CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * * * * *

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 16 DEC 1988

IA III IN APPLICATION NO. 513 / 88(F)

W.P. NO. /

Applicant(s) Respondent(s)

Shri S.A. Sreedhara V/s The Director General, ICAR, New Delhi & 2 Ors

To

1. Shri S.A. Sreedhara
Laboratory Technician (T4)
Department of Post-harvest Technology
Indian Institute of Horticultural Research
Hesaraghatta Lake
Bangalore - 560 089

2. Shri D. Leelakrishnan
Advocate
28, Raja Snow Building
S.C. Road, Seshadripuram
Bangalore - 560 020

3. The Director General
Indian Council of Agricultural Research
Krishi Bhavan
New Delhi - 110 001

4. The Director General of
Indian Council of Agricultural Research
Krishi Bhavan
New Delhi - 110 001

5. The Director
Indian Institute of
Horticultural Research
255, Upper Palace Orchards
Bangalore - 560 080

6. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY/INTERIM ORDER~~ passed by this Tribunal in the above said application(s) on 5-12-88.

Issued
K. M. 19-12-88

SECTION OFFICER
~~REGISTRAR~~
(JUDICIAL)

Encl : As above

o/c

In the Central Administrative Tribunal Bangalore Bench, Bangalore

ORDER SHEET

Application No. 513 of 1988(F)

Applicant: S.A. Sreedhara

Respondent: The Director General, ICAR, New Delhi & 2 Ors

Advocate for Applicant: D Leelakrishnan

Advocate for Respondent: M.S. Padmarajaiah

Date	Office Notes	Orders of Tribunal
5.12.1988		KSPVC/PSM **Orders on IA No.3 - application for extension of time:** In this IA filed on 30.11.1988 the Respondents have moved this Tribunal to extend ~~the~~ time for complying with the directions made in this case or to obtain an order of stay from the Supreme Court ~~by a reasonable time~~. In IA No.3 the respondents have asserted that they propose to challenge the order of this Tribunal before the Supreme Court by a SLP under Article 136 of the Constitution and obtain stay. IA No.3 is opposed by the applicant. We have heard Shri MSP, learned senior standing counsel for the respondents and Shri D. Leelakrishnan, learned counsel for the applicant. In the peculiar circumstances stated in IA No.3 we consider it proper to extend time till 31.12.1988. We, therefore, allow IA No.3 and extend time for complying with the order or obtain a stay from the Supreme Court ~~till 31.12.1988~~ 31-12-1988. Sd/- VC Sd/- M(A)

TRUE COPY

16/12

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * * * * *

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 22 AUG 1988

APPLICATION NO. 513 /88(F)

W.P. NO. /

Applicant(s) Respondent(s)
Shri S.A. Sreedhara V/s The DG, ICAR, New Delhi & 2 Ors

To

1. Shri S.A. Sreedhara
Laboratory Technician (T4)
Department of Post-harvest Technology
Indian Institute of Horticultural Research
Hesaraghatta Lake
Bangalore - 560 089

2. Shri D. Leelakrishnan
Advocate
28, Raja Snow Building
S.C. Road, Seshadripuram
Bangalore - 560 020

3. The Director General
Indian Council of Agricultural Research
Krishi Bhavan
New Delhi - 110 001

4. The Director General of
Indian Council of Agricultural Research
Krishi Bhavan
New Delhi - 110 001

5. The Director
Indian Institute of Horticultural Research
255, Upper Palace Orchard
Bangalore - 560 080

6. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~/~~INTERIM ORDER~~ passed by this Tribunal in the above said application(s) on 19-8-88.

Issued
22-8-88

Encl : As above

for DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL:BANGALORE

DATED THIS THE 19TH DAY OF AUGUST,1988.

PRESENT:

Hon'ble Mr.Justice K.S.Puttaswamy, .. Vice-Chairman.

And

Hon'ble Mr.P.Srinivasan, .. Member(A).

APPLICATION NUMBER 513 OF 1988

S.A.Sreedhara,
S/o Dr.S.N.Anantharamaiah,
33 years, working as
Laboratory Technician (T4)
Department of Post-harvest Technology,
Indian Institute of Horticultural
Research, Hesaraghatta Lake,
BANGALORE-560 089. .. Applicant.

(By Sri D.Leelakrishnan,Advocate)

v.

1. Indian Council of Agricultural
Research, by its Director General,
Krishi Bhavan,
New Delhi-110 001.

2. The Director General of
Indian Council of Agricutural
Research, Krishi Bhavan,
New Delhi-110 001.

3. The Director,
Indian Institute of Horticultural
Research, 255, Upper Palace Orchard,
Bangalore-560 080. .. Respondents.

(By Sri M.S.Padmarajaiah, Standing Counsel)

This application coming on for hearing, Vice-Chairman made the following:

ORDER

This is an application made by the applicant under Section 19 of the Administrative Tribunals Act,1985 ('the Act').

1. Sri S.A.Sreedhara, applicant before us is working as a Laboratory Technician (Grade-IV) from 1984 in the department of Post-harvest Technology of the Indian Institute of Horticultural Research, Hesaraghatta ('Institute'). The Institute is one of the research Institutes of the Indian Council of Agricultural Research, New Delhi

('ICAR') which is a society registered under the Societies Registration Act of 1860 (Act 21 of 1860).

2. For some time past, the details of which are not very necessary to notice, the ICAR, in conformity with the policy changes of Government of India on the number of working days and hours in a week, has been making changes from time to time and those changes are naturally implemented in the various institutes of the organisation. Prior to 18-2-1988, the Laboratory Technicians who were bracketted with Scientists and Administrative staff were required to work for 6½ hours per day excluding the lunch break or 39 hours in a week. In conformity with the recommendations of the Directors' conference held on 14th and 15th October,1987, the ICAR decided to reclassify the posts for the purpose of working and modify the working hours for different categories. In his communication No.F2(2)/86-W.S dated 18-2-1988 addressed to the Directors of all the Institutes including the Institute, the Secretary, ICAR communicated the decision of the ICAR. That communication made by the Secretary, ICAR which is material reads thus:

"INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN: NEW DELHI

--

No.F.2(2)/86-W.S. Dated the 18th February,1988.

