

BANGALORE BENCH

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

Dated:- 7 APR 1994

APPLICATION NUMBER: 975 of 1993 and 633 of 1994.

APPLICANTS:

Dr.Satish Kulkarni and
Dr.M.Balakrishnan v/s.
To.

RESPONDENTS:

Secretary, Ministry of Agriculture,
New Delhi and Others.

1. Sri.M.Narayanaswamy, Advocate,
No.844, Upstaris, 17th-G-Main,
Fifth Block, Rajajinagar,
Bangalore-560 010.
2. The Head, Southern Regional Station,
National Dairy Research Institute,
Adugodi, Bangalore-560 030.
3. Sri.M.Vasudeva Rao, Addl. Central Govt.
Sng. Counsel, High Court Bldg,
Bangalore-1.

Subject:- Forwarding of copies of the Orders passed by the
Central administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/, passed by this Tribunal in the above
mentioned application(s) on 24th March, 1994.

Issued on
7/4/94
R

o/c

[Signature]
for DEPUTY REGISTRAR 7/4
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.975/93 & 633/94

THURSDAY THIS THE TWENTY FOURTH DAY OF MAR., 1994

MR. JUSTICE P.K. SHYAMSUNDAR VICE CHAIRMAN

MR. T.V. RAMANAN MEMBER (A)

1. Dr. Satish Kulkarni,
Senior Scientist
National Dairy Research Institute,
Addogodi,
(Southern Regional Station-ICAR),
Bangalore - 30

2. Dr. M. Balakrishnan,
Senior Scientist,
National Dairy Research Institute,
Adugodi,
(Southern Regional Station-ICAR),
Bangalore - 30

Applicants

(By Advocate Shri M.N. Swamy)

v.

1. The Union of India
rep. by its Secretary to Govt.
Ministry of Agriculture,
Department of Agricultural
Research & Education,
Krishi Bhavan,
New Delhi
2. The Secretary,
Indian Council of Agricultural
Research, Krishi Bhavan,
New Delhi - 1
3. The Director (Personnel),
Indian Council of Agricultural Research,
Krishi Bhavan,
New Delhi
4. The Director,
National Dairy Research Institute,
Karnal,
Haryana-132001
5. The Head,
Southern Regional Station,
National Dairy Research Institute,
Adugodi,
Bangalore - 560 030

Respondents

(By learned Standing Counsel)
Shri M.V. Rao



O R D E R

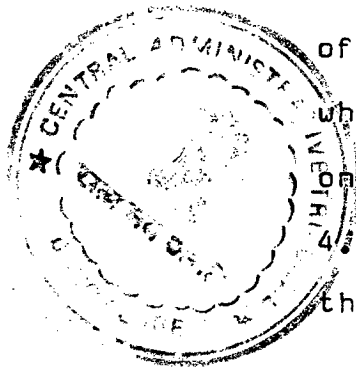
Mr. Justice P.K. Shyamsundar, Vice Chairman

Admit.

2. Since this is a joint application by two persons seeking to make common cause ~~apropos~~ on an order of the Department denying them pay rise ~~s.e.f.~~ 1.1.86 and upon granting that relief each of them would be entitled to more emoluments, we think separate court fee will have to be paid. We, therefore, direct them to pay individual court fee and it is on that condition they will be permitted to prosecute one application.

3. Facts are quite simple and bring out in bold relief a fruitless contribution to wasteful^{ful} litigation by the Indian Council of Agricultural Research(ICAR), New Delhi, herein leading to spanning needless litigation. These two applicants were sanctioned study leave in 1985 while they were working in the National Dairy Research Institute under ICAR, for a period of about two years. One of them, Applicant No.1 Dr. Satish Kulkarni went abroad for higher studies whereas the second applicant, Dr.M. Balakrishnan continued his pursuit of higher studies within the country itself. It is not denied that both of them were out of their fitment for a period of about two years while they were away on study leave. During the period of study leave, both of them were receiving salary and other allowances which were due to them as before i.e. before proceeding on study leave.

It so transpired that when they were on leave, their pay scales received a sudden spurt consequent



on the recommendations of the 4th Pay Commission which had recommended some increased emoluments be paid w.e.f. 1.1.86. Therefore, the position was that whoever was actually working as Scientist S.II got the benefit of the raised pay scale w.e.f. 1.1.86 but these two applicants who were on study leave were denied the benefit of enhanced pay scales w.e.f. 1.1.86 on the ground that on the cut off date they were not actually on duty having confined themselves to higher studies on study leave.

5. After their return from study leave, they were extended the pay revision from 19.11.87 and 14.3.88 respectively being the dates on which the two applicants reported back to duty. But finding that the pay revision had been given effect to from 1.1.86 and everyone of their colleagues had the benefit of this bonanza of pay rise from 1.1.86 they also asked for similar treatment and in that connection made representations which were rejected. In the representation addressed by their Advocate on behalf of the applicants attention of the ICAR was drawn to a decision of the Principal Bench of this Tribunal in O.A.No.1027/91 disposed of on 4.2.92 holding that people who are away on study leave on a cut off date when revised pay scale was introduced were also entitled to the revised pay scale with effect from the cut off date i.e. 1.1.86.

6. Learned Standing Counsel Shri M.V. Rao tells us that this judgment has become final since the Supreme Court had dismissed even on merits the Special Leave Petition challenging it by its order dated 15.2.93 in Special Leave Appeal No.2991/93.

But our attention was, however, drawn to letter No.10-11/91-Pers.IV dated 6.7.93 addressed to the Director, Indian Veterinary Research Institute, Izzatnagar by Director(Personnel) I.C.A.R., R-3 herein (Annexure E) stating that the decision of the Principal Bench in O.A.No.1027/91 (Rameshwar Singh & Ors v. Union of India & Ors) was confined only to the parties in that case and could not be extended to others though placed in similar circumstances. It seems to us that the view taken by I.C.A.R. as aforesaid is clearly untenable and is beyond all reason and logic. Under Article 14 of the Constitution which enjoins equal treatment to persons similarly placed there is a catena of case law available on the principle of equality before law which is enshrined under Art.14, ~~is~~ the most coveted fundamental right in the Constitution which the citizens of the Republic have been given unto themselves. In the face of Art.14, the recalcitrant attitude adopted by the top brass of the I.C.A.R appears to be simply baffling and we could say that is quite unbecoming of a government institution indulging in treating their own officers with an uneven hand. We would like to point out that I.C.A.R. had earlier sought instructions from the Department of Personnel in the matter of pay parity and on the advice from the Department of Personnel, the parity in pay had been denied. It is surprising that the highest authority in these matters of personnel management should have taken that view.

7. Therefore, relying upon the Principal Bench's decision referred to supra, we must quash Annexure 'E'

denying the revision of pay scale from 1.1.86 and direct the respondents 1 and 2 to grant to the applicants the benefit of the pay revision w.e.f. 1.1.86. The applicant shall be paid arrears of pay and dearness allowance as applicable to them in the revised scale w.e.f. 1.1.86 upto the date they reported for duty on return from study leave within a period of three months from the date of receipt of a copy of this order.

8. We think this is a fit case to order payment of costs of the application to the applicants who have been forced to come to this Tribunal without any justification either on facts or in law. We, therefore, allow this application with costs, Advocate's fee being Rs.1000/-. Learned Standing Counsel asks us to waive the costs ordered herein. We cannot accede to his submission. We maintain our order.

sd-
(T.V. RAMANAN)
MEMBER (A)

sd-
(P.K. SHYAMSUNDAR)
VICE CHAIRMAN

TRUE COPY

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