

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA.

D.A.No. 36 of 1996

DATE OF ORDER : 24.12.2001.

Amalendu Sinha, son of late Shri Saroj Kumar Sinha, Resident of Flat No. 8 Jyotindra Bhawan, Saristabad Road, (near Kachi Talab), Yarpur, P.S. Gardanibag, District - Patna - 1, posted as Technical Officer, T-5 of I.A.S.R.I. (ICAR) at Agricultural Research Institute, Patna ..

..... APPLICANT.

By Advocate : Shri A.B. Dja.

Versus

1. Union of India in the Ministry of Agriculture, through the Secretary to Govt. of India ? Krishi Bhawan, New Delhi - 110001.
2. The Indian Council of Agricultural Research through its Secretary, having office at Krishi Bhawan, New Delhi.
3. The Indian Agricultural Statistics Research Institute (ICAR) through its Director having its office at Library Avenue, Pusa, New Delhi.
4. The Chief Administrative Officer, Indian Agricultural Statistics Research Institute (ICAR), Library Avenue, New Delhi. -12.
5. Senior Administrative Officer, Indian Agricultural Statistics Research Institute (ICAR), Library Avenue, New Delhi - 12.

..... RESPONDENTS.

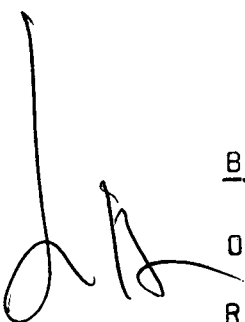
By Advocate : Shri V.M.K. Sinha, Sr.Standing Counsel

C O R A M

Hon'ble Shri Lakshman Jha, Member (J)

Hon'ble Shri L. Hmingliana, Member (A)

O R D E R

 By L. Hmingliana, M(A):- The applicant is a Technical Officer, T-5 under the Indian Council of Agricultural Research (in short ICAR) and working at Agricultural

Research Institute, Patna. He was absorbed in his present service on 5.7.1965 after the Indian Lac Cess Committee under which he was working as Computer Statistics was wound up. After joining the ICAR, he was promoted as Statistical Assistant on 20.10.1970 in the pay scale of Rs. 425-700/- and further as Technical Officer , T-4 (ii) on 1.1.1977 in the pay scale of Rs. 550-900/- and also as T-5 in the pay scale of Rs. 650-1200/- with effect from 1.7.1985. There was another pay scale of Rs. 425-600/- for some other employees like Senior Computer, and with effect from 1.10.1975, it was merged into the pay scale of Rs. 425-700/- , which the applicant is aggrieved about. And those with higher educational qualification than ~~the~~ graduation were allowed the scale of Rs. 550-900/-. The applicant being ~~xx~~ a graduate, he continued in the scale of Rs. 425-700/-. His application is for direction to the respondents to place him in the higher scale of Rs. 550-900/- with effect from his due date and also for his promotion to ^a higher grade with effect from the promotion of his juniors.

2. It appears from the written statement filed on behalf of the respondents that in the Indian Agricultural Statistics Research Institute, the following two services were created with effect from 1.10.1975 for fitment of the employees:-

- (i) Agricultural Technical Service for those who were already in service and were with education ^{al} qualification of graduation and below.
- (ii) Agricultural Research Service for those employees who had higher qualification.

There were three grades in category No. 2 (presumably of the Technical Service as follows;

- (i) TII 3 (i) in the pay scale of Rs. 425-700/- .
- (ii) T-4 (ii) in the pay scale of Rs. 550-900/-
- (iii) T-5 (ii) in the pay scale of Rs. 650-1200/-.

The applicant was fitted in T-2 (iii) ^{which appears to be the same as TII 3 (i)} in the pay scale of

Rs. 425-700/- , which he was already drawing. It is stated in the written statement

that as laid down in Agricultural Technical Service Rules,

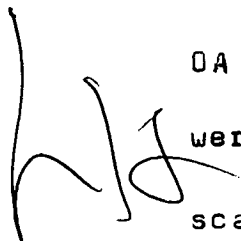
the employees were fitted into grades specified in para 3.1 (presumably of the Rules) on point to point basis, and employees in the merged scales of Rs. 425-700/- were fitted in grade T-2 (iii) in the same pay scale, and that the applicant was inducted in that grade as on 1.10.1975 on the basis of the Rules.

