

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
BANGALORE- 560 038.

Dated: **28 SEP 1994**

APPLICATION NO: 531; 537 and 538 of 1993.

APPLICANTS:- Dr.Satyabrata Maiti and two Others.,

v/s.

RESPONDENTS:- The Director General, Indian Council of Agricultural Research, New Delhi and two Others.

To.

1.

Sri.D.Leelakrishnan,
Advocate, First Main,
Brigade Links,
Seshadripuram,
Bangalore-560 020.

2.

Sri.S.V.Shastri, Advocate,
Second Floor, First Cross,
Sri Vinayaka Building,
Near Sampige Theatre,
Malleswaram, Bangalore-3.

3.

By. SPEED POST →

The Registrar,
Central Administrative Tribunal,
No.5-10-193, First Floor,
H.A.C.A. Bhavan, Opp: Public Gardens,
Hyderabad-500004.
(Attention: Sri.Tata Rao, Dy.Registrar(In-Charge),
As requested telephonically, a copy is forwarded
herewith please, for information)

Subject:- Forwarding of copies of the Order passed by the
Central Administrative Tribunal, Bangalore.

--xx--

Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/ passed by this Tribunal in the above
mentioned application(s) on Seventh September, 1994.

Issued on

29/9/94 B.

o/c

For *S. S. Rao*
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

SECOND FLOOR
COMMERCIAL COMPLEX
INDIRANAGAR
BANGALORE-560038.

dated: 28 SEP 1994

To

1. Sri. Sanjeev Malhotra,
All India Services
Law Journal, No.22,
Tagore Park, Near Model
Town, Delhi-110009.
2. M/s. Administrative Tribunal
Reporter, No.90, Bhagat Singh
Market, New Delhi-110001.
3. The Editor, Administrative
Tribunal Cases, C/o. Eastern
Book Company, No.34, Lalbagh,
Lucknow-226001.
- ~~4. The Editor, Administrative
Tribunal Law Times, 5335,
Jawahar Nagar, Kolhapur Road,
Delhi-110007.~~
5. The Administrative Tribunals
Judgements, No.3857,
Sector-32-D, Chandigarh-160047.
6. M/s. Services Law
Reporter, No.108,
Sector-27-A,
Chandigarh.
7. The Chief Editor,
Weekly Law Notes,
Khanda Falsa, Jodhpur,
Rajasthan.
8. The Dy. Secretary,
Indian Law Academy,
Rajajipuram,
Lucknow-226017.
9. The Manager,
Swamys Publisher(P)
Limited, Post Box No.
2468, No.164, R.K. Mutt
Road, Raja Annamalaipuram,
Madras-600028.
(Sandhya Mansions)

Sir,

I am directed to forward herewith a copy each of the undermentioned Orders passed by a Bench of this Tribunal with a request for publication in the journals.

APPLICATIONS NO.

DATE OF THE ORDER

1. O.A.Nos. 531, 537 and 538 of 1993...Dated: 07-09-1994.

. xxx. xxx.

Yours faithfully,

o/c
for *Se Shanwar 28/9*
DEPUTY REGISTRAR
JUDICIAL BRANCH.

