

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**O.A.NO.398/2008**

*Friday* this, the *4* th day of December, 2009

**CORAM:**

**HON'BLE SRI GEORGE PARACKEN, MEMBER(J)**

**HON'BLE SRI K.GEORGE JOSEPH, MEMBER(A)**

1. Dr.K.Vijayakumaran, aged 51 years, son of late Kandachamy, Senior Scientist, Central Marine Fisheries Research Institute, Mangalore Research Centre, Bolar, Mangalore-575 001, residing at Mampallam House, Muthalamada P.O. Palakkad District, Kerala, Pin-678 501.
2. Dr.P.U.Zacharia, aged 48 years, son of late P.V.Ulahanan, Senior Scientist, Central Marine Fisheries Research Institute, Tuticorin Research Centre, Near Roche Park, South Beach Road, Tuticorin - 628001, residing at Pariyappanal House, Thirumarady PO, Koothattukulam.
3. Dr.Santhosh J.Eapen, aged 48 years, son of C.E. Joseph, Senior Scientist, Indian Institute of Spice Research, PB No.1701, Marikunnu Post, Calicut-673 012, residing at M-6/14, KSHB Colony, Malaparamba PO, Calicut.
4. Dr.K.K.Philipose, aged 53 years, son of Kuriakose, Senior Scientist, Calicut Research Centre of Central Marine Fisheries Research Institute, West Hill, Calicut, residing at Kuttickal House, Manimooly PO, Malappuram District, Kerala, Pin-679 333. ... Applicants

By Advocate : Mr.Pratap for Mr.P.Ramakrishnan

vs.

1. Indian Council of Agricultural Research, Krishi Anusandhan Bhavan, New Delhi-01, represented by its Director General.
2. The Central Marine Fisheries Research Institute, PO Box No.1603, Ernakulam North PO, Cochin-18, represented by its Director.
4. Union of India, represented by Secretary, Department of Agricultural Research and Education, Krishi Bhavan, New Delhi. .. Respondents

By Advocate :Mr. T.P.Sajan

The application having been heard on 26.11.2009, the Tribunal on delivered the following:-

### ORDER

**HON'BLE SRI K. GEORGE JOSEPH, MEMBER(A):**

The applicants in this O.A. joined the Agricultural Research Service as Scientists on various dates after 1.1.1986. They were having pay scales at par with scientific posts in other Departments of the Government of India with Flexible Complementing Scheme as provided in the Agricultural Research Service ('ARS'-for short) Rules. On persistent demand from the Scientists UGC pay package was extended to them by order dated 8.3.1989 with retrospective effect from 1.1.1986. As per UGC pay package/Career Advancement Scheme ('CAS'-for short), Ph.D. was an essential qualification for career advancement from the post of Scientist (Senior Scale) to the post of Senior Scientist. A Senior Scientist having 8 years service only will be considered for promotion to the post of Principal Scientist as per Annexure A4 and A5 orders. The applicants challenge the said orders which stipulate that they should complete 8 years of service as Senior Scientist to be eligible for promotion as Principal Scientist.

2. The applicants contend that Annexure A4 order which is a reiteration of what is stated in letter dated 27.2.99 by which the pay scales of Scientists were revised in tune with the 5<sup>th</sup> Pay Commission, clearly indicates that the stipulation of 8 years service after attaining Ph.D. was never intended. A Selection Grade Scientist is simply redesignated as Senior Scientist on acquiring Ph.D. degree. There is no justification in differentiating the service rendered by a Scientist as Selection Grade and as Senior Scientist as they are putting in the same work. The degree of skill acquired, the nature of work and its quality are identical in the case of both Scientist (Selection Grade) and Senior Scientist. Those who joined the service prior to 1.1.86 had their promotion prospects safeguarded by Annexure A2 and Annexure A3 whereas the applicants who joined after 1.1.86 had been granted no protection, which is discriminatory and violative of Article 14 and Article 16 of the Constitution of India. The applicants have to put in 8 years service as Senior Scientist for being considered for promotion as Principal Scientist but the qualification for a direct recruit is only 3 years service as Senior

Scientist for being considered for appointment as Principal Scientist. This amounts to gross discrimination. The applicants had to resort to part-time research outside working hours. Two Scientists only at a time were allowed to avail study leave for 3 years for research purpose counting the period as duty. Therefore the O.A. should be allowed.

