

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 494 of 2007

Tuesday, this the 1st day of April, 2008

C O R A M :

**HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER
HON'BLE DR. K S SUGATHAN, ADMINISTRATIVE MEMBER**

1. A.R. Padmanabhan,
Technical Assistant (Drawing),
CIFNET, Kochi – 682 016.
2. M.V. Narayanan,
Technical Assistant (Engines),
CIFNET, Kochi – 682 016.
3. Smt. P. Kalaiyarasi,
Technical Assistant (Craft & Gear),
CIFNET, Kochi – 682 016. Applicants.

(By Advocate Mr. Niklove T)

V E R S U S

1. Union of India represented by
Ministry of Agriculture,
Department of Agriculture &
Co-operation, Government Secretariat,
Krishi Bhawan, New Delhi : 110 002
2. The Director, CIFNET,
Fine Arts Avenue, Kochi – 682 016 Respondents.

(By Advocate Mr. TPM Ibrahim Khan, SCGSC)

The Original Application having been heard on 1.4.08, this Tribunal on the same day delivered the following :

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The admitted facts in this case are that the applicants who are working in the cadre of Technical Assistants at CIFNET were earlier placed in the pay scale

of Rs 4,500 – 7,000. Similarly situated individuals moved the Madras Bench in OA No. 590 of 2002 praying for a direction to the respondents to upgrade their pay scale to Rs 5000 – 8000 as recommended by the 5th Central Pay Commission. This OA was disposed of, vide Annexure A-1 order dated 29.01.2003 which reads as under:-

"Accordingly we direct the respondents to consider the representation of the applicant for granting him the pay scale of Rs 5,000 – 8,000 and orders thereon shall be passed within eight weeks from the date of receipt of a copy of this order by the respondents."

2. By Annexure A-2 order dated 20-05-2003 the respondents had upgraded various posts of Technical Assistant to the grade of Rs 5000 – 8000 w.e.f. 20.05.2003.
3. Vide Annexure A-3 order dated 25-04-2000, in respect of certain other categories, where also the erstwhile pay scale was Rs 4,500 – 7,000, the respondents had upgraded the scale to Rs 5000 – 8000 and the upgradation was with w.e.f. 20-04-2000. However, later, the date of upgradation was modified to 01-01-1996 vide Annexure A-4.
4. When certain Technical Assistants claimed pay parity with the other categories, i.e. for the pay scale of Rs 5000 – 8000 w.e.f. 01-01-1996, their claim was rejected consequent to which they had approached the Tribunal by filing OA No. 493/2004. The said OA was allowed, vide order dated 23-10-2006 at Annexure A-5. The said order reads as under:-

8. The so called policy decision referred to by the respondents clearly appears to be an afterthought. They have not produced any orders or instructions issued in accordance with the policy decision and even if a policy decision had been taken it has to be applied to all Departments and not to the applicants alone. This

court has been consistently holding in all such cases wherever the revision of pay scales has been made effective at a later stage arising out of anomalies identified by the Pay Commission recommendations, the financial benefits have also to accrue w.e.f. 1-1-1996 the date when the Pay Commission recommendations came into effect. We do not find any reason or justification to deviate from such a decision in the case of the applicants, more so when they have been discriminated against in respect of similar category of persons working under the same Ministry.

9. We therefore, direct the respondents to grant the applicants financial benefits on the upgradation of their pay scales to Rs 5000 – 8000 w.e.f. 1-1-1996 instead of on notional basis.

5. While implementing the above order, the respondents had confined the same only with reference to the applicants therein and not to all who are otherwise similarly situated. As such the applicants had approached the respondents by representation dated 15th April, 2007 vide Annexure A-6. This has been replied to by the respondents vide impugned order dated 09-07-2007 holding that the Ministry has informed that the order of the Tribunal is applicable only for applicants in the OA No. 493/2004.

