

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE: 14.10.93

O.A. 229/93

A.A. Kunjappan
S/o Ayyappan
Field Assistant (T2)
CIFT, Matsyapuri P.O.
Kochi-29

Applicant

vs.

1. The Director General
Indian Council of Agricultural Research
Krishi Bhavan, New Delhi

2. The Director, CIFT, Matsyapuri P.O.
Kochin-29

Respondents

Mr. P.V. Mohanan

Counsel for the
applicant

Mr. P. Jacob Varghese

Counsel for
respondents

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THE HON'BLE MR. N. DHARMADAN JUDICIAL MEMBER

JUDGMENT

MR. N. DHARMADAN JUDICIAL MEMBER

1. Only question which arise for adjudication in this case is whether the advance increment earned by the applicant can be part of pay for fixation of pay in the higher post of T-2 in the scale of Rs. 1200-2040 w.e.f. 1.4.89 and 1.4.90.

2. The applicant was originally appointed as Field Assistant, under the second respondent on 22.4.81. After he completed five years in that cadre on 31.12.86 he was assessed as per the existing rules and granted two advance increments w.e.f. 1.1.87. He was also given a further one advance increment in the same grade w.e.f. 1.1.89. His pay was fixed on 1.4.89 at Rs. 1270 (Rs. 1180 + three increments). The next increment was also given to the applicant w.e.f. 1.4.90. After giving normal increment his pay was fixed at Rs. 1300/- which is inclusive of three advance increments granted to the applicant on the basis of the recommendation

of the Assessment Committee. He was also promoted to the next higher grade of T-2 in the scale of pay of Rs. 1200-2040 w.e.f. 1.1.90.

3. Thereafter, the impugned order Annexure-II was issued by the Sr. Administrative Officer fixing applicant's pay under FR 22-C at Rs. 1230 denying him the benefit of three advance increments earned by him upto 1.4.90 on the ground that the advance increments earned by the applicant do not form part of the pay. A consequential order Annexure-III was issued for recovery of Rs. 1,554/- from the salary of the applicant treating the sum as excess pay drawn by the applicant in the light of the earlier fixation of pay. The representation filed by the applicant objecting the recovery and fixation of pay was rejected by Annexure A-X order.

4. In this application filed under section 19 of the Administrative Tribunals' Act, the applicant is challenging Annexure A-II, A-III and A-X. He also prays for a declaration that he is entitled to fixation of his pay in the scale of Rs. 1200-2040 (T-2 grade) while protecting the pay and advance increments earned by him during 1.4.89 and 1.4.90 with normal increments.

5. The learned counsel for applicant submitted that this case is squarely covered by the judgment of this Tribunal in O.A. 278/92.

6. The respondents in the reply submitted that the advance increments cannot be treated as part of pay in the light of Annexure A-VII, letter of the Director, which was issued pursuant to this Bench's decision on O.A. 384/89. The order took effect from 8.1.90.

7. The effect of application of Annexure A-VII in regard to counting of advance increments for fixation of pay was considered by this Tribunal in O.A. 278/92. This Tribunal held as follows:

"This view gets support from the wording in FR 22-C. The last sentence under FR 22-C gives stress on the expression "such pay has accrued." This indicates that any pay including increment which has been accrued in favour of the employee on account of his merit should be reckoned for the purpose of fixation of the pay of that employee in the higher post, whether he has been appointed by direct selection or promotion. The circular letter of the ICAR dated 26.5.89 considered in O.A. 384/89 takes in promotion and appointment when it contains the expression 'fixation of pay on promotion/appointment to next higher grade/post.'"

X

X

X


...If FR 22-C is to be invoked in fixing the salary of the applicant in T-6 grade, it shall be fixed only after protecting his pay in the lower post which includes three advance increments accrued in his favour on account of five yearly assessment, as held by this Tribunal in O.A. 384/89 and the Cuttack Bench in O.A. 435/88. In the light of these two decisions, advance increments being part of pay and the respondents have applied FR 22-C, the fixation of the pay of the applicant in T-6 grade is to be made reckoning the advance increments earned by him..."

8. In the light of the earlier judgment of this Tribunal I am of the view that the applicant is entitled to protection of the advance increments which he has earned and accepted by the respondents as per the earlier fixation w.e.f. 1.4.89 and 1.4.90. As indicated above, the revised orders Annexure-II and further order Annexure-III in so far as the same applies to the applicant cannot be sustained in the light of the views decision laid down by this Tribunal.

9. Accordingly, I set aside the impugned orders so far as that affect the applicant adversely. The respondents shall fix the pay of the applicant in the scale of Rs. 120022040 in the promoted post by protecting the pay drawn by him including the advance three increments given to the applicant as on 1.4.89 and 1.4.90.

10. The application is allowed as above.

11. There shall be no orders as to costs.


(N. DHARMADAN)
JUDICIAL MEMBER
14.10.93

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List of Annexures

1. Annexure-II : Impugned order No.F-12-17/90 Cdn dated 10.7.91
2. Annexure-III : Impugned order No. F-5-7/91-92/Bill dated 25.7.91
3. Annexure-X : Impugned order No.F.12-17/91-C dn dated 31.8.91
4. Annexure A-VII : Circular No.8-22/77-Per.IV dated 29.7.90