

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT

BENCH LUCKNOW

Original Application No. 260 of 1990(L)

Dr. B.M. Gupta (Deceased)

1/1. Debashis Gupta

1/2. Smt. Joyoti Sen.

1/3. Smt. Aditi Gupta.

. Applicants

Versus

2. Union of India through Secretary, Science & Technology Mantralaya, New Delhi.

2. Director General, Indian Council of Medical Research, Ansari Nagar, P.B. No. 4508, New Delhi.

3. Director, Central Drug Research Institute, Chhattar Manzil, P.B. No. 173 Lucknow.

. Respondents.

Hon'ble Mr. S.N. Prasad, Member(J)

Since the former applicant Dr. B.M. Gupta died during the pendency of this application, his legal representatives, who are present applicants, have been brought on record. The applicant has approached this tribunal under section 19 of the Administrative Tribunals Act, 1985 with the prayer to the effect that the respondents be directed not to give effect to the impugned letter/order, dated 14.9.89 contained in Annexure No. A-1 to this application, and for directing the respondent No. 3 to pay the arrear of the difference of the salary/emoluments to the applicant along with up-to-date interest.

2. Briefly stated the facts of this case, inter-alia, are that the former applicant (since deceased Dr. B.M. Gupta) was working as Head of the Division of Virology, CDRI (Scientist E-II), and during

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the tenure of his service, the CDRI Administration in early 1979 took a firm decision to start a research project on antiviral drugs. On the basis of its accumulated experience, an institutional Research Project on "Development of Interferon Inducers and Antiviral Drugs for use in Man" was launched in collaboration with National Institute of Virology, Pune, and accordingly they submitted a suitable R & D proposal to Indian Council of Medical Research, and it was decided by the administration to appoint Dr. B.M. Gupta (aforesaid applicant since deceased) as the "Principal Investigator" of the project. In the very inception it was made clear that the total emoluments which the aforesaid Dr. B.M. Gupta was getting i.e. Rs. 3160/- per month, was to be protected as per existing C.S.I.R. Rules (vide annexure A-2). The savings generated were held in account of the grantee to pay for the protective salary of Rs. 3160/- per month as had been stipulated but the applicant was paid Rs. 1500/- per month only. The applicant had been urging his the then employer CDRI Administration as well as the project sponsors I.C.M.R. through written reminders from time to time starting from July 8, 1981 and onwards but the emoluments given to the applicant was Rs. 1500/- per month and post-commuted pension amount of Rs. 995/- amounting the total of Rs. 2495/- per month and as such there was a shortfall of Rs. 665/- per month to the applicant and as such the applicant sustained a loss to the tune of Rs. 33915/- from 1981 to 1985 when the aforesaid project was completed and ~~none~~ ^{when in} response to the reminder sent by the applicant C.D.R.I. administration expressed its inability

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Rs. 33915/- in violation of the stipulation made by the Director C.D.R.I. (vide letter dated 14.9.1989 annexure A-1) illegally and arbitrarily, hence, the applicant approached this tribunal for the relief as indicated above.

3. In the counter, filed by the respondents No. 3 it has been, inter-alia, contended that the applicant retired from service of the C.D.R.I. on 31.12.1980 and from 1.1.1981, the applicant was being paid honorarium Rs. 1500/- per month despite the pension. It has further been contended that the applicant was neither engaged as C.S.I.R. Scientist nor was re-employed on a post under the C.D.R.I., and since the applicant accepted to work as Principal Investigator under the D.S.T. scheme on the conditions as laid down in the sanction of the D.S.T., as it would be clear from the letter of the Administrative Officer dated 22.1.1981 (vide annexure C.A.-2), there was no any violation of ^{any} ~~Service~~ Service Rules, hence, the applicant is not entitled to any amount or any interest from the C.D.R.I. It has further been contended that the claim of the applicant is barred by limitation.

4. The applicant has filed the rejoinder-affidavit wherein he has re-iterated almost those facts which have been mentioned in the application.