-:2:-

Copy with enclosures 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.
Compounds, Nungambakka, College Road, Madras-600 006.
3. The Registrar, Central Administrative Tribunal,
C.G.O. Complex, 234/4, A.J.C. Bose Road, Nizam Palace,
Calcutta-700 020.
4. The Registrar, Central Administrative Tribunal,
Gulistan Building, 4th Floor Near Bombay Gymkhana,
Opp: B.M.C. ENT Hospital, Prescott Road, Fort, Bombay-400001.
5. The Registrar, Central Administrative Tribunal
S.C.O. 102/103, Sector 34-A, Chandigarh-22.
6. The Registrar, Central Administrative Tribunal,
23-A, Post Bag No. 013, Thorn Hill Road, Alhababad-211001.
7. The Registrar, Central Administrative Tribunal,
Rajgarh Road, Bhangagarh, P.B. No. 58, GPO, Guwahati-781005.
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,
Caravan Complex, 15, Civil Lines, Jabalpur-482001 (MP).
10. The Registrar, Central Administrative Tribunal, 88-A,
Sri Krishna Nagar, Patna-800 001 (Bihar).
11. The Registrar, Central Administrative Tribunal,
No. 5-10-193, First Floor, H.A.C.A. Bhavan,
Opp: Public Gardens, Hyderabad-500 004.
12. The Registrar, Central Administrative Tribunal,
Fifth Floor, B.D. Patel House, Near Sardar Patel Colony,
Navjivan Post, Naranpura, Ahmedabad-380044.
13. The Registrar, Central Administrative Tribunal,
Fourth Floor, Rajaswa Bhawan, Cuttack-753002.
14. The Registrar, Central Administrative Tribunal,
No. 69, Pata, Post Box No. 619, Jodhpur-342006 (Rajasthan).
15. The Registrar, Central Administrative Tribunal,
C-42, Civil Lines, Bhat Watika, Jaipur.
16. The Registrar, Central Administrative Tribunal,
No. 2, Moti Mahal, Rana Pratap Marg, Lucknow.

/c *for* *Se Shauhar* 28/9
DEPUTY REGISTRAR
(JUDICIAL BRANCH)

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE BENCH
ORIGINAL APPLICATION NOS.531, 537 AND 538 OF 1993

WEDNESDAY, THIS THE 7TH DAY OF SEPTEMBER,1994.

Mr.Justice P.K.Shyamsundar, .. Vice-Chairman.

Mr.T.V.Ramanan, ... Member(A)

1. Dr.Satyabrata Maiti,
S/o Shri Hemanta Kumar Maiti,
Aged about 41 years,
Residing at House No.10, 1st Cross,
BDA Lay-out, Ganganagar,
Bangalore-560 032.
2. Dr. H.P.Singh,
S/o late Ramandan Prasad Singh,
Aged about 43 years,
residing at House No.31, SBM Colony,
Anandanagar, Bangalore-560 024.
3. Dr.E.V.V.Bhaskar Rao,
S/o Sri E.Annappa,
Aged about 45 years,
Residing at National Research
Centre, Puttur 574 203
D.K., Karnataka.

.. Applicants.

(By Advocate Shri D.Leelakrishnan)

v.

1. The Indian Council of Agricultural
Research, Krishi Bhavan,
Dr. Rajendra Prasad Road,
New Delhi-110 001 represented
by the Director General.
2. The Indian Institute of Horticultural Research,
Hessaraghatta Lake, Bangalore-560 089,
represented by the Director.
3. The National Research Centre for Cashew,
Puttur 574 402,
D.K., Karnataka, represented by
the Director.

.. Respondents.

(By Advocate Shri S.V.Shastri)

ORDER

Mr.Justice P.K.Shyamsundar, Vice-Chairman:-

Admit.

2. We have heard the plaintive wail of three scientists



who are the applicants in these applications and according to us, justifiably complaining of the totally disparate treatment meted out to them in the matter of grant of higher pay scales. What is more surprising is the controversy raised in these cases was actually the subject matter of adjudication by the apex court in the case of Dr.S.M.ILYAS AND OTHERS v. INDIAN COUNCIL OF AGRICULTURAL RESEARCH AND OTHERS [(1993) 23 ATC 340]. Therein the learned Judges after a close scrutiny and appraisal of the facts came to the conclusion that the Indian Council of Agricultural Research ('ICAR' for short), who is currently the target of attack in these cases and had also occupied a similar position before the Supreme Court had wrongly, unjustly and unwarrantedly denied the pay scale of Rs.4500-7300 to S-3 Scientists and the pay scale of Rs.3700-5700 to S-2 Scientists. In the context their Lordships gave a direction to ICAR that such revised pay scales should be given from 1-1-1986 to the appellants therein and others similarly placed working in S-2 and S-3 grades on or before 31-12-1985 as given to other scientists who were working in S-2 and S-3 grades later than them. We quote the direction given:

