

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 301/2000

Friday, this the 15th day of February, 2002.

CORAM :

HON'BLE SHRI A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. Dr. A.A. Jayaprakash,
Senior Scientist,
Central Marine Fisheries
Research institute,
Cochin-14.
2. K.R. Manmadhan Nair,
Senior Scientist,
Central Marine Fisheries
Research institute,
Cochin-14.
3. Dr. Mrs. V. Kripa,
Scientist(Senior Scale),
Central Marine Fisheries
Research Institute,
Cochin-14.
4. T.V. Sathianadan,
Scientist,
Central Marine Fisheries
Research institute,
Cochin-14.
5. Dr. K.K. Sukumaran,
Senior Scientist,
Central Marine Fisheries
Research Institute,
Chennai-6.
6. G. Mohan Raj,
Senior Scientist,
Central Marine Fisheries
Research Institute,
Chennai-6.
7. Dr. R. Sarvesan,
Senior Scientist,
Central Marine Fisheries
Research institute,
Chennai-6.

Applicants

(By Shri T.C. Govindaswamy)

Vs

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

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2. The Director,
Central Marine Fisheries
Research Institute,
Cochin-14.
3. The Officer-in-Charge,
Madras Research Centre of the
Central Marine Fisheries
Research Institute,
Chennai-6.

... Respondents

(By Shri P. Jacob Varghese)

The application having been heard on 15.2.2002, the Tribunal on the same day delivered the following :

ORDER

HON'BLE SHRI A.V. HARIDASAN, VICE CHAIRMAN

The applicants 1-4 are Scientists working in the Central Marine Fisheries Research Institute, Cochin and applicant 5-7 are Scientists working in the Central Marine Fisheries Research Institute, Chennai. They were granted annual increments during the period of their study leave. On the basis of the clarification letters dated 10.9.1998(A2) and dated 28.1.1998(A5) to the effect that the drawal of annual increments with effect from the period of study leave is not accordance with the rules, the 2nd respondent issued orders calling for reviewing and recovery of the amount paid to the various Scientists who were granted increments during the period of study leave. Aggrieved by this, the applicants have filed this application challenging the A2, A5 and A6 orders, declaring that they are entitled to draw the monetary benefits arising out of the drawal of annual increments during the period of study leave as reflected in para 5(1) of Annexure A1.

2. The respondents resist the claim of the applicants and filed a detailed reply statement. The counsel for the applicant states that no recovery has been affected after the interim order.
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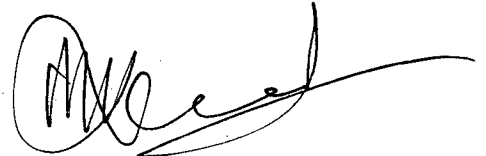
3. We have heard the learned counsel on either side. The Bench of the Tribunal in OA 1755/98 decided on 29.6.2001 have considered the viability of the clarification letters dated 10.9.98 and 28.1.98 and have held that these two orders are unsustainable and have set aside them on the ground that the clarification issued to A1 would not stand.

4. We respectfully agree with the decision of the Bench in OA 1755/98. Following the above position, we set aside the impugned orders A2, A5 and A6 declaring that the applicants are entitled to draw the monetary benefits arising out of drawal of annual increments during the period of study leave as reflected in Para 5(1) of the Annexure A1. No costs.

Dated the 15th February, 2002.



T.N.T. NAYAR,
ADMINISTRATIVE MEMBER



A.V. HARIDASAN,
VICE CHAIRMAN

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A P P E N D I X

Applicants' Annexures:

1. A-1: True copy of the letter No.F.3-21/81-Per.IV dated 17.2.92 issued by Director ICAR and communicated by the office of the 2nd respondent under letter No.11-2/92-Adm., dated 7.3.92.
2. A-2: True copy of the letter F.No.16(2)/96-Per.IV. dated 10.9.98, issued by the 1st respondent.
3. A-3: True copy of the representations different dates, submitted by the applicants 5 to 7 addressed to the 2nd respondent.
4. A-4: True copy of the judgement in OA No.1027/91, dated 4.2.1992 delivered by the Hon'ble Central Administrative Tribunal, Principal Bench.
5. A-5: True copy of the letter No.16(2)/96-Per/IV dated 28.1.98 issued from the office of the 1st respondent.
6. A-6: True copy of the circular No.24-4/89-Admn. dated 21.10.98 issued by the 2nd respondent.
7. MA-1: True copy of the order in OA No.1755/98 dated 29th June, 2001 of this Hon'ble Tribunal.

Respondents' Annexures:

1. R-1: Copy of the Council's letter No.16(2)/96-Per.IV dated 28-1-98 regarding Grant of Study Leave Admissibility of Annual Increments.
2. R-2: Copy of the Circular No.24-4/89-Adm. dated 21.10.98 issued to all concerned to recover the overpayments made.
3. R-3: Copy of the letter No.24-4/89-Adm. dated 16-2-99 sent to Council regarding forwarding of representations from Scientists.

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