

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.695/91.

Date of Judgement : 19.12.94

Dr. B.K.Panda

.. Applicant

Vs.

1. Indian Council of
Agricultural Research,
Krishi Bhawan,
New Delhi-110001,
Rep. by its
Director-General.

2. The Director,
Project Directorate
on Poultry,
Rajendranagar,
Hyderabad-500030.

.. Respondents

Counsel for the Applicant :: Shri C.Suryanarayana

Counsel for the Respondents: Shri N.V.Ramana, Addl. CGSC

C O R A M

Hon'ble Shri A.V.Haridasan : Member(J)

Hon'ble Shri A.B.Gorthi : Member(A).

J u d g e m e n t

As per Hon'ble Shri A.B.Gorthi : Member(A)]

The Applicant while working as Scientist (Selection Grade) in the Central Avian Research Institute(CARI), Izat-nagar was selected for appointment as Principal Scientist (Veterinary Medicine) under the Project Directorate on Poultry, Hyderabad in the scale of pay of Rs.1500-2000 (pre-revised). He accepted the said appointment and assumed charge on 30.8.89. As he was already drawing pay of Rs.4,200/- p.m. in his previous post at CARI, his pay in his new assignment was fixed at Rs.4,500/- p.m. in the revised scale of pay. His claim in this application is for a direction to the Respondents to treat him as having been appointed as a Principal Scientist in the scale of pay of Rs.4500-7300 w.e.f. 30.8.89 with all consequential benefits.

2. In response to an advertisement dt. 26.3.88 calling for applications to fill up the post of Scientist S-3 (Veterinary Medicine) under the Project Directorate on Poultry, Hyderabad, which is a unit under the Indian Council of Agricultural Research (ICAR), the Applicant responded with his application. At the time of issuance of the advertisement, the pay scale of Scientist S-3 was Rs.1500-2000. Before the Applicant could be offered the appointment, revised pay scales were introduced in respect of the Agricultural Research Service (ARS) Scientists of the ICAR vide letter dt. 9.3.89. The scale of pay of a Scientist S-3 with total service in the ARS or equivalent grades as on 31.12.85 exceeding 16 years was revised to Rs.4500-7300. The revised pay scale was to be effected retrospectively from 1.1.86. The designation of Scientist S-3 was altered to that of Principal Scientist.

3. The Applicant appeared for interview on 26.8.89, was selected and offered the appointment of Principal Scientist (Veterinary Medicine) under the Project Directorate on Poultry, Hyderabad. The Applicant accepted the offer of appointment as Principal Scientist and on being relieved from CARI, Izatnagar on 25.8.89 assumed charge of his new assignment as Principal Scientist at the Project Directorate on Poultry, Hyderabad on 30.8.89.

4. The Applicant's claim is that he having been appointed as Principal Scientist is entitled to the corresponding scale of pay of Rs.4500-7300.

5. The Respondents in their counter affidavit have stated that they advertised for filling up the post of Scientist S-3 (Veterinary Medicine) and accordingly the Applicant was entitled to be appointed to that post on

and that his appointment as a Principal Scientist was ordered erroneously. His pay was fixed at Rs.4,500/- p.m. not because he was appointed as Principal Scientist in the scale of pay of Rs.4500-7300, but because of the fact that in his previous assignment at CARI, Izatnagar he was already drawing the monthly salary of Rs.4,200/-. The Respondents, in fact, placed the Applicant in the pay scale of Rs.3700-5700 only and by means of an amendment issued on 7.12.90 directed that in the appointment order of the Applicant, the words "Principal Scientist" be read as "Senior Scientist". We, however, find that there is no such post as Senior Scientist as would be evident from the ICAR letter dt. 9.3.89 which lays down the new designations and revised pay scales of Scientists of the ICAR.

6. Shri C.Suryanarayana, learned counsel for the Applicant has urged that the Respondents having selected the Applicant and appointed him to the post of Principal Scientist have no justification to unilaterally decide that the Applicant was appointed only as a Scientist S-3. There was some confusion in the selection and appointment of the Applicant because it was during the process of selection and appointment that the designations of Scientists and the corresponding pay scales were revised. Even according to the revised pay scales which were introduced on 9.3.89 giving them retrospective effect w.e.f. 1.1.86, a Scientist S-3 with total service in the ARS or equivalent grade as on 31.12.85 with more than 16 years service would be eligible to the grade of Principal Scientist in the scale of pay of Rs.4500-7300. In this context, the Applicant's contention is that he commenced his career as a Scientist when he was appointed as a Lecturer in the Orissa University of Agriculture & Technology in December, 1972. Reliance is placed on the ICAR letter No.8-25/77-Per.IV dt. 27.9.77.