3. It is ^{abundantly} ~~pointedly~~ clear that the pay scale of Rs. 550-900/- was for post-graduates which the applicant was not on 1.10.1975, though he acquired that qualification later in 1979. Then he has no case for fitment in the scale of Rs. 550-900/- on the basis of the Agricultural Technical Service Rules (ATSR). Now he has advanced another ground for fitment in the scale which is that the

Industrial Tribunal No. 2 of the Delhi Administration vide its Award dated 8.1.1988 held that the complainants therein who were Technical Assistants (Statistical) in the Institute were entitled to be fitted into T-4 (ii) scale of Rs. 550-900/- with effect from 1.10.1975 with consequential benefits. His learned counsel, Shri A.B. Ojha stated that the Award was taken to the Supreme Court in SLP, and the SLP was dismissed. He argued that the applicant would be entitled to the benefit of the Award.

4. The applicant was obviously not a party to the Award of the Industrial Tribunal. If he is seeking relief on the basis of the Award, it will be the same Tribunal which he will have to approach in case he desires to do so. The government servants who come under the definition of workmen under the Industrial Disputes Act, 1947 have the choice to approach the Industrial Tribunal or the Administrative Tribunal, and they cannot be allowed to seek redressal from the Administrative Tribunal on the basis of the Award given by the Industrial Tribunal. Thus, he has no case on the basis of the Award of the Industrial Tribunal.

5. Shri V.M.K. Sinha, the learned Sr. Standing Counsel for the respondents cited the order of the Principal Bench of the Tribunal dated 25.8.1995 dismissing OA 2679/90 filed by some other employees of the ICAR who were previously ~~the~~ Senior Computers in the previous pay scale of Rs. 425-600/- before the Constitution of the



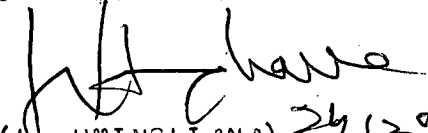
Technical Service Rules, which came into force on 1.10.1975. The applicability of the Award of the Industrial Tribunal was discussed in the order of the Principal Bench. We do not see how we can depart from the clear order given by the Principal Bench in its order dated 25.8.1995. Besides, as pointed out in the written statement, the applicant has approached the Tribunal long after his fitment into the pay scale of Rs. 425-700/-, and his case for placement in the scale of Rs. 550-900/- has no merit.

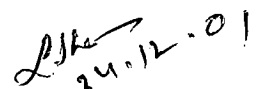
6. Coming to his case for promotion to ^a higher grade, it must be noted that he has not made his points sufficiently clear. But it appears from para 4(xxvii) that he is aggrieved with the merit promotion of some of his juniors from T-4 in the pay scale of Rs. 550-900/- to T-5 in the pay scale of Rs. 650-1200/- given to seven out of 12 persons named by him with retrospective effect from 1.7.1976 ¹⁹⁷⁶ vide order dated 30.12.1991 (Annexure-3). Out of the 12 names given by him, we find only seven as being promoted in the order, the other five being merely granted advance increments in their own pay scale of Rs. 550-900/-. He states that his promotion should have been made with retrospective effect from the same date of 1.7.1976. But we find that those who were promoted vide order dated 30.12.1991 were already in the pay scale of Rs. 550-900/-, because of their fitment into the scale vide office order dated 1.12.1989 (Annexure-2),

which fitment was in terms of the Award dated 8.1.1988 given by the Industrial Tribunal of the Delhi Administration. We have already dealt with the case of the applicant for fitment into the pay scale of Rs. 550-900/- above, and we have not found merit in ~~in~~ that claim. Then, his case for retrospective promotion to the grade of T-5 in the pay scale of Rs. 650-1200/- from 1.7.1976 has to fail, because he was not in the feeder grade of T-4 in the pay scale of Rs. 550-900 as on that date. Besides, he has come to the Tribunal far too late, and his OA has to fail even on the ground of limitation any way.

7. The application is dismissed. There shall be no order as to costs.

/CBS/


(L. HMINGLIANA) 24/12/01
MEMBER (A)


(LAKSHMAN JHA)
MEMBER (J)