5. I have heard the learned counsel for the parties and have thoroughly gone through the records of the case.

6. The learned counsel for the applicant while drawing my attention to the contents of the

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application, counter-affidavit , rejoinder-affidavit and papers annexed thereto has argued that the aforesaid former applicant Dr. B.M. Gupta was a Scientist and ~~as~~ ^{an} eminent personality so, his honorarium should have been fixed not less than the pay which ~~was~~ being drawn by him at the time of his retirement i.e. 31.12.1980 as is clear from the perusal of Annexure A-2, and has further argued that since the applicant sustained a loss to the tune of Rs. 665/- per month for 51 months, ^{as} ~~as~~ the applicant was paid Rs. 1500/- only as an honorarium and Rs. 995/- as comuted pension, ^{as} ~~as~~ there is a violation of the principle of natural justice and ~~the~~ violation of the terms and conditions as laid down in Annexure A-2, the relief sought for be granted.

7. The learned counsel for the respondent No. 3 while drawing my attention to the pleadings of the parties and to the papers annexed thereto has argued that a perusal of annexure C.A.-1 & C.A.-2 would show that the aforesaid Dr. Gupta agreed to work and had accepted the terms and conditions contained in letter dated 9.6.1980 (annexure C.A.-1) and as such aforesaid Dr. B.M. Gupta was not entitled to any other amount as he had already retired on 31.12.1980, and he was being given Rs. 1500/- as honorarium, over and above, his pension which he was getting from the department concerned and as such the applicants are not entitled to any relief and the application of the applicant be dismissed.

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8. A perusal of annexure C.A.-1 which is copy of letter of the respondents No. 1 dated 9.6.1980 to the respondent No. 3 shows that honorarium to the aforesaid Dr. B.M. Gupta at the rate of Rs. 1500/- per month from 1.1.1980 was granted for rendering of the services by him as referred to above. In this context it is noteworthy that office memorandum No. 11/4/80-ESTT dated 22.1.1981 issued by the respondents No. 3 (copy of which is annexure C.A.-2) shows that the aforesaid Dr. B.M. Gupta had accepted the terms and conditions contained in the aforesaid letter dt. 9.6.1980 granting him honorarium @ Rs. 1500/- per month and after accepting the aforesaid ^{rate of} honorarium the aforesaid Dr. B.M. Gupta had taken over as Principal Investigator of the aforesaid scheme from the forenoon of 1.1.1981, after his retirement on 31.12.1980. It is also important to point out that a perusal of annexure A-2 which is D.O. letter dated 8.5.1980 addressed to Professor V. Ramalingo Swami, Director General, Indian Council of Medical Research, New Delhi shows that the total emoluments of the aforesaid Dr. B.M. Gupta at that time was Rs. 3160/- per month and keeping in view the above total emoluments, his honorarium was to be fixed. It is also pertinent to point out that a perusal of annexure A-3 which is the application of the aforesaid Dr. B.M. Gupta shows that he had requested for increasing his aforesaid honorarium, keeping in view the rising cost of the living etc. Thus, from the scrutiny of the entire material on record and keeping in view the acceptance of the aforesaid Dr. B.M. Gupta ^{about} the amount of honorarium to the tune of Rs. 1500/- per month and keeping ^{in view} the facts ^{that} of the aforesaid Dr. B.M.

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Gupta went on working till the completion of the aforesaid project, and keeping in view the facts that the aforesaid honorarium of Rs. 1500/- per month was fixed over and above, his pension and other retiral benefits after his retirement, I find that the above arguments of the learned counsel for the applicants do not appear to be sound and tenable, whereas the ^{above} arguments of the learned counsel for the respondents No.3 appear to be sound and tenable.

9. From the fore-going discussions and after scrutinising all the ~~entire~~ material on records and keeping in view the circumstances of the case, ^{I find} that the application of the applicant is devoid of merit and consequently, the application of the applicant is dismissed with no order as to the costs.


Member (J)

23.4.92

Lucknow dated 23.4.1992.

(RKA)