3. The respondents contested the arguments of the applicants. The applicants were appointed to the posts of Scientist on various dates after 1.1.1986 and are governed by the UGC scheme only, according to which Ph.D. degree is essential for promotion to the post of Senior Scientist. The clarifications issued vide Annexure A/2 and Annexure A/3 were applicable to those Scientists covered by the ARS Rules ending on 31.12.1985. Those instructions have no relevance with the case of the applicants. The applicants had given their option to come over to the UGC pay scale and were benefited by the career advancement scheme. The applicants were given ample opportunities to acquire Ph.D. degree at the cost of I.C.A.R. as per study leave rules but they never availed the facility. The safeguards in clause 4 of Annexure A/4 are not applicable to the applicants as they have not completed the required number of years of service in the post of Senior Scientist. The service rendered by the applicants prior to acquiring Ph.D. has been recognized by giving higher pay scale after completion of required number of years of service. As per the Recruitment Rules, the qualifications and experience are different for promotion and direct recruitment. Being devoid of any merit under the provisions of law, the O.A. should be dismissed.

4. Arguments were heard and documents perused.

5. The issue to be decided is whether the applicants should have 8 years of service after getting their Ph.D. degree, i.e., after becoming Senior Scientists for being considered for promotion to the post of Principal Scientist.

6. As per Annexure A/1 dated 19<sup>th</sup> April, 2001 on career advancement scheme for Scientists for promotion to higher grades certain number of years service is stipulated. The extract relevant for the applicants is reproduced as under:-

"But for promotion to the post of Principal Scientists/Professor(promotion)

8 years service as Senior Scientist/Reader/Associate Professor with Ph.D. in the revised pay scale of Rs.12000-18300 must remain the minimum eligibility."(emphasis supplied)

7. Annexure A/7 memorandum dated 22/23.11.2007 states as under:-

" With reference to the representations addressed to the Director General, ICAR by the undermentioned Scientist(SG)s regarding assessment promotion to the grade of Principal Scientist, the clarification received from the Council vide letter No.1(5)/2007-Per.IV dated 05.11.2007 is reproduced for their information.

"It is pointed that certain issues relating to implementation of CAS effective from 27.07.1998 were clarified by the ICAR vide letter No.1(15)/98-Per.IV dated 19.04.2004 in consultation with the UGC,MHRD,DOP&T and MOF. The issue raised by the Scientists was clarified vide clarification at Sl.No.5(b) of the Council's letter dated 19.04.2004 as reproduced below:-

<i>Points of doubt</i>	<i>Clarification</i>
<i>Whether a Scientists(Selection Grade) on acquiring Ph.D. degree would be promoted as Principal Scientist irrespective of the date of acquiring the Ph.D.degree.</i>	<i>Since eight years of service as Senior Scientist is mandatory for being considered for the post of Principal Scientist, a Scientist (Selection Grade) would be promoted as Principal Scientist only after he completes eight years of service after he becomes Senior Scientist on acquiring Ph. D. degree.</i>

Accordingly, only the service rendered after re-designation as Senior Scientist is to be counted towards promotion under CAS."  
(emphasis supplied)

8. It is quite clear from the above that a Scientist is eligible to be promoted as Principal Scientist only after he completes 8 years of service after he becomes Senior Scientist on acquiring Ph.D. degree, in accordance with the career advancement scheme based on the UGC pay package.

9. The relevant para in the career advancement scheme for Scientists of ICAR from the circular dated 28.10.91 relied upon by the respondents reads as under:-

"The Scientists in the Senior Scale of Rs.3,000-5,000 who do not have a Ph.D. degree or an equivalent published work, or who do not meet the research standards of Senior Scientists but fulfill other criteria mentioned above and have a good record of research or participation in Extension/Research/Teaching activities will be placed in the grade of Rs.3700-5700 on the recommendation of the Departmental Promotion Committee. They will be designated as Scientists (Selection Grade). Scientists in the Selection Grade will be created for this purpose by upgrading the posts held by them. They could offer themselves for a fresh assessment after obtaining a Ph.D. degree and/or fulfilling the other requirements for promotion as Senior Scientists, and if found suitable, could be given the designation of Senior Scientist".

