

16
CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

Lucknow this the 8th day of June 1996.

O.A. No. 342/1992(L)

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. V.K. SETH, MEMBER(A)

Dr. Deepak Kumar Agrawal, son of late Shri Kedar Nath Agarwal, resident of Scientist Apartments D-15, Gokhle Marg, Lucknow.

Applicant

Applicant in person.

versus

1. Industrial Toxicological Research Centre (CSIR) Mahatma Gandhi Marg, Lucknow through its Director.
2. Director, I.T.R.C. Lucknow.
3. C.S.I.R. Rafi Marg, New Delhi through its Director.
4. Director, General, C.S.I.R. Rafi Marg, New Delhi.

Respondents.

By Advocate Shri A.K. Chaturvedi.

O R D E R

HON. MR. JUSTICE B.C. SAKSENA, V.C.

The applicant who is presently working as Scientist 'C' in the Industrial Toxicology Research Centre, Lucknow (in short 'I.T.R.C., Lucknow') has filed this O.A. feeling aggrieved by the decision of the Central Grievance committee which also upheld the decision of the Local Grievance committee of I.T.R.C. in respect of the applicant's claim of protection of his pay and period of service rendered earlier according to him in the I.T.R.C. Lucknow before his regular appointment as Scientist 'C'.

802

2. The facts in brief may be noted. The applicant's case is that he was appointed as Senior Research Officer under 'Supernumerary Research Cadre Scheme' on a pay of Rs 1100 / per month in the pay scale of Rs 1100-50-1600 plus usual allowances as admissible under the rules. His further case is that under the said scheme he was duly appointed to work on specified research project at the I.T.R.C. Lucknow by the orders of its Director (respondent No. 2). He joined his duties as Senior Research Officer and physically worked at the I.T.R.C. between the period 18.2.86 till his appointment as Scientist 'C' in the I.T.R.C. It has further been averred by the applicant that his pay on the post of Senior Research Officer under the said scheme was raised from Rs 1100 to Rs 1150 with effect from 1.2.87 as a consequence of annual increment having been allowed to be drawn by the Director General, Indian Council of Medical Research, New Delhi (for short I.C.M.R., New Delhi). The applicant's case further is that since he had worked in the I.T.R.C. physically though under the scheme sponsored by the I.C.M.R. as Senior Research officer, he was entitled to protection of his pay drawn on the said post when he was appointed as Scientist 'C'. It may be indicated that the pay scale of Rs 1100-1600 was revised to Rs 3000-4500 with effect from 18.2.86 on the basis of pay revision made on the recommendations of the 4th Pay Commission. The

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applicant in the revised scale was drawing pay of Rs 3100/- per month as Senior Research Officer. The respondents have filed Counter affidavit to which the applicant had filed Rejoinder. Thereafter, the Supplementary Counter and Supplementary Rejoinder have been filed.

3. We have heard the applicant who appeared in person as also Shri A.K. Chaturvedi, counsel appearing for the respondents.

4. The controversy, as emerges from the pleadings between the parties, as noted hereinabove, is that while the applicant maintains that even as Senior Research Officer under the Supernumerary Research Cadre Scheme which was sponsored by the I.C.M.R., the applicant was physically working in the I.T.R.C. and was so permitted to join his duties under the orders passed by the Director, I.T.R.C., respondent No. 2 vide Memo dated 18.2.86 (jAnexure -3). On the other hand, the respondents' case is that the said scheme was sponsored by the I.C.M.R. The applicant while working as Senior Research officer, under the said scheme had been appointed by the I.C.M.R. and was paid salary from the fund of I.C.M.R. It is however, not disputed by the respondents that the applicant was allowed to work at the I.T.R.C. and his salary was paid through I.T.R.C., but out of funds provided by I.C.M.R. and thus it is pleaded that the applicant cannot be treated as having rendered his services under respondents 1 to 3 and was never

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an employee of I.T.R.C. Or C.S.I.R. As a corollary it has been further pleaded that the applicant has no claim for protection of his pay drawn by him as Senior Research officer when he was appointed by selection as Scientist 'C' in the I.T.R.C. It has further been pleaded that the selection committee had decided to allow only the initial pay to the applicant in the revised scale of Rs 3000-4500. On the basis of facts pleaded by the respondents, it has further been indicated that the terms and conditions of his appointment as Senior Research officer were regulated by the I.C.M.R. rules and regulations and not according to the rules of I.T.R.C. or C.S.I.R.