To

The Directors of all Reserach Institutes.

Sub: Rationalisation of working hours for various categories of staff in Institutes/Laboratories etc. of ICAR.

--

Sir,

I am to say that on the recommendations of the Directors' Conference held on 14th and 15th October,1987, it has been decided that the working hours for various categories of staff in the Institutes/Labs./Directorates etc. of the ICAR, for various categories of staff will be as follows:-

Sl.No.	Category of staff	Working hrs./day
1.	Scientific/administrative	6½
2.	Technical and Supporting staff at Farm, Field and Workshop.	8

3.	Drivers.	8
4.	Safaiwalas/Farashes	8
5.	Watchman/Chowkidar	8

The Institutes will however, have the discretion to adopt flexibility for observing working timings depending upon the nature of work being performed by different categories of staff and the climatic conditions prevalent in the area and also the timings being followed by other Central/State Government Offices located in that area.

Yours faithfully,

Sd/- S.S.Dawra
Secretary."

In compliance with this communication, the Director of the Institute has issued Office Order No.F.5-185/85-Adm-10245 dated 24-3-1988 (Annexure-A) revising the classification of posts and working hours for different categories of his Institute to take effect from 2-4-1988. That order which is material reads thus:

INDIAN INSTITUTE OF HORTICULTURAL RESEARCH
(I.C.A.R.)

No.F.5-185/85-Adm-10245 Dated 24th March,1988.

OFFICE ORDER

As per Council's letter No.F.2(2)/86-WS dated 18th February,1988, the working hours for various categories of staff in Institutes/Laboratories of ICAR has been revised. Accordingly the following timings are fixed for various categories of staff working at I.I.H.R. Hessaraghatta,Bangalore with effect from 2-4-1988.

1.Scientists/Administrative staff working at H'ghatta.	9.15 a.m. to 4.15 p.m. with half-an-hour lunch break from 12-45 to 1-15 p.m.
2.Administrative staff at Bangalore	10.15 a.m. to 5.15 p.m. with half-an-hour lunch break from 1-30 to 2-00 p.m.
3.Field Technicians, Lab. Technicians, Workshop staff (all categories) Library (All staff) Photography and Artist Cell.	8-30 a.m to 5-00 p.m. with half-an-hour lunch break from 12-30 to 1-00 p.m.
4.Farm Management staff, Labour, Supporting staff.	8-00 a.m. to 5-00 p.m. with one hour lunch break from 12-00 to 1-00 p.m.

Above timings should be observed strictly.

Sd/- Director.

Distribution:

1. All Directors of ICAR Institutes.
2. The Secretary, ICAR, Krishi Bhavan, New Delhi.
3. The Deputy Director General (Hort.), ICAR, New Delhi.
4. The Under Secretary, EEV, ICAR, New Delhi.

5. All Heads of Regional Stations of IIHR with a copy of ICAR letter dated 18-2-1988 with a request to implement the above orders of the Council with effect from 2-4-88.
6. All Heads of Divisions/Sections at IIHR, H'ghatta.
7. Farm Engineer, IIHR, H'ghatta.
8. The Sr.Accounts Officer, IIHR, Bangalore.
9. The Librarian, IIHR, H'ghatta.
10. Notice Board, IIHR, Bangalore/H'ghatta.

These orders have naturally resulted in the increase of working hours per day and week to be performed by the applicant. Hence, the applicant has challenged them principally on the ground (i) that the Institute as an organisation of Government of India was bound to regulate its working hours in conformity with its general order made on 7th November,1986 and (ii) that in any event subjecting Laboratory Technicians to longer working hours on every day and on all the six days a week was discriminatory and violative of Article 14 of the Constitution.

3. In their reply, the respondents have asserted that the ICAR and the Institute are independent organisations and not a department or office of Government of India. On this premise the respondents have asserted that the general order of Government dated 7-11-1986 had no application to them. The respondents have naturally denied the charge of discrimination alleged by the applicant.

4. Sri D.Leelakrishnan, learned Advocate has appeared for the applicant. Sri M.S.Padmarajaiah, learned Senior Central Government Standing Counsel has appeared for the respondents.

5. Sri Krishnan has urged that in reality and in substance the ICAR and the Institute were offices of Government and were bound by the general order made by Government on 7-11-1986 regulating the total working hours per week and that if the claim of the respondents that they were not bound by the aforesaid Government order is upheld, then the impugned orders subjecting Laboratory Technicians to higher working hours per day and week was discriminatory and violative of

of Article 14 of the Constitution.

6. Sri Padmarajaiah refuting the contention of Sri Krishnan sought to support the impugned orders.

7. Section 14(2) of the Act provides for conferment of jurisdiction on this Tribunal inter alia on the societies owned and controlled by the Central Government. In exercise of the powers conferred on it by this Section, the Central Government by its Notification No. A-11019/13/87/A9 dated 20-4-1987 has conferred jurisdiction on this Tribunal over all service matters of the ICAR and the Institute and, therefore, this Tribunal is competent to exercise jurisdiction over the service dispute of the applicant. Prima facie, the section itself justifies the claim of the applicant that the society which is owned and controlled by Government of India is bound to conform with the general policy decision of Government on the working days and working hours made from time to time. We however, do not propose to rest our conclusion on this superficial understanding. We therefore, now proceed to examine the matter in all its aspects.

8. In the preface to the Manual of Administrative Instuctions published by the ICAR in 1979, its the then Director General (DG) has indicated the nature of the organisation and its obligation to follow the policies of Government inter alia in these words:

> "The Indian Council of Agricultural Research is a registered society governed by its own rules and bye-laws for its functioning. The administrative and financial rules and procedures framed by the Government of India from time to time are followed mutatis mutandis in regard to matters for which specific provision has not been made in its rules and bye-laws. These rules and procedures are however widely scattered. Hence, their proper application in the day to-day administration of the Institute and the projects may become easy, if there is a good Manual of administrative procedures and instructions."