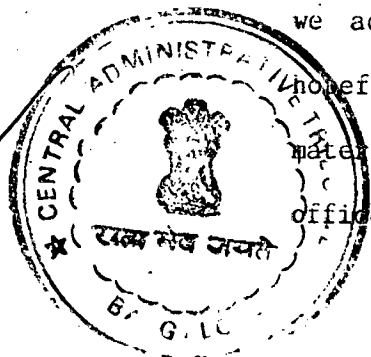
"We, therefore, allow this appeal and direct the respondents to issue appropriate orders so that any of the appellants or the like working as Scientist S-2 or S-3 on or before 31-12-1985 earlier to anyone of the Scientists getting benefit of the revised pay scales under the impugned notification dated 9-3-1989 also get a similar benefit of revised pay-scale of Rs.4500-7300 in the case of S-3 and pay scale of Rs.3700-5700 in the case of S-2. Such revised pay scales shall be given from 1-1-1986 as given to S-2 and S-3 Scientists under the impugned notification. The respondents are directed to take suitable action in this regard and to pay the entire amount within six months from the date of this order."

We should have thought the direction given by the Supreme Court as aforesaid being law, that binds every one under Article 141 of the Constitution of India, should have put the department on the alert and given effect to the decree of the Court as

aforesaid in all cases in regard to all who were similarly situated. Surprisingly that was not done and of course our experience tells us there is nothing unusual about ICAR taking inappropriate stands before Courts that some times even stared in the face of established position in law as declared by the Apex Court.

3. We have heard this matter through and through on several occasions and on different dates resulting in a total of hearing having consumed nearly 3 to 4 months of our time. It is a matter of some regret that we had to invest and expend our judicial time over just this one case and in hind sight it clearly appears to us that it all was a case of wasted endeavour.

4. However, somewhat piqued as we were by the totally different versions presented before us as compared to the case of Dr. Ilyas and others, we gave several opportunities to ICAR, who is represented by Sri Shastri, to tell us what really was the basis for this apparent disparity in the pay scales granted to the Scientist-applicants before us despite the implementation of the decree of the Supreme Court. On one occasion, we clarified and listed in writing a few items on which we asked ICAR to supply material and not merely that we even directed a responsible officer of ICAR to appear before us and give us the benefit of his views in this regard so that some kind of clarification of the apparent disparity affecting the decision taken in the matter could possibly result in a plausible explanation adding up to a logical conclusion. That was on the last occasion when we adjourned this matter for further consideration. We were hopefully looking for not merely production of the additional materials sought for, but also the presence of an enlightened officer of ICAR to appear before us and, as mentioned earlier,



to give us the benefit of the views of ICAR reflected by the officer. Accordingly, one Sri S.S. Rana, Director (Personnel) ICAR, New Delhi filed through Shri Shastri, a statement purporting to explain the problem reinforced by the production of some documents. But, as for appearing before us, he did mention, which is on record, by stating that ICAR having placed him in charge of some other work, he found it difficult to appear before us and this is what he says in para 3 of the statement:-

"....Therefore respondent Director (Personnel) has urgent assignment at Krishi Bhavan, New Delhi and have to perform a variety of tasks like supervision of staff, participation in conferences and meetings and thus may find difficult to attend the Hon'ble Tribunal for which he has the highest regard".

(Emphasis supplied)

While we have no doubt that Sri Rana holds us in great esteem as mentioned by him, but we are now quite convinced that his absence before us to-day was something not unavoidable. The hearing for this day was scheduled some time back, and to put it precisely, the case stood adjourned from 22-8-1994 and it is on that occasion we had adjourned the case to this day thereby giving a clear 15 days interval to enable that gentleman to adjust his work schedule in Delhi so that he could appear before us. While we do not have the intention and it has never been our intention to summon officers to appear before us unnecessarily thereby causing detriment to Governmental administration, matters of some importance do arise and in those cases it is found to be necessary to hear some one who is directly connected with the transposal of official business in a particular case; only in such rare instances we ask the officers concerned to appear before us and assist us in the matter of dispensation of justice. It is not with a view to satisfy someone's ego or anything else we summon the officers nor is it our intention to force them