5. The applicant had raised a plea of parity in matter of pay protection given to Dr. K.P. Singh and Dr. R.K. Upreti. The respondents' case is that the aforesaid two scientists were working in the I.T.R.C. and were employees of C.S.I.R. whereas the applicant was an employee of I.C.M.R. prior to his appointment as Scientist C with effect from 11.5.87 in the I.T.R.C. The respondents have further pleaded that the benefit of past service is admissible to those staff who are initially appointed in scheme/project of C.S.I.R. and subsequently absorbed in any of the units of the C.S.I.R. on the regular side without interview/selection. It is pleaded that the applicant was not appointed from 18.2.86 to 10.5.87 under the respondents 1 to 3 nor was he appointed under them without any interview or selection.

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6. We have been taken through the various circulars issued by the C.S.I.R. granting pay protection. No doubt, technically, the respondents are correct in urging that the applicant's claim does not fall within the specified terms indicated in the said circular letters since he was not an employee of the I.T.R.C. while he worked as Senior Research officer under the scheme sponsored by the I.C.M.R. At the same, we find some force in the plea advanced by the applicant. No doubt, the applicant was appointed as Senior Research officer under an Scheme sponsored by the I.C.M.R., but there are documents on record to show that the respondent No. 2 had approved the appointment and permitted him to work in the I.T.R.C. He physically worked in the I.T.R.C. during the period in question.

7. Copy of the application submitted by the applicant in response to the advertisement for appointment on the post of Scientist 'C' has been filed as Annexure C-2 along with the Counter Affidavit of the respondents. The applicant in column 18 had indicated that he was willing to accept the appointment if given Rs 1500 as his basic pay and not the lowest of the initial pay. The respondents' case is that the selection committee held on 28.3.87 at the I.T.R.C. had recommended the initial pay of the scale in respect of the applicant. The applicant further indicated and pleaded that the I.C.M.R. was only an externally funding agency to provide salary for this post, while

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the I.T.R.C. was the actual beneficiary of the research outputs made by the applicant at the I.T.R.C. Thus, he pleaded that for all practical purposes the applicant was entitled to be treated as a temporary employee of the I.T.R.C. under the externally funded supernumerary research cadre scheme of I.C.M.R. His further case is that the periodical report of progress in his assigned task at the I.T.R.C. were presented to the respondent No. 2 ~~and~~ because this area of research was important for I.T.R.C. and this was specified in the job required for the post of Scientist 'C'. There is no denial of the specific averment made by ^{that} the applicant/his research work on the post of S.R.O. was relevant for the purposes of I.T.R.C. and it was the actual beneficiary of the research output made by the applicant while working physically at the I.T.R.C. though under the scheme sponsored by the I.C.M.R. These uncontroverted facts lead us to hold that the applicant has been denied pay protection without good and cogent reasons, though technically the plea advanced by the respondents may be correct, that while working as Senior research officer, the applicant was not an employee of the I.T.R.C. but in view of the fact that the actual beneficiary of his research outputs was the I.T.R.C., we are inclined to agree with the submission made by the applicant as regards his claim for pay protection and for being given the benefit of pay and service while working under the

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externally funded scheme.

8. The applicant also urged that it was not within the jurisdiction of the selection committee to have indicated the basic pay to which the applicant would be entitled. Its function was only to adjudge the suitability by the applicant for the post of Scientist/ 'C'. We find merit in the submission. The applicant, as noted hereinabove, had indicated that he would not be willing to join on the initial pay in the grade of Rs 1100-1600 but would be agreeable if minimum of Rs 1500 is granted to him. That request does not appear to be justified, but his claim for protection of the annual increment drawn in the said scale while working as S.R.O. and his last pay as S.R.O. being Rs 3100 needs to be protected.

9. On a conspectus of the circumstances emerging from the pleadings, we are inclined to take a view, in the special facts and circumstances of the present case, which would not constitute a precedent for other cases that the applicant has made out his claim for pay protection and to have been placed at Rs 3100/ per month with effect from 11.5.87 when he was appointed as Scientist C in the I.T.R.C. in the scale of Rs 3000-4500 and to be granted next increments accordingly. We further direct the difference of the amount to be paid to the applicant within a period of three months.

10. The applicant has also sought a direction to the respondents to protect and grant him all benefits of his service as Senior Research

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Officer, rendered to the I.T.R.C. Lucknow from 18.2.86 to 10.5.87, including assessment for promotion to the next higher grade, seniority pension gratuity etc. We do not however, find ourselves persuaded to grant this relief to the applicant. For purposes of assessment to the promotion for next higher grade seniority, pension etc. only such benefits would be admissible and may be granted to the applicant as may accrue to him treating his appointment as Scientist 'C' in the I.T.R.C. with effect from 11.5.87 at the initial pay of Rs 3100/- per month in the pay scale of Rs 3000-4500.

11. In the terms and directions indicated hereinabove, ^{& to that extent} the O.A. is allowed. The parties shall bear their own costs.

V SK
MEMBER(A)

Lucknow; Dated: 8-1-90

Shakeel/

Bachak
VICE CHAIRMAN