In P.K.RAMACHANDRA IYER AND OTHERS v. UNION OF INDIA AND OTHERS (1984 SCC (L&S) 214 = (1984) 2 SCC 141) the Supreme Court dealing with the question whether ICAR falls within the ambit of the term other

other authorities occurring in Article 12 of the Constitution against which a petition under Article 226 of the Constitution would lie or not, reversing the decision of the Delhi High Court had ruled that the ICAR was an instrumentality of the State. In reaching that conclusion, the Court speaking through Desai,J. had expressed thus:-

> "9. A very brief resume of the history of ICAR commencing from its initial set-up and its development into its present position would show that as a matter of form, it is a society registered under the Societies Registration Act but substantially when set up it was an adjunct of the Government of India and has not undergone any noteworthy change. On the advert of the provincial autonomy under the Government of India Act,1919, 'agriculture' and 'animal husbandry' came under the heading 'transferred subject' with the result that they came within the exclusive jurisdiction of the Provincial Government. Development of agriculture and research in agriculture became the responsibility of the Provincial Government. Even then a Royal Commission on Agriculture was constituted in 1926 to enquire into the agricultural set-up and the rural economy of the country and to make recommendations to consider what firm steps are necessary to be taken by the Central Government in this behalf. The Commission in its report recommended the setting up of Imperial Council of Agricultural Research. Acting upon this recommendation, Government of India sent a telegram to the Secretary of State on April 24,1929 informing the latter that the process of setting up of the Council is under way and that when set up Council would be a society. On May 9,1929, Secretary of State approved the proposal of the Government of India subject to variations mentioned therein. By its Resolution dated May 23, 1929, the Central Government directed that Imperial Council of Agricultural Research should be registered as a society under the Registration of Societies Act,XXI of 1860. The Resolution further provided that with respect to the grant to be made to the Council to meet the cost of staff, establishment etc., the Government of India decided that for reasons of administrative convenience, it should be in the same position as a department of the Government of India Secretariat. The Imperial Council of Agricultural Research was set up in June,1929. A direction was also given that the research institutes were to be maintained by the Council. In their counter affidavit filed in the High Court of Delhi it was conceded in paragraph 27 that the Imperial Council of Agricultural Research should in future be an attached office and not the department of the Government to be entirely manned by Government staff and the Secretariat staff of the Council was to be paid from the grant to be given by the Government for its administration and they would be Government servants and the Secretariat would be department of the Government of India. In July,1929, ICAR was registered as a society with its office in the Secretariat as an attached office of the Secretariat. By the Resolution dated August 4,1930, Government of India directed that for reasons of adminis-

administrative convenience "the Governor-General in Council has now decided that the Imperial Council of Agricultural Research Department, as the Secretariat of the Council will henceforth be designated, should be a regular department of the Government of India Secretariat under the Hon'ble Member in charge of the Department of Education, Health and Lands". A note was submitted on December 29, 1937 to the then Viceroy concerning the status and position of the ICAR as a department of the Government in which it was recommended that ICAR should not only be maintained as a distinct entity independent of the Government of India and with a view to achieving this position, the office of the ICAR should not in future be a department of the Government of India but should be an attached office. This proposal was approved by the Viceroy on January 14, 1938 simultaneously expressing his anxiety to sustain the prestige of ICAR. The next step is one taken by the Resolution dated January 5,1939 by which the Government of India modified the status of the ICAR from the department of the Secretariat to one of an attached office of the Government of India. A letter was addressed to the High Commissioner for India in London on January 14,1939 intimating to him that the Secretariat of the ICAR will cease to be a department of the Government of India and will be an attached office under the Department of Education, Health and Lands with effect from January 15,1939. Till then recruitment to various posts in ICAR was made through Federal Public Service Commission and this was to be continued evn after the change in the status of ICAR as an attached office as evidenced by the letter dated August 24, 1938 by the Joint Secretary to Government of India to the Federal Public Service Commission. A bill was introduced in the Central Legislature styled as the "Agricultural Produce Cess Bill, 1949". The statement of object and reasons accompanying the bill recited that the Central Government have provided grants to the tune of Rs.84 lakhs for the expenditure of the Council and took notice of the fact that the Council has practically no source of income other than the contribution from the Central Revenue which may be unstable depending upon the state of finances of the Government. It was further observed that in order to place Council on a more secured financial position, it has been decided to levy a cess at the rate of $\frac{1}{2}$ per cent on the value of certain agricultural commodities and the proceeds of the proposed cess are estimated to amount in a normal year to about Rs.14 lakhs. The bill was moved. In the debate upon the bill, a statement was made on behalf of the Government of India that the Central Legislature will retain its full right of interpellation and of moving resolutions and will still vote on the grant of the permanent staff, and some of the activities of the Council. In other words, an assurance was given that the Central Legislative Assembly will have positive control over the affairs of the Council to the same extent and degree when it was a department or an attached office of the Government of India. On the advent of independence the Imperial Council of Agricultural Research was redesignated as Indian Council of Agricultural Research. With effect from April 1, 1966, administrative control over IARI and IVRI and

