CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.233/08, O.A.250/08,
O.A.251/08 & O.A.252/08

Wednesday this the 4th day of March 2009

C O R A M :

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER

O.A.233/08

Dr.S.Narayana Moorthy,
S/o.late N.Subramoney,
Principal Scientist,
Central Tuber Crops Research Institute,
Sreekariyam, Trivandrum – 17.
Residing at No.18 B, Gowri Nagar,
Pongumoodu, Medical College P.O.,
Trivandrum – 11. ...Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. The Indian Council of Agricultural Research
through its Secretary, Krishi Bhavan, New Delhi.

2. The Director,
Central Tuber Crops Research Institute (CTCRI),
Sreekariyam, Trivandrum – 17.

3. The Administrative Officer,
Central Tuber Crops Research Institute (CTCRI),
Sreekariyam, Trivandrum – 17.

4. The Assistant Finance & Accounts Officer,
Central Tuber Crops Research Institute (CTCRI),
Sreekariyam, Trivandrum – 17. ...Respondents

(By Advocate M/s.Varghese & Jacob)

O.A.250/08

Dr.Raj Sekhar Misra,
S/o.late V.D.Misra,
Principal Scientist & Head,
Division of Crop Protection,
Central Tuber Crops Research Institute,
Sreekariyam, Trivandrum – 17.
Permanent Address : Ram Lal Ka Purwa,
Dabhasemar, Faizabad, Uttar Pradesh. ...Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. The Indian Council of Agricultural Research through its Secretary, Krishi Bhavan, New Delhi.

2. The Director,
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Sreekariyam, Trivandrum – 17.

4. The Assistant Finance & Accounts Officer,
Central Tuber Crops Research Institute (CTCRI),
Sreekariyam, Trivandrum – 17. ...Respondents

(By Advocate M/s.Varghese & Jacob)

O.A.251/08

Dr.Vinayaka Hegde,
S/o.Mahabaleshwar Hegde,
Senior Scientist,
Central Tuber Crops Research Institute,
Sreekariyam, Trivandrum – 17.
Residing at No.TC 5/1664, CRA B/47,
Siva Mahima, Cheruvaickal, Sreekariyam P.O.,
Trivandrum – 695 017. ...Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. The Indian Council of Agricultural Research
through its Secretary, Krishi Bhavan, New Delhi.

2. The Director,
Central Tuber Crops Research Institute (CTCRI),
Sreekariyam, Trivandrum – 17.

3. The Administrative Officer,
Central Tuber Crops Research Institute (CTCRI),
Sreekariyam, Trivandrum – 17.

4. The Assistant Finance & Accounts Officer,
Central Tuber Crops Research Institute (CTCRI),
Sreekariyam, Trivandrum – 17. ...Respondents

(By Advocate M/s.Varghese & Jacob)

O.A.252/08

Dr.(Mrs.)Bala Nambisan,
D/o.P.N.V.Nambisan,
Principal Scientist,
Central Tuber Crops Research Institute,
Sreekariyam, Trivandrum – 17.
Residing at Surya, Krishna Gardens,
Golf Link, Kawdiyar, Trivandrum. ...Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. The Indian Council of Agricultural Research
through its Secretary, Krishi Bhavan, New Delhi.

2. The Director,
Central Tuber Crops Research Institute (CTCRI),
Sreekariyam, Trivandrum – 17.

3. The Administrative Officer,
Central Tuber Crops Research Institute (CTCRI),
Sreekariyam, Trivandrum – 17.

4. The Assistant Finance & Accounts Officer,
Central Tuber Crops Research Institute (CTCRI),
Sreekariyam, Trivandrum – 17. ...Respondents

(By Advocate M/s.Varghese & Jacob)

These applications having been heard on 4th March 2009 the Tribunal on the same day delivered the following :-

ORDER

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

The issue involved in these O.As are identical and, therefore, they are disposed of by this common order.

2. The applicants are working as Principal Scientists and Senior Scientists in the Central Tuber Crops Research Institute. Three of them are in the scale of pay of Rs.16400-22400 and one of them is in the scale of pay of Rs.12000-18300 They are aggrieved by the identical orders dated 5.4.2008 issued by the 3rd respondent by which their pay has been reduced retrospectively.

3. During the course of the arguments it has been admitted by the counsel for the parties that these cases are covered by the earlier order of this Tribunal in O.A.280/05 dated 8.8.2007 – Dr.B.Sasi Kumar Vs. The Indian Council of Agricultural Research and others. The operative part of the said order is as under :-

> "12. Viewed from all angles we find that the prayer of the applicant for grant of advance increments falls within the purview of the extant instructions and there was no dearth of clarity in the orders. The respondents have denied the benefits which were legitimately due to the applicant on the basis of wrong interpretations given to the instructions. There is no mention any where in the scheme of Career Advancement that the provisions therein are applicable only to those Scientists appointed after 1.1.1996 or after coming into effect of the scheme to the disadvantage of the earlier Scientists. If such was the intention of

the Government there was no need for clause (ii) (a) and (c) of the scheme. Hence the intention was at the same time to give the benefit and encouragement to those who already have Ph.D. Degree and also an incentive to others for acquiring the Ph.D degree, only the financial benefits were made applicable from a later date.

