

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW**

Original Application No. 347/2005

Lucknow, this the 12th day of August, 2009

**Hon'ble Ms. Sadhna Srivastava, Member (J)
Hon'ble Dr. A. K. Mishra, Member (A)**

V. N. Mehrotra aged about 48 years S/o Sri Hari Narain Mehrotra R/o
1999 Bazar Jhaulal Near Naaz Cinema, Lucknow.

Applicant.

By Advocate Sri A. Moin.

VERSUS

1. Indian Council of Agriculture Research Krishi Bhawan, New Delhi through Director General.
2. Indian Institute of Sugarcane Research, Dilkusha Lucknow through Director.
3. Senior Administrative Officer, Indian Institute of Sugarcane Research, Dilkusha Lucknow.

Respondents

By Advocate Sri Deepak Shukla for Sri Prashant Kumar.

ORDER

By Hon'ble Dr. A. K. Mishra, Member (A)

Aggrieved by the order dated 26.6.2005 of Respondent No. 3, the applicant has prayed for quashing the impugned order dated 26.6.2005 and for a direction to the respondents to fix his pay at Rs. 7,300/- w.e.f. 1.1.2003.

2. The applicant was appointed on the T-I-2 grade under the respondents on 5.4.1978. He was subsequently promoted to the T-I-3 grade carrying the pay scale of Rs. 425-700/-, which was revised to Rs. 4500-7000/-. He filed O.A. 395/1999 in which a direction was issued to grant T-II-3 grade to the applicant w.e.f. 1.1.1993. Incidentally, the pay scales of T-I-3 and T-II-3 grades were the same, viz. 425-700/-. Originally, the applicant had been granted T-II-3 grade w.e.f. 1.1.1995 by the respondents. In compliance with the direction of this Tribunal, this order was revised and he was given T-II-3 grade with retrospective effect from 1.1.1993. Consequent on a contempt petition



being filed by the applicant on an allegation that the benefit of fixation of pay had not been granted to him, the respondents fixed his pay at Rs. 6900/- with effect from 1.1.2003 in the scale of 6500-10500/- meant for T-5 grade, to which the applicant had been promoted by then. The office order in this connection was issued on 3rd October 2003 (Annexure A-4). The applicant submitted a representation against this fixation and claimed higher benefits. But his representation was dismissed on 24.4.2004 stating it to be frivolous. The applicant filed O.A. 211/2004, which was decided on 27th April 2005 with a direction to the respondents to re-examine the issue and fix the pay of the applicant in the light of instructions contained in letter dated 25.9.1997 of the Ministry relating to pay fixation consequent on abolition of the category T-I-3 and its adjustment in T-II-3. The respondent authorities examined the issue again and passed the impugned order and fixed his pay at Rs. 7100/- as on 1.1.2005. The applicant now alleges that the respondents have failed to appreciate the government order dated 25.9.97 in letter and spirit. They have, in fact, reduced his pay from the level earlier fixed at 6900/- as on 1.1.2003

3. The respondents have taken the ground that the pay of the applicant was re-fixed in compliance with the order of this Tribunal and in consonance with the instructions issued by the government in their letter dated 25.9.1997. For the purpose of better appreciation, the second paragraph of this letter is extracted below:-

"The matter has been considered in the Council and it is clarified that since the provision of grant of advance increment(s) has not been withdrawn, the technical staff in T-I-3 will continue to be eligible for grant of advance increment(s) at T-I-3 level. Further, it is also clarified that for the purpose of pay fixation, the scale of T-I-3 in Cat. I and T-II-3 in Cat. II being the same i.e. Rs. 1,400 -2,300, the pay of a technical person who has been granted advance increment(s) in T-I-3 grade may, on their adjustment in T-II-3 on the removal of category bar/promotion, be fixed as per FR 22 (a) (ii) by taking into account the pay, including the advance increment(s) being drawn on the date of removal of category bar/promotion as per Council's letter No. 7(2)/84-Per.III dated 3.6.1988."

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4. It is clear that the pay of an employee in T-II-3 grade had to be fixed as per provisions of FR-22 (a) (ii) by taking into account the pay including the advance increments earned by him on the date he was being placed in T-II-3 category. In this case, the applicant was placed in the higher category on 1.1.1993. From the detailed statement explained in the impugned order, it is seen that the pay of the applicant on 1.1.1993 was Rs.1560+80 towards two advance increments sanctioned earlier. FR-22 (a) (ii) deals with the method of pay fixation when the appointment of an employee to a new post does not involve higher duties and responsibilities. It does not allow an extra increment or Rs. 100/- (whichever is higher) permissible under FR-22 (a) (i). In this case, the pay scales of both the grades T-I-2 and T-II-3 happened to be the same. His pay in T-II-3 grade was to be fixed at the stage of time scale applicable to him in the old grade. Accordingly, the pay of the applicant in the old grade + two advance increments earned prior to 1.1.1993 were taken into account.

5. The applicant had been granted one advance increment w.e.f. 1.7.1994 in the old grade of T-I-3 in the pay fixation order made on 3rd October 2003. Since the applicant's pay was being fixed in the higher grade of T-II-3 w.e.f. 1.1.1993 the respondent has argued in the impugned order that there was no occasion to grant him the advance increment in the lower grade of T-I-3 any more. Hence this increment was withdrawn and his pay was fixed in terms of R 22 (a) (ii) and in conformity with the government letter dated 25.9.1997. The unintended consequence was that the benefit of one increment he had got on 1.7.1994 in the lower grade of T-I-3 was no longer available to him. That was the reason why overall there was a reduction in his salary.

6. We find that the direction in O.A. 211/2004 was to fix the pay of the applicant in terms of government letter dated 25th September 1997 and the respondent authorities have faithfully carried out the direction



of the Court and fixed his scale in terms of the aforesaid letter of the government. No fault can be found with the respondents, if in the process the applicant lost an increment which was granted to him in T-I 3 scale earlier. The applicant himself filed an O.A. for grant of T-II-3 grade w.e.f. 1.1.1993 and claimed in another O.A. for re-fixation of his pay in terms of government letter dated 25.9.1997. Therefore, he has to accept the logical consequences of his own prayers.

7. We do not find any infirmity in the impugned order. In the circumstances, this application is dismissed. No costs.

A. K. Mishra 12/08/09
(Dr. A. K. Mishra)
Member (A)

Sadhna Srivastava
(Ms. Sadhna Srivastava)
Member (J)

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