Subsequent revision of the career advancement scheme vide letter dated 19.7.2000 also upholds the distinction between Scientist(Selection Grade) and Senior Scientist. A Scientist (Selection Grade) does not have a Ph.D. degree. On acquiring Ph.D. degree a Scientist(Selection Grade) will be redesignated as Senior Scientist. There is only a change in designation. There is no change in the emoluments. It is only natural that a Scientist knows fully well that he needs to possess Ph.D. degree for career growth beyond Selection Grade. The respondents aver that "By granting the designation/career promotion as Scientist(Selection Grade), the framers of UGC package have provided a parking lot for such Scientists so that merely for want of non-completion of Ph.D., there should not be any disadvantage to any Scientist (Senior Scale). Accordingly, they have been promoted to the post of Scientist(Selection Grade), the pay scale of which is identical to that of the post of Senior Scientist. However, for further promotion to the post of Principal Scientist only those who possessed Ph.D. degree and designation as Senior Scientist will be considered". It is clearly mentioned in Annexure A/4 that a Senior Scientist will be promoted to the post of Principal Scientist on completion of 8 years of service which means 8 years service as Senior Scientist only. A Scientist (Senior Scale) is designated as Senior Scientist only when he acquires Ph.D. degree, otherwise he is designated as Scientist(Selection Grade) only. There is no provision for promotion of a Scientist(Selection Grade) to the post of Principal Scientist. Thus the issue of 8 years service is decided against the applicants.

10. Now the other contentions of the applicants are taken up. Those Scientists who joined ARS before 1.1.86 and those who joined later fall into two distinct and separate categories. Those in the first category were governed by the Flexible

Complementing Scheme and had the option to switch over to the UGC scheme. Those in the second category were governed by the UGC scheme only, though retrospectively. It is not the case of the applicants that they have been assessed in the earlier Flexible Complementing Scheme. They were governed by UGC pay package which came effective from 1.1.86 prior to their joining the service and they benefited from it. Now they cannot claim for grant of the benefits given to the Scientists who had put in 8 years of service as on 31.12.85 before the UGC package was implemented. The applicants cannot have one leg in the Flexible Complementing Scheme and another in the UGC Career Advancement Scheme. They have no legally tenable ground for asking the safeguards given to the first category of Scientists. The contention that the applicants are discriminated violating Article 14 and Article 16 of the Constitution is unfounded.


11. Any Scientist worth his salt will not fail to understand soon after joining the ARS that he should acquire a doctoral degree to progress beyond the grade of Senior Scientist(Selection Grade). The UGC package is aimed at fostering excellence in education through research and study. Its adoption in the ARS should also be for achieving the same objective in the field of agricultural science. Therefore the importance of acquiring a Ph.D. degree for promotion in the institution the applicants joined cannot be downplayed. Three years study leave is allowed on duty for research purposes. There is no proof on record to show that the applicants ever applied for it and were denied the same. If they were denied study leave for acquiring a doctoral degree which is essential for their career advancement, they should have agitated the matter at the appropriate time.

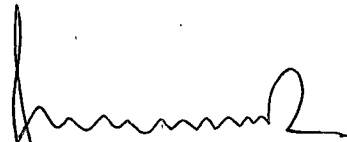
12. The contention of the applicants that the criteria for promotion is relaxed in the case of direct recruits is also unfounded. As rightly stated by the respondents, the qualifications and experience are different for promotion and direct recruitment. In fact, for direct recruitment as Principal Scientist, Ph.D. degree with 10 years experience in research/teaching/extension education, provided 3 years experience as Senior Scientist or in an equivalent position is required. Under the Career Advancement Scheme only 8 years service as Senior Scientist is required.

13. In the rejoinder the applicants have submitted that the stipulation of 8 years service for a Senior Scientist to be eligible for promotion to the post of Principal Scientist has been revised down to 3 years in para 5.7 of Annexure A/10 dated 6.3.2009 issued in the wake of revision of pay of Scientists on the recommendations of the 6<sup>th</sup> Pay Commission. But para 6 (c) of the said Annexure states that the revised CAS will be effective from 1.1.09 and therefore it is not relevant to this O.A. which deals with the CAS vide letter dated 19.07.2000 issued in the wake of the recommendations of the 5<sup>th</sup> Pay Commission. In any case, the revised CAS effective from 1.1.09 will cover the applicants also, if eligible.

14. In the facts and circumstances of the case it becomes absolutely clear that after becoming Senior Scientist on getting a Ph.D., one has to put in 8 years service to be eligible for consideration for promotion to the post of Principal Scientist, that there is no discrimination against the applicant and that there are no extenuating factors in favour of them.

15. Accordingly the O.A. being devoid of merit, as discussed above, is dismissed. No costs.

  
(K. GEORGE JOSEPH)  
MEMBER(A)

  
(GEORGE PARACKEN)  
MEMBER(J)

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