

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.585/99

Dated the 27th day of September, 2001.

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE SHRI T.N.T.NAYAR, ADMINISTRATIVE MEMBER

1. K.Balan, Senior Scientist, Central Marine Fisheries Research Institute, Kochi.
2. Dr.M.Srinath -do-
3. Dr.K.C.George -do-
4. Dr.P.C.Thomas -do-
5. Dr.N.Neelakanta Pillai -do-
6. Dr.P.N.Radhakrishnan Nair-do-
7. K.Narayana Kurup -do-
8. K.N.Rajan -do-
9. Dr.C. Suseelan -do-
10. K.R.Manmadhan Nair -do-
11. G.Nandakumar -do-
12. Dr.K.S.Scariah -do-
13. Dr.K.J.Mathew -do-
14. Dr.K.Rengarajan -do-
15. N.Gopinatha Menon -do-
16. K.V.Somasekharan Nair -do-
17. Dr.D.Noble -do-

(By Advocate Mr.T.C.G.Swamy)

vs.

1. Union of India represented by
The Secretary to the Government of India,
Ministry of Agriculture, New Delhi.
2. The President,
Indian Council of Agricultural Research,
Krishi Bhavan, New Delhi.
3. The Director(Personnel),
Indian Council of Agricultural Research,
Krishi Bhavan, New Delhi.

4. The Director,
Central Marine Fisheries Research Institute,
Kochi.
5. The Under Secretary(Personnel),
Indian Council of Agricultural Research,
Krishi Bhavan, New Delhi.
6. The Secretary to the Govt. of India,
Ministry of Finance, New Delhi.

.. Respondents


(By Advocate Sri P.Jacob Varghese)

The Application having been heard on 27.9.01, the Tribunal on the same day delivered the following:

ORDER

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The applicants 17 in number, are Senior Scientists of the Central Marine Fisheries Research Institute under the ICAR. On acceptance of the recommendations of the Vth Central Pay Commission by the Government and the ICAR having adopted the same, the Senior Scientists were awarded the pay scale of Rs.12000-18300 with a stipulation that Senior Scientists who had completed 5 years of service as on 1.1.96 would start at Rs.14940/-. Applicants' pay as on 1.1.96 was fixed accordingly at Rs.14940/- and they on their option was granted increment with effect from that date. However a clarification order A-2 has been issued stating that those like the applicants would get their 1st increment only on expiry of 12 months from 1.1.96. Aggrieved by that the applicants have filed this application challenging the order dated 6.5.99 (A2) for a declaration that A-2 clarification is without jurisdiction, arbitrary and discriminatory and to quash the same granting the applicant consequential benefits.




2. The respondents have filed a detailed reply statement resisting the application.

3. When the application came up for hearing, learned counsel for the respondents brought to our perusal an order of the Principal Bench of the Tribunal in O.A.1495/99 dealing with the identical issue. The Tribunal considered the claim of the similarly situated persons and observed as follows:

"8. We have heard the learned counsel for both the parties and have considered the pleadings and submissions made by them. A reading of Rule 7 of Rules shows that if the pay is fixed according to Rule 7(1) of the Rules where there is no stepping up of the pay, the concerned employee is entitled to draw his increment in the new pay scale from the date of next increment in the pre-revised scale. In all other cases where there is stepping up either due to bunching or due to total emoluments arrived at under Rule 7 being less than the minimum of the new scale, the employee becomes entitled to the date of next increment after completing 12 months of service in the revised scale.

9. According to us, the applicant seems to have proceeded on the wrong premise that the minimum of the pay scale is Rs.14940 and not Rs.12000. The minimum of Rs.14940 has been allowed in the case of ICAR Scientists as a special dispensation. As already pointed out, if the applicant's pay is to be fixed according to Rule 7(1), his pay would work out to only Rs.13020 and with one increment it would come to Rs.13440. In normal course, he would have got the pay fixed at the next stage in the revised scale i.e. Rs.13680. This is less than Rs.13940/-.

10. If we take second proviso relating to bunching, then also even with increments as the applicant was in the 10th stage in the pre-revised scale, he still would not have got Rs.14940. His pay would have got fixed at Rs.13680. It is only because of the note 1 under para (1) in the letter of 27.2.99 that the applicant has been assured the minimum of Rs.14940. Again if we take proviso 3 and allow 3 increments, then also the applicant would not have got Rs.14940. Therefore, it is to be accepted that the applicant's pay has been stepped up or he would not have got even the minimum of Rs.14940. Thus this being a case of stepping up as rightly pointed out by the respondents, applicant's next date of increment will have to be, after 12

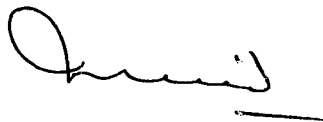



.4.

months from 1.1.96 i.e. on 1.1.97. It should not be also overlooked that he has been granted one increment as on 1.1.96 and he cannot therefore be given an extra increment in the same year. This way also applicant's date of next increment is to fall only on 1.1.97. Also it must be borne in clarificatory in nature and the clarifications are with specific reference to the mode of pay fixation and the date of next increment in the case of those employees whose increment falls on 1.1.96. We are satisfied that the respondents action is in order and they are justified in directing the recovery of the excess paid. We do not find any valid reason to interfere with the orders of the respondents. The applicant has no case."

We are in agreement with the view taken by the Principal Bench and therefore we do not find any merit in the challenge against Annexure A2.

4. In the light of what is stated above following the ruling of the Principal Bench of the Tribunal in O.A.1495/99, we dismiss the application, leaving the parties to bear their respective costs.


(T.N.T.NAYAR)
ADMINISTRATIVE MEMBER


(A.V.HARIDASAN)
VICE CHAIRMAN

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A P P E N D I X

1. Annexure A1 : True copy of order No.1(15)/98-Per.IV dated 27.2.99 communicated by the 3rd respondent.
2. Annexure A2 : True copy of the letter No.1(15)/98-Per.IV dated 6.5.99 issued by the 5th respondent.
3. Annexure A3 : True copy of the letter No.1(15)/98-Per.IV dated 3.3.99 issued by the Govt.of India, Ministry of Agriculture, New Delhi.
4. Annexure R1 : Copy of undertaking and option.
5. Annexure R2 : Copy of O.M.No.F.50(2)/97/IC.I dated 14.10.97 issued by the Joint Secretary to the Govt. of India, Ministry of Finance, New Delhi.
6. Annexure R3 : Copy of letter No.1(15)/98-Per.IV dated 9.9.99 issued by the Indian Council of Agricultural Research(ICAR), New Delhi.
7. Annexure R4 : True copy of clarifications issued by the Ministry of Finance by OM No.7(8)/E.III(A)/99(C)/112/118/130 dated 20/23-8-99.
8. Annexure R5 : True copy of office order No.20-8/00-Estt. dated 16.8.2000 by the 4th respondent.

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