

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
ERNAKULAM

DATE OF DECISION ..

15TH MARCH 1990

PRESENT

HON'BLE SHRI S.P. MUKERJI, VICE CHAIRMAN

AND

HON'BLE SHRI A.V. HARIDASAN, JUDICIAL MEMBER

ORIGINAL APPLICATION NO.OA 137/90

1.	Rabeendranath Baruah	
2.	Madhav Chandra Rav	
3.	K. Soman	
4.	Kanakachandra Das	
5.	Kamaleshwar Deka	
6.	Debanchandra Das	
7.	Biranchandra Das	
8.	Rameshwar Kairaste	
9.	Puranam Das	
10.	Birendrachandra Das	
11.	Arunachandra Sarmah	
12.	Sankar Ram	
13.	Sukuraj Bahadur	
14.	Jatinchandra Baruah	
15.	Purunnachandra Das	
16.	Jamiruddin	
17.	Tikarama Sarmah	
18.	Ram Autur	
19.	Upendrachandra Das	
20.	Ram Bahadur	
21.	Rudralal Sarmah	
22.	Kesoprasad Sarmah	
23.	Prakash Burman ..	Applicants

Vs.

1. The Director,
Central Plantation Crops Research Institute,
Kasargod.
2. The Director General,
Indian Council of Agricultural Research,

Krishi Bhavan, New Delhi	..	Respondents
Mr. P.V. Mohanan	..	Counsel for the applicant
Mr. P.V. Madhavan Nambiar, SCGSC		Counsel for the respondents

O R D E R

(Hon'ble Shri S.P. Mukerji, Vice Chairman)

In this application dated 16th January, 1990, 23 employees of the Central Plantation Crops Research Institute Research Centre at Kahikuchi, Gauhati in Assam have prayed for setting aside the impugned order dated 19.12.89. (Annexure IX) by which it was informed that the Special Duty Allowance (SDA) had been stopped in accordance with the ICAR circular of 24.7.89 and that final orders are awaited from the Indian Council of Agricultural Research. The applicants have also prayed to be entitled that they may be declared to get the SDA in accordance with the Government of India's OM of 14th December, 1983 by which the SDA has been made available to all Central Government civilian employees who have all India transfer liability and are working in States and UTs of North-Eastern region. The facts of the case are as follows.

2. The Central Plantation Crops Research Institute (CPCRI) is an institute under the ICAR and has its headquarters at Kasargod in Kerala with centres in West Bengal, Kahikuchi in Assam and other places in Karnataka, Kerala, Goa, Laksha-

dweep, etc. The applicants appointed by the CPCRI are transferable within the institute from centre to centre. As a matter of fact, the first applicant was working at Karnataka before being transferred to Kahikuchi near Gauhati. The second and third applicants have also been working outside Assam before they were posted at Kahikuchi. The other applicants are also liable to be transferred anywhere in India in accordance with their appointment order. The Government of India in accordance with the OM of 14th December, 1983 (Annexure I) sanctioned of pay as 25 per cent/SDA to the employees of the Central Government working in the North-Eastern region comprising Assam, Meghalaya Manipur, Nagaland, Tripura, Mizoram and Arunachal Pradesh. The question of granting the SDA to the employees of the ICAR Research Complex located at Shillong was taken up and vide order dated 6th April, 1987 (Annexure IV), the benefit of the aforesaid OM on SDA was extended to the ICAR staff in group B, C and D categories belonging to ministerial, technical and supporting staff. The staff working in the CPCRI Research Centre at Kahikuchi wanted extension of the same benefit and ICAR, in consultation with the Ministry of Finance, 5 extended the benefit of SDA inter alia to the staff of CPCRI Research Centre at Kahikuchi vide order issued by the Government of India dated 2/4 February, 1988 at Annexure VIII. On

the basis of this order, the applicants were allowed SDA with effect from 1.11.83 at the rate of 25 per cent of their pay and at the rate of 12^Y per cent with effect from 1.1.86. It appears that another unit of CPCRI which had been working under the administrative control of Central Agricultural Research PortBlair in Institute at Andamans were not getting the SDA as they were R not having all India transfer liability. When the matter was taken up with the ICAR, the ICAR informed the Director of the Central Agricultural Research Insitute at Andaman & Nicobar Islands that only scientists and other officers having all India transfer liability are entitled to the SDA and other staff members appointed on Institute basis who are not having all India transfer liability are not entitled to SDA. A copy of this communication which was addressed/ to the Director, CARI h somehow at Port Blair was/ received by the Director, CPCRI in November, R 1989 and the Director, CPCRI on his own, instantly stopped SDA to the staff of their Research Centre at Kahikuchi and sought clarification from ICAR. The applicants' contention is that, the SDA had ^{been} granted to them by the ICAR and the h Director, CPCRI has no authority to stop it, especially when staff of the other institutes of the ICAR in the North-Eastern region S are getting the same benefit. Their second contention is that the benefit of SDA could not be withdrawn by the Director R

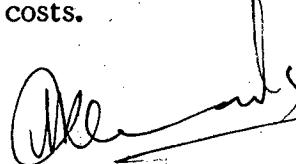
without giving them a notice and so long as the sanction order at Annexure VIII issued by the Government of India ~~and~~ ^{the} ICAR is not withdrawn, the SDA cannot be stopped.

3. We have heard the arguments of the learned counsels for both the parties and gone through the documents carefully. The respondents have preferred to file a statement of facts dated 28th February, 1990, instead of a counter affidavit. In that statement, they have conceded that the applicants had been granted SDA in accordance with the order dated 12.12.83. They have also conceded that this allowance was not paid to the staff working at CARI, Andamans under whose administrative control the CPCRI unit at Port Blair was functioning. They have also conceded that the SDA was withdrawn from the staff working at Kahikuchi Centre unilaterally when they saw the communication at Annexure X which was addressed by the ICAR to the Director, CARI at Port Blair, pending clarification from the ICAR.

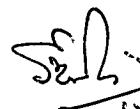
4. From the above facts, it is clear that the SDA which was allowed to the applicants by the ICAR has been withdrawn by the impugned order by the Director, CPCRI at Kasargod. Since the Director is subordinate to the ICAR, he had no power to cancel, suspend or discontinue the SDA sanctioned by the ICAR. Since no notice was given to the applicant prior to

stopping the SDA, the impugned order is even otherwise, bad in law. There is no valid ground for the Director to even suspend the SDA on the basis of a communication which was addressed by the ICAR to another Director at Port Blair. In view of the fact that other ICAR employees working in the North-Eastern region which include Kahikuchi also, are continuing to get SDA, its discontinuance by singling out the Kahikuchi centre of the ICAR is violative of Articles 14 and 16 of the Constitution.

5. In the facts and circumstances, we allow the application, set aside the impugned order dated 19.12.89 at Annexure IX and direct that the applicants should be allowed the SDA and during the currency of in accordance with / the order of the ICAR dated 2nd/4th February, 1988 at Annexure VIII as if the impugned order had not been passed. The arrears of the SDA should also be refunded to the applicants within a period of two months from the date of communication of this order. There will be no order as to costs.


(A.V. HARIDASAN)

Judicial Member


(S.P. MUKERJI)

Vice Chairman

15.3.90

NRM