to desert their routine work and duty in order to attend the Tribunal. It is surprising that Sri Rana should not have found time to come before us although he had sufficient notice in that behalf. We are not satisfied with the explanation offered that because he is now entrusted with some additional work he would therefore find it not impossible but may find it difficult to appear before us. The expression employed by Shri Rana in the statement makes it obvious that if he had the will to appear before us he would not have found it difficult to comply with our request despite his other pre-occupations. From his own showing he does not appear to be so indispensable so as not to make a trip to Bangalore for this case. Sri Rana has stated that he has greatest respect for us and we do not doubt that statement. But, in the context it appears to have been made only to assuage any feelings of discontentment, but we take this opportunity to point out where courts experience anxiety in the matter of dispensation of justice, they expect every one to contribute their mite and therefore find it necessary to summon somebody from the department to appear in person to solve some problems or issues arising for decision. The person who is summoned should treat the invitation to appear before the Tribunal as something which he is bound to comply with and not offer excuses for his non-appearance which do not carry conviction. We, however, leave the matter at that and proceed further to solve this controversy raised before us even without the assistance of the officer whom we had summoned.

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5. Admittedly, the applicants, members of the Agriculture Research Service, are direct recruits having been appointed as Project Coordinators in their fields of specialisation in response to notifications calling for applications for filling up the posts aforesaid in S-3 grade in the pre-revised pay scale of



Rs.1500-2000. All of them had the necessary educational qualification, the requirement being a Ph.D in the respective discipline and accordingly, having secured the appointments consequent upon selection, were duly appointed - applicant No.1 on 8-3-1988, applicant No.2 on 7-6-1988 and applicant No.3 on 28-2-1986. Prior to their being appointed as Project Co-ordinators in the scale of Rs.1500-1800, they were working in the grade of Scientist S-2 in the pay scale of Rs.1100-1600. By an order dated 9-3-1989 respondent-1, ICAR introduced revised pay scales in respect of ARS Scientists of ICAR and its Research Institutes with effect from 1-1-1986. The revised pay scale and designation in so far as they related to Scientists S-2 and S-3 are as under:-

Sl. No.	Grade	Pay scale prior to 1-1-1986	New Designation	Revised pay from 1-1-1986
1.	Scientist S-2 (with total service in the ARS as on 31-12-1985 upto 8 years).	1100-50-1600	Scientist (Senior scale)	3000-100-3500-125-5000.
2.	Scientist S-2 (with total service in the ARS as on 31-12-'85 exceeding 8 years).	1100-50-1600	Scientist (Selection Grade).	3700-125-4950-150-5700.
3.	Scientist S-3 (with total service in the ARS as on 31-12-'85 upto 16 years).	1500-60-1800-100-2000	Scientist (Selection Grade)	3700-125-4950-150-5700.
4.	Scientist S.3 (with total service in the ARS or equivalent grades as on 31-12-'85 exceeding 16 years)	1500-50-1800-100-2000	Principal Scientist	4500-150-5700-200-7300

As the applicants were drawing pay in the scale of Rs.1100-1600 applicable to Scientists S-2 as on 31-12-1985 and as they had completed 8 years of service in ARS as on 31-12-1985, they were

allowed the scale of pay of Rs.3700-5700 with effect from 1-1-1986. Further, in their new positions as Project Co-ordinators which they took up on the dates mentioned supra, in the pay scale of Rs.1500-2000, applicable to the then Scientist S-3 grade, which was earlier to the order dated 9-3-1989, they were refixed again in the scale of pay of Rs.3700-5700 with effect from the said dates. On the other hand, some scientists from outside ARS who responded to advertisements for appointment as S-3 Project Co-ordinators on selection were appointed as Project Co-ordinators - Principal Scientists (revised designation) and allowed the higher scale of Rs.4500-7300. They took up their posts later than the applicants but given a higher scale which the applicants contend, was arbitrary and discriminatory in the light of the rule laid down by the Apex Court in Dr. Ilyas case.