other institutes was transferred to ICAR simultaneously placing the Government staff of the institutes at the disposal of ICAR as on foreign service. This is evidenced by a communication dated April 19,1966 addressed by the Ministry of Agriculture, Food, Community Development and Co-operation to the Directors of Central Research Institutes An option was given to the members of the staff of the Institutes, administrative control of which was transferred to ICAR and the date for exercising the option was extended by the communication dated November 9,1966. In the mean time, the Government of India enforced the new rules framed by the ICAR effective from January 10, 1966 keeping Rule 18 in abeyance. With the change in the status of the ICAR, Department of Agricultural Research and Education ('DARE' for short) was set up in the Ministry of Agriculture and it came into existence on December 15,1973. This Department was set up with a view to providing necessary Government linkage with ICAR. The major function of the Department was to look after all aspects of agricultural research and education involving co-ordination between Central and State agencies; to attend to all matters relating to the ICAR; and to attend to all matters concerning the development of new technology in agriculture, animal husbandry and fisheries, including such functions as plant and animal introduction and exploration, and soil and land use survey and planning. By this very Resolution, the Director General of ICAR was concurrently designated as Secretary to Government of India in the DARE. The position of ICAR was clarified to the effect that in the reorganised set-up the ICAR will have the autonomy essential for the effective functioning of a scientific organisation and deal with sister departments of the Central Government, with State Governments and also with international agricultural research centres through the DARE. Rule 18 of the ICAR rules which was kept in abeyance on January 10, 1966 was brought into operation in its entirety effective from April 1,1974 as per communication dated March 30,1974 by the Ministry of Agriculture to the Secretary, ICAR. The consequence of Rule 18 becoming operative was that the Secretariat of ICAR ceased to be an attached office of the Ministry of Food and Agriculture and the Society shall function as "wholly financed and controlled by the Society". This last sentence hardly makes any sense. Till Rule 18 was kept in abeyance, recruitment to ICAR was done through the Union Public Service Commission as evidenced by the letter dated August 24,1938 of the Government of India to the Secretary, Federal Public Service Commission, Simla. Rule 18 as stated earlier became operative from April 1, 1974. Rule 18 provides that "the Society shall establish and maintain its own office, research institutes and laboratories. The appointment to the various posts under the Society's establishment was to be made in accordance with the Recruitment Rules framed for the purpose by the governing body with the approval of the Government of India."

10. Apart from the criteria devised by the judicial dicta the very birth and its continued existence over half a century and its present position would leave no one in doubt that ICAR is almost an inseparable adjunct of the Government of India having an outward form of being a

a society; it could be styled as a society set up by the State and therefore, would be an instrumentality of the State.

11. ICAR started as a department of the Government of India having an office in the Secretariat even though it was a society registered under the Societies Registration Act. It was wholly financed by the Government of India. Its budget was voted upon as part of the expenses incurred in the Ministry of Agriculture. Even when its status underwent a change, it was declared as an attached office of the Government of India. The control of the Government of India permeates through all its activities and it is the body to which the Government of India transferred research institutes set up by it. In order to make it financially viable, a cess was levied meaning thereby that the taxation power of the State was invoked, and the proceeds of the tax were to be handed over to ICAR for its use. At no stage, the control of the Government of India ever flinched and since its inception it was set up to carry out the recommendations of the Royal Commission on Agriculture. In our opinion, this by itself is sufficient tomake it an instrumentality of the State.

xx xx

14. Applying the criteria, there is little doubt that ICAR is an instrumentality or the agency of the State. It came into existence as an integral department of the Government of India and later on became an attached office of the Central Government. The composition of the ICAR as evidenced by Rule 3 could not have been more governmental in character than any department of the Government. The governing body of the Society would consist of a President of the Society, who is none other than the Cabinet Minister of the Government of India for the time being in charge of Agriculture; the Director-General, a distinguished scientist to be appointed by Government of India would be the Vice-President and the Principal Executive Officer of the Society. He is concurrently appointed as Secretary to Government of India. Other members of the governing body are eminent scientists not exceeding nine in number to be appointed by the President that is the Minister; not more than five persons for their interest in agriculture to be appointed by the President that is the Minister, three members of Parliament and Additional/ Joint Secretary to the Government of India in the Department of Agriculture to be nominated by that Department, one person, appointed by the Government of India to represent the Central Ministry/Department concerned with the subject of Scientific Research and the Financial Adviser of the Society. There is none outside the Government in the governing body. Rule 91 deals with the finances and funds of the Society and the sources of income are the cess levied by the Government under the Agricultural Produce Cess Act and the recurring and non-recurring grants from the Government of India. The Rules of the Society were initially framed by the Government of India and Rule 92 makes it abundantly clear that they can neither be altered nor amended except with the sanction of the Government of India. Rule 100 shows that the Rules at the relevant time in force became operative after they were approved by the Government of India, and came into force from the date to be specified by the Government of India. Rule 93 provides for audit of the accounts of the Society by such person or persons as may be nominated by the Central

> Government. Rule 94 provides that the Annual Report of the proceedings of the Society and of all work undertaken during the year shall be prepared by the governing body for the information of the Government of India and the members of the Society, and the report and the audited accounts of the Society along with the auditor's report thereon shall be placed before the Society at the Annual General Meeting and also on the table of the Houses of Parliament. Rule 18 provides that the appointment to the various posts under the Society shall be made in accordance with the Recruitment Rules framed for the purpose by the governing body with the prior approval of the Government of India but prior thereto it was by the Union Public Service Commission. The administrative and the financial control of the Government is all pervasive. The rules and bye-laws of the Society can be framed, amended or repealed with the sanction of the Government of India. The case before us is much stronger than the one considered by this Court in the case of Ajay Hasia and therefore, the conclusion is inescapable that the Society is an instrumentality or agency of the Central Government and, therefore, it is 'other authority' within the meaning of the expression in Article 12. As a necessary corollary the writ jurisdiction can be invoked against it and therefore the decision of Delhi High Court must be reversed on this point. The preliminary objection is accordingly overruled."

From what is stated by the DG and the Supreme Court in Ramachandra Iyer's case,it is obvious that ICAR though a separate legal entity is in reality and substance an organisation or an office of Government of India. If that is so, then it is required to observe general orders made by Government from time to time either by adopting them wholesale or making such modifications as are necessary with due regard to its special requirements, if any. From this it follows that ICAR and the Institute are bound to regulate the working days and working hours in conformity with the general and special orders of Government issued thereto.

9. Prior to 7-11-1986, the total number of working hours of the Central Government offices was $37\frac{1}{2}$ hours per week excluding the lunch break. On a consideration of the recommendations of the Fourth Pay Commission and all other relevant factors, Government on 7.11.86 decided that the total number of working hours for a week should be increased to 40 hours fro. 7-11-1986.