13. In the light of the foregoing discussion, we are of the considered view that the applicant is entitled to be granted four advance increments for possessing the Ph.D degree prior to his appointment as a Scientist in terms of Annexure A-1 and two more advance increments for moving over to the post of Senior Scientist since he was holder of a Ph.D degree at that time, the benefits being effective from 27.7.1998 as clarified by the orders from time to time. The respondents are directed to grant the applicant the above benefits and pay consequential arrears within a period of three months from the date of receipt of this order. The O.A is allowed. No costs."

4. The same issue was considered by this Tribunal in O.A.279/05 - Dr. T. John Zachariah Vs. The Indian Council of Agricultural Research and others also. Following the orders of this Tribunal in O.A.280/05 (supra), O.A.279/05 was also allowed vide order dated 13.9.2007. The operative part of the said order is as under :-

"5 At the time of arguments, the counsel for the applicant submitted that only one part of his prayer in para 8(b) of the OA has been granted by the respondents in the order dated 30. 11. 2005 mentioned above and the applicant is entitled to the additional two increments for moving over Senior Scientist as has already been allowed by the Tribunal in the case of the applicant in OA 280/2005. The Learned counsel for the respondents agreed that the decision in OA 280/2005 would cover the case of the applicant also. On perusal of the above order, we find that the applicant's prayer is also covered by clarification (2) in Annexure A3 which has been relied on in the order in OA 280/2005.

6 OA is allowed accordingly taking note that the first part of the prayer has already been granted by the respondents and directing them to grant the applicant two more advance increments for moving over to the post of senior scientist in accordance with the clarification at Annexure A3 dated 19.4.2004. The applicant shall also be entitled to consequential payment of arrears. The above directions shall be complied with within three months from the date of receipt of the order. "

5. Again the same issue was considered by this Tribunal in O.A.684/07 – Dr.E.Vivekanandan Vs. The Indian Council of Agricultural Research and others and vide order dated 3.10.2008 it was also allowed. The operative part of the order is as under :-

> "10. Arguments were heard and documents perused. The contention by the respondents in the afore said OAs 280/05 and 279/05 is the same as the one raised in this OA. The same is the ground for withdrawal of the advance increments granted to the applicant. The impugned order is dated 25th October, 2007, while the judgments of the High Court are posterior to the same rejecting the identical contentions raised by the respondents before the High Court. Hence, the judgments as above would equally apply to the case of the applicant herein.
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> 11. Consequently, the OA succeeds. Order dated 25th October, 2007 impugned herein is hereby quashed and set aside in so far as the same relates to the applicant. (It is for the respondents to apply this order to others similarly situated, in view of the recommendations of the V Pay Commission vide Para 126.5 of the Report). It is declared that the benefits made available to the respondents in the above two writ petitions (i.e. the applicants in OA No. 280 of 05 and 279/05) would be equally available to the applicant herein. Respondents are, therefore, directed to pass suitable orders in this regard on the same lines as they may issue orders in the above case and afford the applicant the benefits accordingly. This drill shall be complied with, within a period of three months from the date of communication of this order.
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> 12. No order as to costs."

6. The orders of this Tribunal in O.A.279/05 and O.A.280/05 was challenged before the Hon'ble High Court of Kerala in WPC No.34046/07 and WPC No.13969/08 and vide judgment dated 26.11.2007 in WPC No.34046/07 and judgment dated 26.5.2008 in WPC No.13969/08, the Hon'ble High Court upheld the aforesaid orders of this Tribunal in O.A.279/05 and O.A.280/05. The respondents challenged the aforesaid

judgments of the Hon'ble High Court of Kerala before the Apex Court in SLP No.1179/08 in which the Apex Court had granted an interim ex parte stay against the same.

7. Thereafter this Tribunal has considered the issue in O.A.686/07 – Dr.P.Rajamma Vs. The Indian Council of Agricultural Research and others and vide order dated 14.10.2008 it was also allowed with a direction to the respondents to implement the order of this Tribunal in O.A.279/05 and O.A.280/05 in the said OA also subject to the judgment of the Apex Court in the aforesaid pending SLP. Again vide order dated 30.10.2008 in O.A.110/08 – Dr.L.Krishnan Vs. The Indian Council of Agricultural Research and others similar orders have been passed by this Tribunal.

8. As these cases are also covered by the aforesaid orders of this Tribunal and the judgment of the Hon'ble High Court of Kerala, we allow these O.As also subject to the very same condition that the implementation of the order will be subject to the outcome of the SLP 1179/08 pending before the Apex Court. The O.As are accordingly disposed of. There shall be no order as to costs.

(Dated this the 4th day of March 2009)

K.NOORJEHAN
ADMINISTRATIVE MEMBER

GEORGE PARACKEN
JUDICIAL MEMBER

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