

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.158/2000

Thursday this the 28th day of March, 2002.

CORAM

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

Subash Chandran Nair C.
S/o Chandrasekhara Pillai
Project Operator (T-2)
Central Institute of Fisheries Technology
Matsyapuri P.O.
Kochi.

...Applicant.

(By advocate Mr.P.V.Mohanan)

Versus

1. The Director General
Indian Council of Agricultural Research
Krishi Bhavan, New Delhi.
2. The Director
Central Institute of Fisheries Technology
Matsyapuri P.O., Kochi.
3. Union of India represented by
The Secretary to Govt. of India
Ministry of Agriculture
New Delhi.

...Respondents

(By advocate Mr.P.Jacob Varghese)

The application having been heard on 28th March, 2002,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

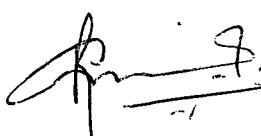
Applicant aggrieved by A-5 order dated 5.3.99 and A-6 order dated 20.3.99 by which his representation for a higher scale of pay had been rejected has filed this Original Application seeking the following reliefs:

- i. To call for the records leading to A-5 and A-6 and set aside the same.
- ii. To direct the respondents to fix the scale of pay of the applicant to the post of Projector Operator as 1350-2200 as Technical with effect from 23.11.94 and to fix the revised scale of pay to the post with all consequential benefits.



iii. Any other appropriate order or direction as this Hon'ble Tribunal may deem fit in the interest of justice.

2. Applicant was recruited under the respondents in Central Institute of Fisheries Technology pursuant to the notification issued on 6.11.90 to the post of Projector Operator (T-2) in the scale of Rs.1200-1800. According to the applicant's averments in the OA, the Technical Service Rules was introduced in 1977 with effect from 1.10.75. The technical services are grouped into three categories, consisting of 10 grades and within each category the posts have been functionally classified into 8 groups. The post of Projector Operator was included as items No.6 in Group-II - Laboratory Technicians. Prior to the introduction of the Technical Service Rules, the scale attached to the post was Rs. 330-480 and on introduction of TSR (Technical Service Rules) the incumbent was placed/inducted in the grade of T2 in the scale of Rs.330-560. In May 1982, the post of Projector Operator along with certain other posts were classified as 'Auxiliary'. By A-1 proceedings dated 20.4.88 Recruitment Rules for the post of Projector Operator was framed stipulating the scale of pay of Rs.1350-2200, which was the revised pay scale of Rs.380-640. Applicant claimed that all appointments to the posts of Projector Operator after reclassification as Auxiliary should have been in the pay scale of Rs.1350-2200 in terms of the Recruitment Rules. The post of Projector Operator was again reclassified as Technical from 23.11.94 vide ICAR letter dated 1.8.95 and the pay scale was fixed at Rs.1200-2040 and the incumbents had been inducted to Grade T2. According to the applicant, the statutory pay scale of Projector Operator was Rs.1350-2200 and the said pay scale must be protected to the incumbents who were recruited prior to

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1.8.95. By A-2 proceedings dated 1.8.95, he claimed that he was designated in the reclassified post (Technical) in the pay scale of Rs. 1350-2200 treating the statutory pay of Auxiliary post personal to the applicant. By A-3 order dated 27.12.95 the pay scale was again changed as Rs.1200-1800. Again by another order dated 1.1.96 the pay scale was fixed as Rs. 1200-2040 which was the scale of T2 in Technical Service Rule. According to the applicant, on reclassification a person in the statutory grade of Rs.1350-2200 inducted under Technical Service Rules should be fitted into the nearest corresponding grade of Rs. 1400-2300. Applicant made A-4 representation dated 19.3.98. The 32nd Meeting of the Institute Joint Staff Counsel held on 21.11.95 discussed the matter as an agenda item and the matter was referred to the Council for final decision. The committee which was appointed by the Director also recommended the scale of pay of Rs.1350-2200. Without perusing the report, the ICAR by A-5 and A-6 proceedings rejected the request of the applicant. Hence he filed this OA seeking the reliefs mentioned above. Applicant claimed that as he was governed by A-1 Recruitment Rules, his scale of pay should be protected namely Rs.1350-2200 and the said pay should be treated as personal to him and A-5 & A-6 in so far as those affected the vested rights of the applicant were violative of Articles 14 and 16 (1) of the Constitution of India. Further A-5 and A-6 were actuated by error apparent on the face of the records.

3. Respondents filed reply statement resisting the claim of the applicant. According to them, the post of Projector Operator was initially sanctioned in the pay scale of Rs. 150-240 which



was later revised to Rs.330-480 as per the 3rd Pay Commission Recommendations from 1.1.73. On introduction of the Technical Service from 1.10.75 the post of Projector Operator was classified as Technical and the then incumbent was placed/inducted in the Grade T-2 with the scale of Rs.330-560. In May 1982 the post of Projector Operator along with some others was reclassified as Auxiliary and as per A-1 Recruitment Rules circulated by respondent No.1 the scale of pay of the post of Projector Operator was Rs.1350-2200. Under the Recruitment Rules this grade was equivalent to the pre-revised scale of Rs. 380-640. The then incumbent holding the post of Projector Operator retired on superannuation on 31.8.90. Since the sanctioned scale for the post of Projector Operator was Rs.330-480 which was revised to Rs. 1200-1800 as per the IVth Pay Commission Recommendations and since there was no recruitment rules for the post of Projector Operator, consequent on reclassification of the post as Auxiliary, the qualification indicated for the post in the scale of Rs.1350-1800 was followed. Accordingly the post of Projector Operator was notified with the scale of Rs.1200-1800 and based on his interview and selection, the post was offered to the applicant which he accepted. They produced Annexure R-2 dated 2.9.91 in support of this. When the post of Projector Operator was again reclassified as Technical category by R-3 letter dated 1.8.95, the applicant was inducted to T-2 grade of Category I with scale of pay of Rs.1200-2040 with retrospective effect from 23.11.94. The scale indicated as Rs. 1350-2200 in A-2 was due to oversight and the same was rectified by A-3 order dated 1.1.96 (R-4). The applicant was eligible for the scale of Rs.1200-1800 only from the date of joining the