10. That general order made by Government on 7-11-1986 reads thus:

> Sub: Office timings in Adminstrative Offices with the increase of working hours on the basis of the recommendations of the 4th Pay Commission.
>
> In the light of the 4th Pay Commission's recommendation to the effect that the working hours of the office staff in Government of India should be increased keeping in view the need to maintain and improve the level of productivity and after considering the view of representatives of Central Government employees in this matter. Government has decided to increase working hours in the Administrative Offices of the Government of India from 37½ hours per week to 40 hours per week by increasing daily working hours by 30 minutes.
>
> 2. Accordingly, the Central Government Administrative Offices in Delhi/New Delhi will observe, with effect from 17th November,1986 , the following timings namely:
>
> | | |
> |---|---|
> | (a) Ministries/Deptts of Government of India. | 9-00 a.m. to 5-30 p.m. (with lunch break from 1 to 1-30 pm) |
> | (b) All other offices to Government of India. | 9-30 am to 6-00 pm (with lunch break from 1-30 to 2-00 pm). |
>
> 3. In so far as Administrative Offices outside Delhi/ Delhi are concerned, the Central Government Employees Welfare Co-ordination Committee (where it exists) or the Heads of Office (where such committee does not exist) should have the option to choose any time between 9-00 a.m. to 10-00 a.m. to start their offices, but observe 8½ hours working day (inclusive of an obligatory half-an-hour break) in consultation with the concerned staff side representatives. It is to be ensured that all the Central Government Offices located at one place should have the same office timings.
>
> 4. Ministry of Finance etc. may inform immediately all the offices organisations under their administrative control.
>
> Hindi version will follow."

11. In THE INDIAN NATIONAL NGOs ASSOCIATION OF ARMY ELECTRONICS INSPECTION AND ANOTHER v. THE SENIOR INSPECTOR AND OTHERS (A.Nos.1386 and 1387 of 1986 decided onn 25th November,1987) we had occasion to examine the scope and ambit of this order, in particular, the claim made therein that all Government offices should only observe 5 days a week and not 6 days a week and whether the total number of working hours prescribed in the order were the minimum or maximum. On these two aspects, we have expressed thus:

> "33. Sri Krishnan had urged that the staff of the IEB as in the case of all other Central Government offices were entitled to work for 5 days a week and they cannot be compelled to work for 6 days a week by the Inspector/ respondents as at present.

34. Sri Padmarajaiah, refuting the contention of Sri Krishnan had urged that the nature of the work performed by the staff of the IEB called for 6 days a week.

35. In their applications, the applicants have urged that as in the case of all other Central Government Offices, staff of the IEB were also entitled to work for 5 days a week. In their reply, the respondents have not elaborated as to why the same should not be allowed and should in way be different.

36. But, at the hearing Sri Padmarajaiah told us that the technical staff of the establishment supervise the quality of the production of the goods manufactured and supplied in the public and private sector factories or undertakings for defence purposes, these factories work for 6 days a week and, therefore, it was necessary that the staff of the IEB should work for 6 days a week. When this relevant aspect was highlighted before us by the res-dents, Sri Krishnan after taking instructions from the applicants, in our opinion, very rightky, did not pursue thisclaim of the applicants and very fairly told usthat the staff were willing to work for 6 days a week. We must reject this claim on this very fair concession made by the applicants.

37. Even otherwise, the applicants do not dispute that the technical staff of the IEB have to supervise equip-ments manufactured and supplied to the Defence Department by the Public and Private sector undertakings which work for 6 days a week. In those factories work for 6 days a week then, those supervising them and other staff working in that office must also work on all those days. The staff of the IEB employed for performing sensitive and responsible duties, cannot, therefore, urge that they should not be compelled to work for more than 5 days a week endangering the quality of the goods manufactured and supplied to the Defence Department of the country. The special needs of the IEB undoubtedly empower Government/Inspector to compel the staff of the IEB to work for 6 days a week. For all these reasons, we reject this claim of the applicants.

(II) Claim for 40 working hours a week:

38. Sri Krishnan has urged that the number of working hours for a week cannot, in any event, exceed 40 hours a week excluding the obligatory lunch break and the same should be spread over on a rational basis for 6 days.

39. Sri Padmarajaiah has urged that the 43 working hours a week was necessary and the same cannot be reduced onany ground.

xx xx

43. In its order dated 7-11-1986 Government had fixed the total number of working hours for a week in all Central Government Offices as 40 hours excluding the obligatory half an hour lunch break which is not reckoned in computing the working hours. The specification of the number of working hours is thetotal number of working hours for a week. There is no minimum and maximum fixed by Government. The total number of working hours fixed by Government is both the minimum and the maximum. From this it follows that the construction placed by the DGI at par[illegible] order runs counter to the order of Government. In reality the DGI had done what had not been done by Government it-self.

44. When Government on an indepth examination of all relevant factors had decided that the total number of working hours for a week should be 40 hours excluding the obligatory lunch break, it is not open to any subordinate authority to add to or substract from the same and hold or direct otherwise. On this short ground, we should uphold this claim of the applicants and the staff of the IEB.

45. On the working hours of one and the same Central Government, except in very special justifiable circumstances of a local area, there should be uniformity in all offices of that Government and that is exactly the thing decided by Government in its order dated 7-11-1986. Any attempt to deviate from the same only on the ground that an office was situated in a particular place or a particular building, would be plainly discriminatory, irrational, arbitrary and clearly offends Article 14 of the Constitution. On this view, this claim of the applicants has to be upheld.

46. What we have said so far only applies to a Government office which is not registered as a 'factory' under the 1948 Act and those registered as 'factories' will be governed by the 1948 Act only.

47. We need hardly say that the total 40 working hours a week had to be spread over for 6 days a week. But, how the same should be spread over is a matter for the Inspector to examine and decide. But, before doing so, it is proper for him to consult the applicants and other staff working in his office. We have no doubt that he will do so."

