

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO.676/2001

Date of Decision: 31.01.2002

Ramachandra Parida

Applicant(s)

Shri K.B. Rajan.

Advocate for Applicants

Versus

Union of India & 2 others

.. Respondents

Shri V.G. Rege.

Advocate for Respondent No.1

Shri R.R. Salvi

Advocate for Respondents No.2&3

CORAM: HON'BLE SHRI JUSTICE BIRENDRA DIKSHIT. VICE
CHAIRMAN
HON'BLE SMT. SHANTA SHASTRY... .. MEMBER (A)

- (1) To be referred to the Reporter or not? |
(2) Whether it needs to be circulated to other Benches of the Tribunal? | x
(3) Library ✓

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(SMT. SHANTA SHASTRY)
MEMBER (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICIATION NO.676/2001

THIS THE 31ST DAY OF JANAUARY, 2002

CORAM:HON'BLE SHRI JUSTICE BIRENDRA DIKSHIT. VICE
CHAIRMAN
HON'BLE SMT. SHANTA SHASTRY. MEMBER (A)

Ramachandra parida,
Research Assistant/ Statistical
Assistant, working under Institution
for Reserch in Reproduction,
Indian Council of Medical Research,
J.M. Street, Parel,
Mumbai-400 012.

.. Applicant

By Advocate Shri K.B. Rajan.

Versus

1. Union of India (through)
The Secretary,
Ministry of Health and
Family Welfare,
Nirman Bhavan,
New Delhi-110 001.
2. The Director General,
Indian Council of Medical Research,
Ansari Nagar, PO Box 4911,
New delhi-110 029.
3. The Director/ Officer-in-Charge,
Institution for Research in
Reproduction, Indian Council
of Medical Research, J.M. Street,
Parel, Mumbai-400 012. ... Respondents

By Advocate Shri V.G. Rege for R1
Shri R.R. Salvi for R2 & R3

O R D E R (ORAL)

Hon'ble Smt. Shanta Shastry. Member (A)

The applicant is a Statistical Assistant appointed on 15.4.93 in the Institution for Research in
Reproduction under the Indian Council of Medical Research (ICMR) in the pay scale of Rs.1400-2300. The applicant is holding a degree in M.Sc., in Statistics

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and two years P.G. Diploma in computer Applications. At the time of his appointment, ~~the~~ post of Statistical Assistant came to be redesignated as Research Assistant by order dated 25.8.2001.

2. A letter was issued by ICMR on 30th October, 2000 addressed to the Director of Institute for Research in Reproduction i.e. Respondent No.3 on the subject of grant of higher scales of pay to certain categories of posts in various cadres under ICMR with reference to recommendations contained in para B and C of Government of India Notification NO.GSR 569(E) dated 30.9.97. In this letter, it has been stated ^{that} "as since Chennai Bench of the CAT has taken a decision to upgrade the scale of pay of Research Assistant/Statistical Assistant from Rs.1400-2300 to Rs.1640-2900 for those who were recruited with post graduate qualification such incumbents in the scale of Rs.1640-2900 will be entitled for the higher scale of pay of Rs.6500-10500 under para B and C of the Notification referred to earlier." The Director was therefore, asked to take necessary action in respect of such incumbents after verifying their eligibility from their service record. Accordingly, the applicant's pay came to be revised to Rs.6500-10500 vide memorandum dated 19th December, 2000. Immediately thereafter, the ICMR addressed a communication on 31.01.2001 to all the Directors of the ICMR institutions/centres pointing out that the ICMR had

taken time of three months for implementation of the order of the Chennai Bench of the CAT with regard to the higher pay scale to the category of Research Assistant and Statistical Assistant recruited with post graduate qualification for the category of Research Assistant/Statistical Assistant, the scale of Rs.5500-9000 may be implemented with effect from 01.01.1996 till formal approval of the Ministry of Health and Family Welfare for the higher scale of Rs.6500-10500 was received, for which orders will be issued separately. Thereafter, an office order was issued by Respondent No.3 on 03rd September, 2001 in respect of pay scale of the applicant by downgrading^{it to} to Rs.5500-9000 with effect from 01.01.1996. This was followed up by another letter dated 26th August, 2001 ordering that the difference of payment already made to the applicant in excess for the period from 01.01.1996 to 31.8.2000 will be adjusted after receipt of the final order from the Council as the matter is subjudice.

