

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 110 of 1996

Wednesday, this the 9th day of April, 1997

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

1. C.P. Ramachandran,
S/o (Late) G. Parameswaran Pillai,
(Retired as Scientist S-1 on 31.7.1994,
Central Plantation Crops Research
Institute, Kasaragode)
Pushpavihar, Kaithavana,
Alleppey-3 .. Applicant

By Advocate Mr. PV Mohanan

Versus

1. The Director General,
Incian Council of Agricultural Research,
Krishi Bhavan, Dr. Rajendra Prasad Road,
New Delhi -110 001
2. The Director,
Central Plantation Crops Research
Institute, Kudlu PO, Kasaragod. .. Respondents

By Advocate Mr. CN Radhakrishnan (represented)

The application having been heard on 9-4-1997, the
Tribunal on the same day delivered the following:

O R D E R

The applicant seeks to set aside A-7 and to direct
the respondents to grant cash compensation equivalent to
full overtime allowance as on holidays for 93 days for
the extra hours of duty performed by him from 1-3-1988
to 28-6-1990 with interest.

2. The applicant was initially appointed as Laboratory
Assistant on 1-3-1958. He was promoted as Senior Research
Assistant with effect from 30-7-1971. As per order dated

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14-1-1990, he was inducted as Scientist 'S' Grade with effect from 22-9-1980. He was promoted as Scientist 'S-I' with effect from 1-7-1982 as per order dated 8-10-1992. He retired from service on 31-7-1994. As per order dated 18-2-1988 the Indian Council of Agricultural Research increased the working hours of Technical personnel, Supporting staff and Drivers to 8 hours from 6½ hours, while the working hours of Scientific/Administrative staff remained as 6½ hours. As per order dated 5-10-1990 the earlier order of enhancing the working hours was revised and was fixed as 6½ hours for Scientific, Technical and Supporting staff. Accordingly, it was decided to allow compensatory leave as per existing rules to the concerned staff for the extra hours of duty performed by them for the period from 24-2-1988 to 3-10-1990. As per circular dated 8-12-1993 it was made clear that Scientists/Officers/Supervisory staff are not eligible for compensatory leave and those who have already availed of compensatory leave may apply for eligible leave. The applicant submitted details regarding the duties performed by him for the period from March, 1988 to June, 1990 claiming compensatory leave. The claim was rejected as per order dated 6-1-1994.

3. The respondents say that the applicant was holding a non-scientific post when the working hours of the staff were increased to 8 hours. However, he was appointed to the grade of Scientist S-1 retrospectively with effect from 1-7-1982 as per order dated 8-10-1992 and during the relevant period he drew pay and allowances for

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gazetted post. Under the relevant order/instructions for granting compensatory off/overtime allowance, gazetted officers are not entitled for compensatory off or overtime allowances for the extra hours of work put by them. All the consequential benefits as applicable to the Scientists were extended to the applicant from the date of his appointment to that grade and he is entitled for counting the service for placement/promotion in the next grade. So, from 1-7-1982 onwards he was holding a gazetted status and enjoying the benefits.

4. It is the admitted fact that the applicant was promoted as Scientist S-1 retrospectively with effect from 1-7-1982. The claim of the applicant for grant of cash compensation is for the period from 1-3-1988 to 28-6-1990. According to the applicant, though he was retrospectively promoted during that period, he had actually worked as a Technical person (non-gazetted) and having performed the duties and responsibilities of Technical personnel extending to 8 hours per day, he is entitled to the claim made in the OA. The stand of the respondents is that by virtue of the retrospective promotion granted to the applicant, he is to be deemed to be holding the post of Scientist S-1 (gazetted post) with effect from 1-7-1982 and as per the rules/-- instructions in force, those who are in the gazetted cadre are not entitled to any cash compensation as claimed by the applicant. The applicant has admittedly accepted the promotion effected retrospectively and has

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also accepted the consequential benefits of the same including the difference in pay and allowances. So, the position is that the applicant is to be deemed to be Scientist S-1 (gazetted rank) from 1-7-1982. If the argument advanced by the applicant that though he was retrospectively promoted, he had actually performed the duties of a Technical person during the period from March 1988 to June 1990, it will be leading to a position where the applicant was holding the post of Scientist and Technical staff as one and the same time. There cannot be such a situation. It cannot be deemed that one is a Scientist and a Technical staff, one the former in the gazetted cadre and the later in the non-gazetted cadre at the same time. The only logical conclusion that would be arrived at is that from 1-7-1982 the applicant is to be deemed to be a gazetted officer. That being so, as per the relevant rules he is not entitled to any cash compensation for the extra work done by him from 1-3-1988 to 28-6-1990. There is no challenge against the rules/instructions in force denying cash compensation for gazetted officers doing overtime work.

5. The representation of the applicant was rejected as per A-7 on the grounds that during the relevant period he drew pay and allowances for gazetted post, that as per instructions on the subject the gazetted officers are not entitled for compensatory off or overtime allowance for the extra hours put by them, that the applicant has been allowed the benefit of pay and allowances in scientific category, and hence, he cannot turn back and claim overtime allowance under technical services, and that by virtue of

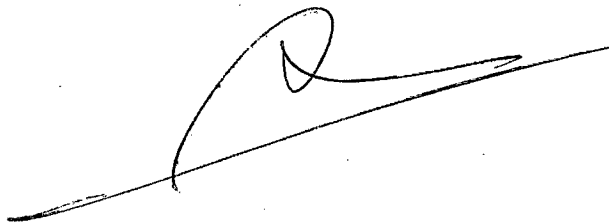
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retrospective promotion, he is entitled for the benefit of pay and counting of services for assessment promotion in the next grade in the scientific category.

6. For the reasons I have already stated, I do not find any ground to arrive at a conclusion that A-7 is liable to be set aside or quashed. Accordingly the Original Application is dismissed. No costs.

Dated the 9th of April, 1997

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line extending to the right.

A.M. SIVADAS
JUDICIAL MEMBER

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List of Annexures

1. Annexure-A7: True copy of the proceedings Ref. No.F.1285/94-Conf1. dated 8.8.95 issued by the 2nd respondent.