

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.157 of 1994

Wednesday, this the 11th day of January, 1995

CORAM

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

HON'BLE MR P SURYAPRAKASAM, JUDICIAL MEMBER

1. Chacko Mathew, S/o Mathew Chacko(late),
Scientist, Senior Grade,
CPCRI, Regional Station,
Kayamkulam.
2. N Gopinathan Pillai,
S/o KNP Pillai, Scientist,
Senior Grade, CPCRI, Regional Station,
Kayamkulam.
3. M Sasikala,
W/o Gopalakrishnan, Scientist,
Senior Grade, CPCRI, Regional Station,
Kayamkulam.
4. B Sathiamma,
W/o KV Janardhanan Pillai, Sr.Scientist,
CPCRI, Regional Station,
Kayamkulam.Applicants

By Advocate Mr PV Mohanan.

Vs

1. The Director General,
Indian Council of Agricultural Research,
Krishi Bhavan, New Delhi.
2. The Director,
Central Plantation Crops Research Institute,
Kasaragod.
3. The Joint Director,
CPCRI. Regional Station,
Kayamkulam.Respondents

By Advocate Mr CN Radhakrishnan.

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants are Senior Grade Scientists in the Central Plantation Crops Research Institute's Regional Station, Kayamkulam. The pay scales of the University Grants Commission were adopted by the Indian Council of Agricultural

contd.

Research with effect from 1.1.1986 by A1 dated 9.3.1989. In para 6(ii) of A1, it is pointed out that the next increment of a Council employee whose pay has been fixed on the first day of January, 1986 at the same stage as the one fixed for another Council employee junior to him in the same cadre and drawing pay at a lower stage than his in the existing scale, shall be granted on the same date as admissible to his junior, if the date of increment of the junior happens to be earlier. Applicants contend that their date of next increment should have been preponed to that of their juniors.

2. Respondents contend that there is no inter-se-seniority among the ARS Scientists and therefore, the question of stepping up of pay on par with that of a junior does not arise. They rely on Rule 22 of the ARS Rules, which states:

"Note 1:

There will be no inter-se-seniority among the scientists of the Service for the purpose of promotion."

(Emphasis added)

Respondents contend that since this rule is a statutory rule framed under the proviso to Article 309 of the Constitution of India, any subsequent instructions such as A1, which are only administrative instructions, cannot over-ride it. Applicants have pointed out that in the Central Inland Capture Fisheries Research Institute, which is an Institute under the ICAR, para 6(ii) of A1 has been implemented and the date of increment has been suitably adjusted to be on par with that of juniors as seen in A IX. Respondents, however, would state that this is an order issued by a subordinate Institute and would not be binding on the ICAR.

contd.

3. An identical issue came up before the Principal Bench of this Tribunal in OA 1820/93. The Tribunal referred to para 6 of Al letter and said:

"It is stated that the concept of seniority does not obtain in the organisation. Each ARS Scientist is treated as a separate officer on his merit, irrespective of what happens to his colleagues.

I am not impressed by this argument. That may be true for the purpose of service prospects. However, in so far as the revised pay scale is concerned, the Annexure B letter dated 9.3.89 (Al in this OA) itself envisages parity in certain respects between a junior person and a senior person who may have been aggrieved by the treatment given to the junior. It is because of this that the provision has been made in the second proviso to para 6 of that circular...The prerequisite conditions for the application of that proviso are fully satisfied in the present case...Hence Amar Singh is his junior. The other conditions having satisfied, I am of the view that the applicant is entitled to the relief claimed for.

In the circumstances, the applicant should be given the pay of Rs.3825/- with effect from the same date as has been given to Amar Singh and his next date of increment in the pay scale of Rs.3700-5700 should be the same as that which has been fixed for Shri Amar Singh."

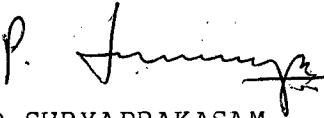
The Principal Bench did not refer to Rule 22 of the ARS Rules. In our view, there is no basic conflict between rule 22 of the ARS Rules and para 6(ii) of the letter dated 9.3.89. Rule 22 of the ARS Rules refers only to an absence of inter-se-seniority for the purpose of promotion. This would not necessarily mean that there

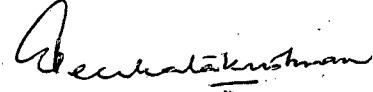
is no inter-se-seniority for other purposes and as long as the respondents have not withdrawn the letter Al dated 9.3.89 on the ground that it does not conform to Rule 22 of the ARS Rules, applicants should be given the benefit conferred by para 6(ii) of the letter dated 9.3.1989.

4. Respondents strongly contend that the claim is barred by limitation. Learned counsel for applicants stated that though Al letter was issued on 9.3.89, it was followed by several clarifications and several cases were filed before the Tribunal. AVI dated 21.4.92 was issued by IARI reiterating the letter dated 9.3.89. There is also the order of the Principal Bench which is dated 11.2.94 allowing the benefit of pay fixation with effect from 1.1.86. As stated by the learned counsel for applicants, the UGC pay scales and service conditions were being implemented only in a phased manner.

5. Therefore, we consider that the claim of the applicants is not barred by limitation. Accordingly, the application is allowed. Respondents are directed to re-fix the date of next increment of applicants and grant consequential benefits as provided for in para 6(ii) of the letter dated 9.3.89 (Al) within four months. No costs.

Dated the 11th January, 1995.


P. SURYAPRAKASAM
JUDICIAL MEMBER


P. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

List of Annexures

Annexure A1: True copy of the Proceedings No.1-14/87-Per .IV dated 9.3.1989 issued by Secretary, ICAR, New Delhi.

Annexure VI: True copy of the Proceedings No.4-3/89-P.I dated 21.4.92 by C.A.O., ICAR, New Delhi.

Annexure IX: True copy of the proceedings No.AC/VR/PF-86/Officer/ 1603 dt. 23.1.90 by Head of Office, ICAR, West Bengal