

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.368/99

Thursday, this the 12th day of July, 2001.

CORAM;

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

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

Dr.Sathiamma,
Senior Scientist(Entomology),
Central Plantation Crops Research Institute,
Regional Station,
Kayamkulam.

- Applicant

By Advocate Mr PV Mohanan

Vs

1. Union of India represented by its
Secretary,
Ministry of Agriculture,
Department of Agriculture Research and
Education,
New Delhi.
 2. The Indian Council of Agricultural
Research represented by its Secretary,
Indian Council of Agricultural Research,
Krishi Bhavan,
New Delhi.
 3. The Director General,
Indian Council of Agricultural Research,
Krishi Bhavan,
New Delhi.
- Respondents

By Advocate Mr CN Radhakrishnan

The application having been heard on 12.7.2001, the Tribunal
on the same day delivered the following:

O R D E R

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

The applicant who was a Senior Scientist(Entomology)
in the Central Plantation Crops Research Institute, Regional
Station, under the Indian Council of Agricultural Research,

when she filed this application, under Section 19 of the Administrative Tribunals Act has prayed for a declaration that she entitled to continue in service as Scientist in the ICAR till she attains the age of 62 years, that the service conditions, rules and regulations of the personnel governed by the UGC are applicable to the applicant by reference by virtue of Entry 66, List 1 of Schedule VII of the Constitution of India and also for a direction to the respondents to allow the applicant to continue in service till the age of 62 years.

2. The UGC appointed a Pay Review Committee by order dated 24.8.94 which Committee in its report, inter-alia, recommended that the age of superannuation of Teachers governed by UGC should be 62 years. This recommendation was accepted by the UGC. The Ministry of Human Resources Development by proceeding dated 27.7.98 decided to revise the pay scale of Teachers in the Central Universities. It was also ordered that the age of superannuation of University and College Teachers would be 62 years. Based on the above order, the Ministry by proceedings dated 6.11.98, issued A-1 order in which the age of superannuation of 62 years indicated in para 1(vi) of its letter referred to should also applicable to Registrar, Librarians, Physical Education Personnel, Controller of Examinations, Finance Officers and such other University employees who were being treated on par with Teachers whose age of superannuation was 60 years. The ICAR by proceedings dated 27.2.99, revised the pay scale of the Scientist of ICAR with effect from 1.1.96 along with fixation of pay, a Career Advancement ^{System} etc. in tune with the

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decision of the UGC. However, in Clause VI of the said proceedings(A-2), it was provided as follows:

"While concurring in the proposal of the Council for enhancement in the age of retirement of Scientist from 60 to 62 years, the Competent Authority has advised to place it before Cabinet. Accordingly, necessary action has already been taken and after the final approval, separate orders in this regard will be issued. Until such time, the age of superannuation will continue to be 60 years."

The applicant states that if the ICAR sleeps over the matter without taking a decision, persons like the applicant would superannuate and would suffer. It is stated in the application that the service conditions, rules and regulations of the personnel governed by the UGC Act, are applicable by reference to the personnel of the ICAR by virtue of Entry 66, List 1 of Schedule VII of the Constitution of India. With the above averments, the applicant seeks the reliefs as aforesaid.


2. The respondents resist the claim of the applicant on the ground that the service conditions of the personnel Scientists or otherwise under the ICAR are governed by the provisions in the Bye Laws, that the service conditions of Central Government employees or Teachers of Universities, unless specifically adopted, would not enure to the benefits of the employees of the ICAR and that the age of superannuation of the Scientist of the ICAR as per the existing rules being 60 years, the applicant does not have a legitimate cause of action.