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The said letter clearly lays down that the employees coming from certain other scientific organisations like the Universities which are wholly or substantially financed by the State Government would be eligible, on their joining the ICAR, for service benefits like continuity of past service, fixation of pay with reference to the pay drawn in the previous post, joining time and travelling allowance. It would thus appear that on the date when the Applicant was selected for appointment as Principal Scientist in the ICAR he had rendered more than 16 years of service in an equivalent grade. Keeping in view the length of service of the Applicant, his qualification (Ph.D) and experience he was eligible to be appointed as a Principal Scientist in the ICAR. This factual scenario gives credence to the Applicant's claim that he was, in fact, selected for appointment as a Principal Scientist only and not as a Scientist S-3 in the scale of pay of Rs.3700-5700 which he was already enjoying in his previous assignment at CARI.

7. The case of one Dr. A.K.Karel was referred to by the Applicant with a view to show that the said Dr. Karel, similarly situated as the Applicant was, selected and appointed to the post of Principal Scientist although the advertisement in his case also was only for filling up the post of Scientist S-3 under the ICAR. Dr. Karel was directly appointed as a Principal Scientist and placed in the scale of pay of Rs.4500-7300. In this regard the Respondents in their counter affidavit have stated that even in the case of Dr. Karel he had to be placed in the pay scale of Rs.3700-5700 only and if the error in his appointment in the grant of pay scale was not already corrected, it would be done. We are, however, now informed that the Respondents did not either change

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the designation of Dr. Karel or bring him down to the scale of pay of Rs.3700-5700. In view of what is stated above and the very brief counter affidavit filed by the Respondent we are unable ^{to} find any justification for the decision of the Respondents to change the designation of the Applicant from that of Principal Scientist to Senior Scientist and for placing him in the lower scale of pay of Rs.3700-5700 instead of the scale of pay of Rs.4500-7300 applicable to the post of Principal Scientist.

8. Learned counsel for the Applicant has drawn our attention to a judgement dt. 7.9.94 of the Bangalore Bench of the Tribunal in Dr. Satyabrata Maiti & Ors. Vs. The I.C.A.R. U Ors. (O.A.Nos.531, 537 and 538 of 1993). In that case, the Applicants, Dr. Satyabrata Maiti & 2 others were appointed as Scientists on 8.3.88, 7.6.88 and 28.2.86 respectively in the scale of pay of Rs.1500-2000. On the revision of the pay scale, they were placed in the scale of pay of Rs.3700-5700 with effect from the dates of their appointment. Their claim for being placed in the scale of pay of Rs.4500-7300 was allowed by the Bangalore Bench of the Tribunal vide its order dt. 7.9.94. The Applicant cannot be said to have been placed in a more disadvantageous or inferior position than that of the Applicants in O.A. Nos.531, 537 and 538 of 1993 on the file of the Bangalore Bench of the Tribunal.

9. In view of the aforesated circumstances, we are of the definite view that the Respondents are not justified in either altering the designation of the Applicant from Principal Scientist to Senior Scientist or placing him in the lower scale of pay of Rs.3700-5700. Consequently the O.A. is allowed and the Respondents are directed to treat the Applicant as having been appointed in the grade of

Principal Scientist w.e.f. 30.8.89 and to fix his pay in the pay scale of Rs.4500-7300 with effect from that date in accordance with the extant rules. The Applicant will be entitled to all consequential monetary benefits also. The Respondents are directed to comply with this order within three months from the date of communication of the order.

10. No costs.

A.B.Gorthi
A.B.Gorthi)
Member (A).

A.V.Haridasan
(A.V.Haridasan)
Member (J).

Dated: 19 Dec., 1994.

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21/12/94
DEPUTY REGISTRAR (J)

To

1. The Director General, Indian Council of Agricultural Research, Krishi Bhavan, New Delhi-110 001.
2. The Director, Project Directorate on Poultry, Rajendranagar, Hyderabad - 500 030.
3. One copy to Mr.C.Suryanarayana, Advocate, CAT, Hyderabad.
4. One copy to Mr.N.V.Ramana, Addl. GSC, CAT, Hyderabad.
5. One copy to Library, CAT, Hyderabad.
6. One spare copy.

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