6. The applicants have come up against the above said order.

7. Respondents have contested the OA and in para 7 of their reply they have stated that since the Hon'ble Tribunal has ordered the respondents directing to grant the applicants of OA No. 493/2004 financial benefits on the upgradation of their pay scale to Rs 5000 – 8000, with effect from 1-1-1996 instead on notional basis and the same has been considered by the 1st respondent and orders issued accordingly to extend the orders of Hon'ble Tribunal.

8. Counsel for the applicant submitted that the order of the Tribunal decided the issue as to the effective date (01-01-1996) from which the pay scale of Rs 5000 – 8000 on actual basis should be made available to Technical Assistants,

vide para 7 and 8 of Annexure A-5 order. As such, the judgment is in *rem* and the respondents were expected to extend the benefit of that order to all similarly situated without driving them to the court.

9. Counsel for the respondents reiterated the contentions of the Reply as referred to above.

10. Arguments were heard and documents perused. Admittedly the applicants herein are identically placed as those in OA No. 493/2004. And a perusal of Annexure A-5 order would go to show that the same has held that Technical Assistants should also have the actual benefit of the pay scale of Rs 5000 – 8000 from 01-01-1996 and in the operative portion, the same had been invoked to direct that the applicants be afforded the said benefit. Thus, the judgment is in *rem* and not *personem* to be confined only to the applicants therein.

11. The Apex Court as early as in 1975 in the case of *Amrit Lal Berry v. CCE, (1975) 4 SCC 714*, held as under:-

We may, however, observe that when a citizen aggrieved by the action of a government department has approached the Court and obtained a declaration of law in his favour, others, in like circumstances, should be able to rely on the sense of responsibility of the department concerned and to expect that they will be given the benefit of this declaration without the need to take their grievances to court.

12. The V Central Pay Commission in its recommendation, in regard to extension of benefit of court judgment to similarly situated, held as under:-

"126.5 – Extending judicial decisions in matters of a general nature to all similarly placed employees. - We have observed that frequently, in cases of service litigation involving many similarly placed employees,

the benefit of judgment is only extended to those employees who had agitated the matter before the Tribunal/Court. This generates a lot of needless litigation. It also runs contrary to the judgment given by the Full Bench of Central Administrative Tribunal, Bangalore in the case of C.S. Elias Ahmed and others v. UOI & others (O.A. Nos. 451 and 541 of 1991), wherein it was held that the entire class of employees who are similarly situated are required to be given the benefit of the decision whether or not they were parties to the original writ. Incidentally, this principle has been upheld by the Supreme Court in this case as well as in numerous other judgments like G.C. Ghosh v. UOI, [(1992) 19 ATC 94 (SC)], dated 20-7-1998; K.I. Shepherd v. UOI [(JT 1987 (3) SC 600)]; Abid Hussain v. UOI [(JT 1987 (1) SC 147)], etc. Accordingly, we recommend that decisions taken in one specific case either by the judiciary or the Government should be applied to all other identical cases without forcing the other employees to approach the court of law for an identical remedy or relief. We clarify that this decision will apply only in cases where a principle or common issue of general nature applicable to a group or category of Government employees is concerned and not to matters relating to a specific grievance or anomaly of an individual employee."

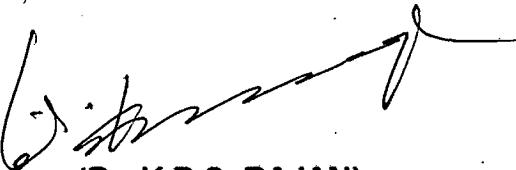
13. Taking into account the above law laid down by the Apex Court, it is declared that the applicant and other Technical Assistants similarly situated are also entitled to the pay scale of Rs 5000 – 8000 on actual basis from 01-01-1996. The OA is allowed. Respondents are therefore directed to work out the amount due to the applicants and similarly situated Technical Assistants and the same be paid to them, within a period of three months from the date of communication of this order.

14. No costs.

(Dated, the 1st April, 2008)



(Dr. K S SUGATHAN)
ADMINISTRATIVE MEMBER



(Dr. K B S RAJAN)
JUDICIAL MEMBER

CVR.