12. On our earlier finding that ICAR was bound to follow the general orders of Government, it follows that what we have expressed on the working days and working hours in the Indian National NGOs Association of Army Electronics Inspection's case equally governs the present case also. On this view itself, the applicant is entitled to succeed to the extent he claims that the total number of working hours per week excluding the obligatory lunch break, should not exceed 40 hour a week. On this view, it is not really necessary to examine the grievance of the applicant that the impugned orders are violative of Article 14 of the Constitution. But, as the matter has been fully argued, we consider it proper to examine that challenge also.

13. The true scope and ambit of Article 14 of the Constitution has been explained by the Supreme Court in a large number of cases. In RAM KRISHNA DALMIA AND OTHERS v. JUSTICE S.R.TENDOLKAR AND OTHERS (AIR 1958 SC 538) and RE: SPECIAL COURTS BILLS CASE (AIR 1979 SC 478) the Supreme Court reviewing all the earlier cases elaborately

re-stated the scope and ambit of Article 14 of the Constitution. In Special Courts Bill's case, Chandrachud,CJ. speaking for a Larger Bench of 7 Judges summed up the same in these words:

> 73. As long back as in 1960, it was said by this Court in Kangshari Haldar that the propositions applicable to cases arising under Article 14 'have been repeated some many times during the past few years that they now sound almost platitudinous'. What was considered to be platitudinous some 18 years ago has, in the natural course of events, become even more platitudinous today, especially in view of the avalanche of cases which have flooded this Court. Many a learned Judge of this Court has said that it is not in the formulation of principles under Article 14 but in their application to concrete cases that difficulties generally arise. But, considering that we are sitting in a larger Bench than some which decided similar cases under Article 14, and in view of the peculiar importance of the questions arising in this reference, though the questions themselves are not without a precedent, we propose though undoubtedly at the cost of some repetition, to state the propositions which emerge from the judgments of this Court in so far as they are relevant to the decision of the points which arise for our consideration. Those propositions may be stated thus:
>
> 1. The first part of Article 14, which was adopted from the Irish Constitution, is a declaration of equality of the civil rights of all persons within the territories of India. It enshrines a basic principle of republicanism The second part, which is a corollary of the first and is based on the last clause of the first section of the Fourteenth Amendment of the American Constitution, enjoins that equal protection shall be secured to their rights and liberties without discrimination or favouritism. It is a pledge of the protection of equal laws, that is, laws that operate alike on all persons under like circumstances.
>
> 2. The State, in the exercise of its governmental power, has of necessity to make laws operating differently on different groups or classes of persons within its territory to attain particular ends in giving effect to its policies, and it must possess for that purpose large powers of distinguishing and classifying persons or things to be subjected to such laws.
>
> 3. The constitutional command to the State to afford equal protection of its laws sets a goal not attainable by the invention and application of a precise formula. Therefore, classification need not be constituted by an exact or scientific exclusion or inclusion of persons or things. The Courts should not insist on delusive exactness or apply doctrinaire tests for determining the validity of classification in any given case. Classification is justified if it is not palpably arbitrary.
>
> 4. The principle underlying the guarantee of Article 14 is not that the same rules of law should be applicable to all persons within the Indian territory or that the same remedies should be made available to them irrespective of differences of circumstances. It only means that all persons similarly circumstanced shall be treated alike both in privileges conferred and liabilities imposed. Equal laws would have to be applied to all in the same situation, and there should be no discrimination between one person and another if as regards the subject-

matter of the legislation their position is substantially the same.

5. By the process of classification, the State has the power of determining who should be regarded as a class for purposes of legislation and in relation to a law enacted on a particular subject. This power, no doubt, in some degree is likely to produce some inequality; but if a law deals with the liberties of a number of well-defined classes, it is not open to the charge of denial of equal protection on the ground that it has no application to other persons. Classification thus means segregation in classes which have a systematic relation, usually found in common properties and characteristics. In postulates a rational basis and does not mean herding together of certain persons and classes arbitrarily.

6. The law can make and set apart the classes according to the needs and exigencies of the society and as suggested by experience. It can recognise even degree of evil, but the classification should never be arbitrary, artificial or evasive.

7. The classification must not be arbitrary but must be rational, that is to say, it must not only be based on some qualities or characteristics which are to be found in all the persons grouped together and not in others who are left out but those qualities or characteristics must have a reasonable relation to the object of the legislation. In order to pass the test, two conditions must be fulfilled, namely, (1) that the classification must be founded on an intelligible differentia which distinguishes those that are grouped together from others and (2) that that differentia must have a rational relation to the object sought to be achieved by the Act.

8. The differentia which is the basis of the classification and the object of the Act are distinct things and what is necessary is that there must be a nexus between them. In short, while Article 14 forbids class discrimination by conferring privileges or imposing liabilities upon persons arbitrarily selected out of a large number of other persons similarly situated in relation to the privileges sought tobe conferred or the liabilities proposed to be imposed, it does not forbid classification for the purpose of legislation, provided such classification is not arbitrary in the sense above mentioned.

9. If the legislative policy is clear and definite and as an effective method of carrying out that policy a discretion is vested by the statute upon a body of administrators or officers tomake selective application of the law to certain classes or groups of persons, the statute itself cannot be condemned as a piece of discriminatory legislation. In such cases, the power given to the executive body would import a duty on it to classify the subject-matter of legislation in accordance with the objective indicated in the statute. If the administrative body proceeds to classify persons or things on a basis which has no rational relation to the objective of the legislature, its action can be annulled as offending against the equal protection clause. On the other hand, if the statute itself does not disclose a definite policy or objective and it confers authority on another to make selection at its pleasure, the statute would be held on the face of it to be discriminatory, irrespective of the way in which it is applied.

10. Whether a law conferring discretionary powers on an administrative authority is constitutionally valid or not should not be determined on the assumption that such authority will act in an arbitrary manner in exercising the discretion committed to it. Abuse of power given by law does not occur; but the validity of the law cannot be contested because of such an apprehension. Discretionary power is not necessarily a discriminatory power.