respondent Institute and he was eligible for induction to the T-2 grade only from 23.11.94. No mistake had been done by the respondents as alleged. The matter was referred to a Committee of Departmental Officials; as one of the members disagreed with the recommendations and suggested to await the decision of ICAR. The ICAR examined the issue and the applicant was advised by A-6. Applicant's request for review of the decision was also rejected by R-6 dated 28.10.99. The applicant having accepted the scale offered to him cannot ask for a higher scale. His induction into the Technical Service had been done correctly.

4. Heard the learned counsel for the parties. Learned counsel for the applicant Mr.P.V.Mohanan argued the matter at length and submitted that in the case of the applicant, the provisions of the statutory Recruitment Rules had been violated. According to the statutory Recruitment Rules, the post of Projector Operator should have been notified in the scale of Rs.1350-2200 and the applicant should have been inducted into that grade. Had he been inducted into such a grade, on 23.11.94 when the post was reclassified into the Technical Service, the next higher grade of Rs. 1400-2300 which was only available in the Technical Service would have been allotted to the post and the applicant would have been eligible for the said grade. Learned counsel for the respondents took us through the reply statement and reiterated the points made therein.

5. On a careful consideration of the submissions made by the learned counsel for the parties, the rival pleadings and on a perusal of the documents brought on record, we do not find any

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case for the applicant. Admittedly, the post was notified for recruitment in the grade of Rs.1200-1800 by notification dated 6.11.90. In response to the said notification, the applicant applied for the post and when he was selected and the post was offered to him, he unconditionally accepted the same as could be seen from R-1 memo. Having accepted the post in the grade of Rs.1200-1800 in 1991, the applicant has approached this Tribunal in 2000 through this OA, without challenging the notification or the offer of appointment made to him or the appointment letter issued to him. Even when he was fitted in the Technical Service Rules by A-3 dated 27.12.95 and further revised on 1.1.96 into T-2 grade of Rs.1200-2040, the applicant had not challenged the same. Even A-3 order dated 27.12.95 or the order dated 1.1.96 said to have issued correcting the grade to 1200-2040 have not been impugned in this OA. At the same time the applicant seeks a direction from this Tribunal to the respondents to fix the pay of the applicant in the grade of Rs.1350-2200 with effect from 23.11.94. Grant of pay scales to different categories of posts is an area generally not subject to judicial review unless shown to be totally arbitrary. In this case, the applicant having been inducted in the scale of Rs. 1200-1800 as Projector Operator in the auxiliary service and when the said post was brought to the technical Service with effect from 23.11.94 in the scale of pay Rs.1200-2040 and he had been given the scale granted to the said post, he cannot have any grievance as none of the vested right of the applicant has been infringed by this.

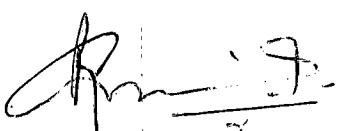


6. In the above view of the matter, we do not find any merit in the OA. Accordingly we dismiss the OA with no order as to costs.

Dated 28th March, 2002.



K.V. SACHIDANANDAN
JUDICIAL MEMBER
aa.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

APPENDIX

Applicant's Annexures:

1. A-1 : True copy of the Recruitment Rule for the post of Project Operator with proceeding No.F.23(3)/87-Per.III dated 20.4.1988.
2. A-2 : True copy of the proceeding No.F.6(9)/95-W.S dated 1.8.95.
3. A-3 : True copy of the Order No.F-4-34/95-Admn. dated 27.12.95.
4. A-4 : True copy of the representation dated 19.3.98.
5. A-5 : True copy of the proceeding F.No.9 (35)/98 E-IV dated 5.3.99.
6. A-6 : True copy of the proceeding No.F-34/95 Admn. Vol.II dt.20.3.99
7. A-7 : True copy of proceedings F.No.8(10)/82-Per.III (P.T.I.) (Vol.II) dated 27.7.1984 issued by the 1st respondent.

Respondents' Annexures:

1. R-1 : Memorandum No.4-32/90-Admn. dated 22.8.91 addressed to Shri Subhash Chandran Nair C.
2. R-2 : Joining Report dated 2.9.91 of Shri Subhash Chandran C.
3. R-3 : ICAR letter No.6(9)/95-WS dated 1.8.95 regarding re-classification of posts as Technical.
4. R-4 : CIFT Corrigendum No.4-34/95-Admn. dated 1.1.96.
5. R-5 : Proceedings of the Committee dated 19.5.98.
6. R-6 : Memorandum No.4-34/95-Admn. Vol.II dated 18.10.99 issued to Shri Subhash Chandran Nair C. *****

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