3. We have heard the learned counsel on either side and have also perused the pleadings and the material placed on record. An identical issue had come up before this Tribunal in O.A.99/99 titled M.K.George Vs Union of India and others, whereby the Tribunal considered the issue which is raised in this application as well. In para 6 and 7, the Tribunal has observed as follows:

"6. The learned counsel for the applicant tried to persuade us to his proposition by pointing out that the present set of pay scale as well as age of retirement are the same as applicable to the University teachers prior to issue of the letters of the Government of India enhancing the pay as well as the age of retirement of such University teachers. The argument is that if one part viz. the pay scales have been raised on the same condition the age of retirement should also be raised. Secondly, he submits that as pointed out by the Supreme Court, the I.C.A.R. is nothing but a wholly Government funded institution, historically an instrument for financing agricultural projects and hence an instrumentality of the State. To be an instrumentality of State does not mean that it is a Government department and its employees are Government servant governed by the Statutory Rules framed under Art. 309 of the Constitution. The Indian Council of Agricultural Research is admittedly a registered society under the Societies Registration Act with its own rules as well as bye-laws which determine the service conditions of the employees. There is no provision in the Rules brought to our notice that pay and allowances as well as the age of superannuation and other service conditions of Central Government or any category of the University teachers will automatically apply to the employees of the Indian Council of Agricultural Research. We, therefore, find that unless a decision is taken to amend the Rules by the competent authority, i.e. the Governing Body of the ICAR, the age of superannuation cannot be enhanced merely on the strength of Ministry of Human Resource Development letters dated 27.7.1998 and 6.11.1998.

7. It was then urged before us that the respondents themselves have indicated that they have made a reference to the Cabinet proposing the enhancement in the age of retirement and since the Prime Minister had agreed as Minister of Agriculture to bring this matter

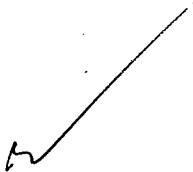


before the Cabinet, there is every likelihood of the proposal being accepted. However, because of time factor many persons like the applicant would retire in the interregnum and lose the benefit of enhanced age of retirement. Obviously, we cannot anticipate the decision of the Cabinet. The applicant has no vested right to the enhanced age of retirement as he is governed by the existing rule of retirement at the age of 60 years. Till this Rule undergoes a change, it will apply equally to all."

5. Learned counsel of the applicant at this juncture invited our attention to the ruling of the Apex Court in ICAR, Appellant Vs Satish Kumar, AIR 1998 SC, 1782, and stated that this judgement was not considered by the Bench while disposing of O.A.99/99. The learned counsel referred to paragraph 13 of the judgement in which it is stated thus:

"..Here it is the competent body of the appellant which frames rules laying down conditions of service of its employees. Rules framed by the Society are not statutory rules and they can be amended by a resolution of the competent body and any legislation or framing of rules under Article 309 of the Constitution is not required. Scientists of the appellant had been agitating for grant of UGC pay scales."

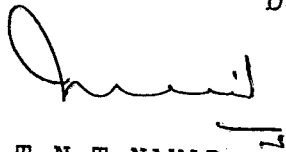
Seeking support from the above observation, learned counsel stated that the Bye Law of the Society not being rules, the conditions regarding age of superannuation can be amended and therefore, even without a statutory rule, the condition regarding superannuation of University teachers be made applicable to the Scientist of the ICAR. We are not in a position to read from the above quoted observation that even if there is no amendment to the Bye Laws, the service conditions of University teachers as prescribed as UGC would automatically apply to the Scientists of the ICAR. The ICAR, in its letter dated 27.2.99(A-2), has clearly stated that until such time separate orders in regard to retirement age



are issued, the age of superannuation would continue to be 60 years. The applicant has not challenged A-2. In this view of the matter, we do not find any reason to deviate from the view taken in O.A.99/99.

6. In the result, in the light of what is stated above, finding no merit, the application is dismissed. There will be no order as to costs.

Dated, the 12th July, 2001.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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LIST OF ANNEXURES REFERRED TO IN THE ORDER:

1. A-1: True copy of the order No.F.1-22/97-III dated 6.11.98 issued by the M/o Human Resources Development, Department of Education.
2. A-2: True copy of the Proceeding No.F.1(15)/98-per-IV dated 27.2.99 issued by the 2nd respondent.