11. Classification necessarily implies the making of a distinction or discrimination between persons classified and those who are not members of that class. It is the essence of a classification that upon the class are cast duties and burdens different from those resting upon the general public. Indeed, the very idea of classification is that of inequality, so that it goes without saying that the mere fact of inequality in no manner determines the matter of constitutionality.

12. Whether an enactment providing for special procedure for the trial of certain offences is or is not discriminatory and violative of Article 14 must be determined in each case as it arises, for, no general rule applicable to all cases can safely be laid down. On practical assessment of the operation of the law in the particular circumstances is necessary.

13. A rule of procedure laid down by law comes as much within the purview of Article 14 as any rule of substantive law and it is necessary that all litigants, who are similarly situated, are able to avail themselves of the same procedural rights for relief and for defence with like protection and without discrimination."

On this enunciation, there was no disagreement, though there was dissent on other points, with which we are not concerned. In the later cases, the Supreme Court has reiterated these principles.

14. On the new dimension of Article 14 of the Constitution namely "arbitrariness was the very antithesis of rule of law" enshrined in Article 14 of the Constitution evolved for the first time in E.P. ROYAPPA v. STATE OF TAMIL NADU (AIR 1974 SC 555) Bhagwati,J. (as His Lordship then was) expressed thus:-

"We cannot countenance any attempt to truncate its all-embracing scope and meaning, for to do so would be to violate its activist magnitude. Equality is a dynamic concept with many aspects and dimensions and it cannot be "cribbed, cabined and confined" within traditional and doctrinaire limits. From a positivistic point of view, equality is antithetic to arbitrariness. In fact equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monorch. Where an act is arbitrary it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of Article 14....."

In MANEKA GANDHI v. UNION OF INDIA AND ANOTHER (AIR 1978 SC 597) the same learned Judge elaborated this principle in these words:-

> " The principle of reasonableness, which legally as well as philosophically, is an essential element of equality or non-arbitrariness pervades Article 14 like a brooding omnipresence....."

In the later cases, the Supreme Court has reiterated these principles and applied them to specific cases. Bearing these principles in mind, we must examine the validity of the impugned provision, in the case before us.

15. We have earlier noticed that Laboratory Technicians were grouped with Scientists. But, in the impugned orders, Laboratory Technicians have been treate as a separate and distinct category under Column No.2 viz., Technical and Supporting staff at Farm, Field and workshop. The impugned orders also group the Scientists and Administrative staff into one category.

16. The applicant claims that the job requirements of Laboratory Technicians are similar to the job requirements of the Scientists and he should be treated as belonging to the category of scientists. We are of the view that this claim of the applicant is not sound and cannot be accepted. Scientists and Laboratory Technicians cannot be treated alike. They belong to separate and distinct categories or groups. On this view, it is undoubtedly open to the ICAR/Institute to treat Laboratory Technicians as a separate category and compel them to work for longer hours than the Scientists whose work is decidedly more intellectual. This conclusion does not necessarily end the controversy.

17. The Administrative staff in the office includes ministerial staff attached to the Administration. We cannot comprehend as to how the Scientists and Administrative staff can be treated alike. They are dissimilarly situated. The job requirements of Scientists

are totally different to the job requirements of Administrative staff. We are of the view that this is really a case of unequals being treated as equals or equals being treated as unequals. This grouping is clearly discriminatory and is violative of Article 14 of the Constitution.

18. We have earlier found that Government as a general policy had laid down that the total number of working hours per week in any office should not normally exceed 40 hours. In their reply, the respondents have not placed any material to show as to why the Laboratory Technicians and other staff should be compelled to work for 48 hours a week excluding the obligatory lunch break. We are of the view that the fiat issued by the ICAR that the technicians and other staff should work for 48 hours a week as against the maximum of 40 hours accepted by Government, is arbitrary, irrational and the same is the very anti-thesis of rule of law enshrined in Article 14 of the Constitution.

19. On a conspectus of what we have discussed and analysed in the foregoing, we are of the view that the impugned orders are violative of Article 14 of the Constitution and are liable to be struck down.

20. On our striking down the orders, the authorities will have to necessarily re-examine the matter and regulate the working days and working hours with due regard to the special requirements of the Institute. We must necessarily reserve such liberty to them.

21. On 29-3-1988 the applicant made this application with a prayer for stay. On 30-3-1988 we have admitted this application. On that day or thereafter, we have not stayed the operation of the impugned orders. With this, the impugned orders are in force from 2-4-1988. We have earlier held that the impugned orders are liable to be struck down and the authorities should be given liberty to

re-examine and regulate the matters. We need hardly say that for regulating the matters afresh, the authorities require a reasonable time. But, before the authorities so re-examine and regulate the matters, we consider it proper to permit the respondents to operate the impugned orders only till then and not beyond that.

22. In the light of our above discussion, we make the following orders and directions:

1. We quash Order No.F.2(2)/86-W.S. dated 18-2-1988 of the ICAR and Office Order No.F.5-185/85-Adm-10245 dated 24th March,1988 (Annexure-A) issued by the Director of the Institute.
2. We declare that the applicant shall not be required to work more than 40 hours per week (excluding the lunch break of half an hour per day) so long as the present order of Government (dated 7-11-1986) on the subject remains in force. The respondents will, however, be free to continue with the present 6 days working week and to distribute the total of 40 working hours per week in such manner as they find convenient.
3. We allow the respondents time till 15-10-1988 to effect the change in working hours as per our direction above. But, till then, the respondents are free to operate the impugned orders against the applicant and others of the Institute.