6. We think there cannot possibly be any justification whatsoever for treating the earlier entrants and later entrants to the S-3 grade differently so far as pay and allowances are concerned. All of them were equally qualified and had been appointed on the basis of their merit. The posts were selection posts appointments being made purely on the basis of merit cum-suitability. We are told that the duties-wise the work done by the applicants was no different from the work done by the so called later entrants who are given the glorific title of Principal Scientists. It does seem to us as if the ICAR had dealt with these applicants somewhat scurrilously and in the guise of dressing up the post of S-3 Scientist by calling some people as Principal Scientists and others as Project Co-ordinators having clearly affected unjustifiable cleavage between the two sets of officers, the same was totally unwarranted and unjustified either on facts or on law. It is now an axiomatic principle that equal work must beget equal pay and what is more it becomes the duty of the

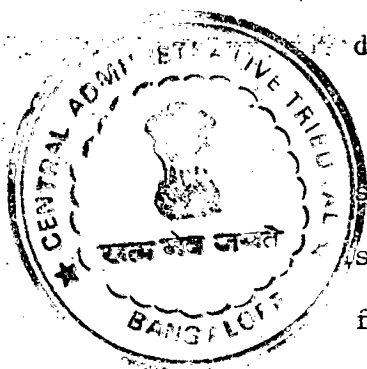
administration and an ideal Government to keep its own officers happy without giving any room for simmering discontentment. Instead of ensuring that kind of a tranquil situation to prevail in the department, they have themselves resorted to create an artificial and meaningless identity amongst some one of the same contour and we for one do not approve of the technique employed in that regard. This is exactly what the Supreme Court had ruled in Dr. Ilyas case. The dicta of the Court are well brought out in the head note and all that we need to do is to reproduce the headnote which reads:-

"Pay - Revision - Discrimination - Basis of length of service for grant of higher scales (to Scientists 'S2' and 'S3' of ICAR) - Not justified where the Scientists inducted not purely on the basis of seniority and length of service but by promotion on merit-cum-seniority basis as well as by direct recruitment - Higher scale based on length of service resulting in anomalous situation where juniors getting the higher scale while the appellants, though recruited much earlier, not becoming eligible to get that scale and their future chances of promotion to higher posts also getting affected - Held, disparity arbitrary, unreasonable and unjustified - Appellants also entitled to the higher scale - Despite opportunities given to respondents no scheme suggested for granting appropriate relief to appellants - Hence directions issued to respondents so that any of the appellants or the like working Scientists be not deprived of the benefit of the revised pay scales on the higher post of S-2 or S-3, in case they were appointed by direct recruitment or by selection on merit-cum-seniority on the post of Scientists S-2 or S-3 prior to those who have now become entitled to higher pay-scale under the notification by which pay scales were revised - Constitution of India, Arts. 14 and 16.

Constitution of India - Art.12 - Indian Council of Agricultural Research - Held, falls within the definition of 'State'.

The dicta as aforesaid is clearly binding on us and also on the ICAR which was very much a party to that decision and as the judgment indicates they lost their cause before the Court. We are told that the department has since implemented the directions of the apex court in Dr. Ilyas case but confined it only to the parties thereto. The decision supra is not a judgment in personam but a judgment in rem. Therefore, it becomes the duty of the department to extend the benefit of the law declared by the Court and the decree passed therein to all those placed similar to those who had taken the battle to the Supreme Court irrespective of the cut off date mentioned in the judgment of the Apex Court because the principle laid down in the judgment of the Apex Court is that those appointed by direct recruitment or by selection on merit-cum-seniority to the posts of Scientist S-2 or S-3 prior to those who became entitled to higher pay scale under the order dated 9-3-1989 cannot be deprived of the benefit of the ^{higher} revised pay. They did not do that; if only they had done it in the case of the applicants also we would have lauded it as wholly exemplary. But, instead they had sought to support their stand by denying equality in pay scales to the applicants on a variety of untenable grounds leading to a protracted and marathon litigation that does not reflect the department in favourable light.

7. Be that as it may, in the light of the aforesaid discussion, we allow these applications and declare that the applicants shall be fitted in the pay scale of Rs.4500-7300 with effect from 20-12-1989, the date on which one Dr. Ashok Kumar Karal, Principal Scientist was allowed the said pay scale. The applicants are entitled to their costs. Advocate's fee Rs.2,000=00



TRUE COPY

S. S. Kumar
Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore

in one set only.

Sd-

MEMBER(A)

Sd-

VICE-CHAIRMAN.