction contained in Annexure.A9 letter of the Ministry of Health and Family Welfare making it further clear that the fitment benefit of 40% was not to be taken into account while preparing the pay bills of the staff for the month of



May, 2004 and to recover the amount already paid to them. Annexure A-11 letter dated 8.5.2004 is again from the ICMR to the Respondent No.4, ie., the Principal, Medical College, Trivandrum forwarding therewith Annexure A-10 letter dated 13.5.04 for necessary compliance.

2 Facts in nutshell are that vide Annexure.A6 order dated 9.7.2001 the ICMR has granted the fitment benefit of 40% to the staff on regular scale on the long term Extra-Mural Research Project funded by them. The applicant No.1 Dr. P.Chandrapal was appointed as Research Officer in the ICMR Project, SAT Hospital, Trivandrum vide Annexure.A1 order dated 8.2.88. The applicant No.2. D.r.Soumini Nair was appointed as Research Officer (Medical) in Human Reproduction Research Centre vide Annexure.A2 order dated 26.9.90. The applicant No.3, V.Nirmala Kumari was appointed as Research Officer/Non-Medical (Demography) vide the Annexure.A3 letter dated 26.7.91. Similarly the applicant No.4 B.Kanakamma was appointed as a Clerk-Typist vide Annexure.A4 letter dated 6.7.1981 and the applicant No.5 V.Gopalakrishnan Nair was appointed as a Driver vide Annexure.A5 letter dated 24.11.1986. On the basis of the said letter of the ICMR dated 9.7.2001, the applicants have been receiving 40% fitment benefit from 1.4.98 to 31.5.2004. Vide the impugned orders when the fitment benefits have been stopped and recovered of the payment already made has been ordered, they approached this Tribunal with the present application.

3 The respondents in their reply have submitted that the present case is covered by the orders of the Madras Bench of this Tribunal in O.As 543 to 546 and 556 of 2004. While disposing of these O.As the Madras Bench was following an earlier decision rendered by the Cuttack Bench of the Tribunal in an identical matter. The applicants in that case were also



working as Project Staff. So far as their prayer against the withdrawal of 40% fitment benefit was dismissed but the other prayer against the recovery of the benefit which was already given to them was allowed. Similarly, the Bombay Bench of this Tribunal followed the same decision of the Cuttack Bench in OA 847/04 and partly allowed it to the extent of only quashing the recovery of payment already made.

4 During the course of the arguments, the applicants' counsel Shri S.Ramesh has fairly submitted that they are pressing only the relief with regard to the recovery of 40% fitment already granted to them in terms of Annexure.A6 letter dated 9.7.2001. Since the respondents in their reply has clearly stated that the present case is identical to those of the decisions rendered by the Cuttack Bench, Madras Bench and the Bombay Bench, this OA can be disposed of on the same lines. Since the applicants' counsel himself has confined his relief against recovery to the 40% fitment benefits already granted to the applicants, we partly allow this OA and direct the respondents not make any recovery of the 40% fitment benefits already granted to the applicants. To that extent the Annexure.A10 letter dated 13.5.2004 and the Annexure.A11 letter dated 18.5.2004 are quashed and set aside. The other reliefs prayed for in this OA being not pressed, they are dismissed. There shall be no order as to costs.

Dated this the 23<sup>rd</sup> day of November, 2006

  
**GEORGE PARACKEN**  
**JUDICIAL MEMBER**

  
**N. RAMAKRISHNAN**  
**ADMINISTRATIVE MEMBER**

S.