23. Application is disposed of in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.

24. Let this order be communicated to all the parties immediately.

Sd/-
VICE-CHAIRMAN 19/5/1

Sd/-
MEMBER(A)

CENTRAL ADMINISTRATIVE TRIBUNAL BANGALORE

TRUE COPY

SECTION OFFICER 22/8
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * * * * *

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 4 NOV 1988

IA II IN APPLICATION NO. 513 / 88(F)

W.P. NO. /

Applicant(s)

Shri S.A. Sreedhara V/s Respondent(s) The Director General, ICAR, New Delhi & 2 Ors

To

1. Shri S.A. Sreedhara
Laboratory Technician (T4)
Department of Post-harvest Technology
Indian Institute of Horticultural Research
Hesaraghatta Lake
Bangalore - 560 089

2. Shri D. Leelakrishnan
Advocate
28, Raja Snow Building
S.C. Road, Seshadripuram
Bangalore - 560 020

3. The Director General
Indian Council of Agricultural Research
Krishi Bhavan
New Delhi - 110 001

4. The Director General of
Indian Council of Agricultural Research
Krishi Bhavan
New Delhi - 110 001

5. The Director
Indian Institute of Horticultural
Research
255, Upper Palace Orchard
Bangalore - 560 080

6. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY/INTERIM~~ ORDER passed by this Tribunal in the above said application(s) on 28-10-88.

Issued
11-11-88

Encl : As above

SECTION OFFICER
~~DEPUTY REGISTRAR~~
(JUDICIAL)

In the Central Administrative Tribunal Bangalore Bench, Bangalore

ORDER SHEET

Application No. 513 of 1988(F)

Applicant: S.A. Sreedhara

V/s

Respondent: The Director General, ICAR, New Delhi & 2 Ors

Advocate for Applicant: D. Leelakrishnan

Advocate for Respondent: M.S. Padmarajaiah

Date	Office Notes	Orders of Tribunal
		KSPVC/LHARM(A) 28.10.1988 ORDERS ON I.A. No.2 (Application for extension of time): In this application the respondents have sought for another 2 months time from 15.10.1988 for complying with the directions issued in this case. Shri M. Vasudeva Rao, learned counsel appearing for Shri M.S. Padmarajaiah urges for granting of extension of time on the facts and circumstances stated in I.A. No.2 and highlighted before us. Shri C.M. Bhaktavatsalam, learned counsel for the applicant vehemently opposes the grant of any extension of time. We are of the view that the facts and circumstances stated in I.A. No.2 and highlighted before us justify the grant of a reasonable extension of the application. We, therefore, allow I.A. No.2 and extend time till 30.11.1988 to comply with the directions made by this Tribunal on 19th August, 1988.

CENTRAL ADMINISTRATIVE TRIBUNAL BANGALORE

Date	Office Notes	Orders of Tribunal

I.A No.2 is disposed of on the above terms. But in the circumstances of the case, we direct the parties to bear their own costs.

Sd/-
VC

Sd/-
M(A) 3.11.88

TRUE COPY

4/11/88

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

Commercial Complex(BDA),
II Floor, Indiranagar,
Bangalore- 560 038.

Dated: 23 AUG 1988

To

1. Shri.Sanjeev Malhotra,
   All India Services Law Journal,
   Hakikat Nagar, Mal Road,
   New Delhi- 110 009.

2. Administrative Tribunal Reporter,
   Post Box No.1518,
   Delhi- 110 006.

3. The Editor,
   Administrative Tribunal Cases,
   C/o.Eastern Book Co.,
   34, Lal Bagh,
   Lucknow- 226 001.

4. The Editor,
   Administrative Tribunal Law Times,
   5335, Jawahar Nagar,
   (Kolhapur Road),
   Delhi- 110 007.

5. M/s.All India Reporter,
   Congressnagar,
   Nagpur.

Sir,

I am directed to forward herewith a copy of the under mentioned order passed by a Bench of this Tribubal comprising of Hon'ble Mr. Justice K.S. Puttaswamy Vice- Chairman/ ~~Member(J)~~ and Hon'ble Mr. P. Srinivasan Member(A) with a request for publication of the order in the journals.

Order dated 19-8-88 passed in A.Nos. 513/88(F).

Yours faithfully,

(B.V.VENKATA REDDY)
DEPUTY REGISTRAR(J).

Issued
K. 25.8.88

9c.

Copy with enclosure forwarded for information to:

1. The Registrar, Central Administrative Tribunal, Principal Bench, Faridkot House, Copernicus Marg, New Delhi- 110 001.

2. The Registrar, Central Administrative Tribunal, Tamil Nadu Text Book Society Building, D.P.I.Compunds, Nungambakkam, Madras-600 006.

3. The Registrar, Central Administrative Tribunal, C.G.O.Complex, 234/4, AJC Bose Road, Nizam Palace, Calcutta- 700 020.

4. The Registrar, Central Administrative Tribunal, CGO Complex(CBD), 1st Floor, Near Kankon Bhavan, New Bombay- 400 614.

5. The Registrar, Central Administrative Tribunal, 23-A, Post Bag No. 013, Thorn Hill Road, Allahabad- 211 001.

6. The Registrar, Central Administrative Tribunal, S.C.O.102/103, Sector 34-A, Chandigarh.

7. The Registrar, Central Administrative Tribunal, Rajgarh Road, Off Shilong Road, Guwahati- 781 005.

8. The Registrar, Central Administrative Tribunal, Kandamkulathil Towers, 5th & 6th Floor, Opp.Maharaja College, M.G.Road, Ernakulam, Cochin-682001.

9. The Registrar, Central Administrative Tribunal, CARAVS Complex, 15 Civil Lines, Jabalpur-(MP).

10. The Registrar, Central Administrative Tribunal, 88-A B.M.Enterprises, Shri Krishna Nagar, Patna-1.

11. The Registrar, Central Administrative Tribunal, C/o.Rajasthan High Court, Jodhpur(Rajasthan).

12. The Registrar, Central Administrative Tribunal, New Insurance Building Complex, 6th Floor, Tilak Road, Hyderabad.

13. The Registrar, Central Administrative Tribunal, Navrangpura, Near Sardar Patel Colony, Usmanapura, Ahmedabad.

14. The Registrar, Central Administrative Tribunal, Dolamundai, Cuttak-753 001.

Copy with enclosure also to:

1. Court Officer (Court I)

2. Court Officer (Court II)

Sd/-
(B.V.VENKATA REDDY)
DEPUTY REGISTRAR(J).

25.8.88