3. Being aggrieved by the aforesaid orders, reducing the pay scale of the applicant to Rs.5500-9000 and ordering of refund, the applicant has sought the following reliefs:

- a) To Call for the records and proceedings;
- b) To set aside the impugned orders hereinabove and thereafter continue to declare that the orders dated 05.9.2001, 03.9.2001, 25.8.2001 and 31.01.2001 are bad in law.

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- c) * quash and set aside orders dated 05.9.2001, 03.9.2001, 25.8.2001 and 31.1.2001.
- d) to hold and declare that the Applicant is entitled to be considered for fixing his pay scale @ Rs.6500-200-10500 w.e.f. 01.01.1996, as originally fixed by and through the order of the Respondent No.2 dated 30.10.2000 (Annexure A-6);
- e) Any other and further orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.
- f) Cost of this original Application be provided for.

4. It is the contention of the applicant that he was rightly given the scale of Rs.6500-10500 and he was possessing the post graduate qualification when he was recruited as Statistical Assistant. Further the Chennai Bench of the Tribunal has passed an order in TAs No.13 to 21/99 on 26th September, 2000 in an identical matter⁴ allowing the scale of Rs.6500-10500 to the Statistical Assistant/Research Assistant in the Institution under the ICMR. According to the applicant, the aforesaid judgment squarely applies to his case also and therefore, the benefit of the judgment needs to be extended to him.

5. The learned counsel for the respondents submits that the respondents have carried the judgment of the Chennai Bench of the Tribunal to the High Court of Madras and the matter has been admitted, though no stay has been granted. Thus, the matter is under consideration of the High Court of Madras. There, the applicants in the TAs decided by the Chennai Bench were allowed the scale of Rs.6500-10500 subject to their

giving an undertaking that they would be liable to refund the excess amount in case the judgment was set aside by the High Court of Madras. The learned counsel for the respondents, therefore, submits that similar direction be given in the present case also.

6. On merits, the learned counsel submits that the applicant was initially appointed in the scale of Rs.1400-2300 in 1993. The replacement scale for this is Rs.5500-9000. It was by mistake that the applicant was fixed in the higher scale of Rs.6500-10500 as the recommendation was to give the higher scale for the scale of Rs.1640-200 and therefore, the respondents had to alter the pay fixation of the applicant. Besides, just because some assistants in the Central Secretariat got the higher scale of Rs.6500-10500 that does not mean that the Research Assistant or Statistical Assistant in the ICMR which is a society should also get that scale. Mere Post graduation qualification by itself cannot entitle ^{the} applicant for the higher pay scale. In fact, it has to be established that there is equal work and the duties and responsibilities are same. the learned counsel, therefore has submitted to go by the judgment to be given by the Madras High Court.

7. The learned counsel for the applicant justifies his pay fixation originally in the scale of Rs.6500-10500 on the ground that even earlier, the

Fourth Pay Commission had recommended higher pay scale for the Statistical Assistant and the Chennai Bench of the Tribunal has taken into consideration the fact that the Statistical Assistant is recruited in the scale of Rs.1400-2300. After careful examination of the material placed before it, the Tribunal came to the conclusion that the Statistical/ Research Assistant under ICMR deserves to be placed in the higher pay scale and accordingly allowed the same.

8. We have heard the learned counsel for the applicant as well as the respondents. We find that the case of the applicant is squarely covered by the judgment of the Chennai Bench of the Tribunal in TAS No.13 to 21/99. We are inclined to agree with the judgment of the co-ordinate Bench. Accordingly we quash and set aside the impugned orders dated 05.9.2001, 03.9.2001, 25.8.2001 and 31.01.2001 and hold that the applicant is entitled to be considered for fixing his pay in the scale of Rs.6500-10500 with effect from 01.01.1996 as originally fixed. The respondents, in their reply have produced another letter dated 16.10.2001 from ICMR directing the respondent No.3 to fix the pay of the applicant in the earlier scale of Rs.5500-9000 and to recover over-payment immediately. Since the earlier orders have been quashed and set aside this subsequent letter also needs to be quashed and set aside and it is done so accordingly.

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9. In the light of the discussion made above, the respondents shall not recover any excess payment made to the applicant from 01.01.1996 on account of fixation in the higher scale of Rs.6500-10500. The OA is accordingly allowed. We do not order any costs.

Shanta S-
(SMT. SHANTA SHASTRY)
MEMBER (A)

B. Dikshit
(BIRENDRA DIKSHIT)
VICE CHAIRMAN

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21/31/19
order/judgement despatched
to Applicant/Respondent (s)
on 14/2/02

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