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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 21/94.

Dt. of Decision : 01-03-95.

Dr. G. Syda Rao

.. Applicant.

Vs

1. Secretary, Indian Council of
Agricultural Research,
Krishi Bhavan, New Delhi.
2. Director, Central Marine Fisheries
Research Institute, PB.No. 1603,
Tatapuram(PO) Cochin.

.. Respondents.

Counsel for the Applicant : Mr. V.Vidyasagar
Counsel for the Respondents : Mr. N.R.Devaraj, Sr. CGSC.

CORAM:

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

O.A.No.21/94.

Date: 1-3-1995.

J U D G M E N T

{ as per Hon'ble Sri R.Rangarajan, Member(Administrative) X

The applicant herein is S2 Scientist in ICAR under R-1 having been promoted to the grade of Scientist S2 with effect from 1.1.1983. Due to revision of pay scales on account of introduction of IV Pay Commission pay, his pay was fixed at the stage of Rs.3700/- in the grade of Rs.3700-5700 on 1-1-1986. His next increment fell on 1-1-1987.

2. The applicant compares his pay with one Shri Harish Kumar, Senior Scientist of Central Tobacco Research Institute (ICAR), Rajamundry who was appointed as Scientist S2 of ARS on 25.2.1985. His pay was also fixed at Rs.3700/- in the pay scale of Rs.3700-5700 on the introduction of IV Pay Commission Scales of pay. But his pay was raised to Rs.3825/- on 1.2.1986 because of the fact that his next increment fell due on 1.2.1986.

3. The grievance of the applicant is that as Shri Harish Kumar is junior to him in the service having joined the service later than him as Scientist S2, his pay also should be stepped up to that of Shri Harish Kumar with effect from 1.2.1986. He made representation to the concerned authorities for stepping up of his pay as above. But the same was rejected stating that there is no "inter-se seniority amongst ARS Scientists' and hence Rule 6(ii) (page-23 of the OA) which reads as below does not apply to them.

"6(ii) Provided further that in cases other than those covered by the preceding proviso the next increment of a Council employee, whose pay is fixed on the 1st day of January, 1986 at the ^{same} stage as the one fixed for another

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Council employee junior to him in the same cadre and drawing pay at a lower stage than his in the existing scale, shall be granted on the same date as admissible to his junior, if the date of increment of the junior happens to be earlier;"

In view of the above, he has filed this OA praying for a direction to the respondents to step up his pay equal to that of his junior Shri Harish Kumar with effect from 1-2-1986.

4. The respondents have not filed the reply. Sri N.R.Devaraj, learned Standing Counsel for the respondents submitted that the applicant is not entitled for stepping up of pay as there is ^{no left or} inter-se seniority amongst the Scientists in the ICAR. Further, it is stated by the learned Standing Counsel that Rule 6(ii) (page-23 of the material papers enclosed to the OA) is not applicable to the Scientists in the respondents organisation.

5. It is further submitted for the respondents that in view of the position explained above, the applicant cannot claim stepping up of pay as prayed for in this OA.

6. It was brought to the notice of this Bench that this OA is covered by the Judgment in OA 1820/93 decided on 11.2.1994 by the Principal Bench of this Tribunal. As it is a covered ~~by~~ matter, no useful purpose will be served by filing a formal counter as no new facts will be brought out in the reply and hence this OA can be decided on the basis of the facts.

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7. I have gone through the decision of the Principal Bench in the above said OA. It has been observed in the judgement in that OA that the service seniority may not be applicable for promotion but for fixation of pay, a Scientist who joined in service later in the same grade cannot draw more pay than a Scientist who joined service earlier in the same grade. The relevant portion of the judgment is re-produced below for clarification:

"The respondents have filed their reply reiterating the stand taken in the impugned order. It is stated that the concept of seniority does not obtain in the organisation. Each ARS Scientist is treated as a separate officer on his merit, irrespective of what happens to his colleagues.

I am not impressed by this argument. That may be true for the purpose of service prospects. However, in so far as the revised pay scale is concerned, the Annexure B letter dt. 9.3.1989 itself envisages parity in certain respects between a junior person and a senior person who may have been aggrieved by the treatment given to the junior. It is because of this that the provision has been made in the second proviso to para 6 of that circular, reproduced above. The pre-requisite conditions for the application of that proviso are fully satisfied in the present case. I have to mention here that for this purpose, Amar Singh has necessarily to be treated as junior to the applicant for the simple reason that he was appointed to the S-2 grade about a month later than the applicant. Hence, Amar Singh is his junior. The other conditions having satisfied, I am of the view that the applicant is entitled to the relief claimed for."

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8. In OA 1820/93 decided by the Principal Bench on 11-2-1994 the pay of the applicant therein was fixed at the stage of Rs.3700/- on 1-1-1986 in the pay scale of Rs.3700-5700 and his next increment date fell on 1-1-1987. ^{as on 1.1.86} The pay of his junior Sri Amar Singh was also fixed at the stage of Rs.3700/- in the scale of Rs.3700-5700 but he was given next increment on 1-2-1986 as his increment date fell in February. In view of the reasons stated in the said judgment, the pay of the applicant therein was stepped up to that of his junior with effect from 1-2-1986. As the applicant herein is similarly situated as the applicant in OA 1820/93 and also the applicant is drawing less pay compared to his junior in this OA with effect from 1-2-1986 I see no reason to differ from the judgment of the Principal Bench in the above said OA. The applicant herein is entitled for stepping up of his pay equal to that of junior notionally with effect from 1.2.1986.

9. This Tribunal is consistently taking the view that in the case of continuing right, the applicant is entitled for arrears from one year prior to the date of filing of the OA. On that basis the applicant herein is entitled for arrears with effect from 1-9-1992 as this OA was filed on 13.9.1993.

10. In the result, the following direction is given:-

The pay of the applicant should be stepped up notionally equal to that of Sri Harish Kumar with effect from 1.2.1986 and his next date of increment in the pay scale of Rs.3700-5700 should be same as that of Sri Harish Kumar. He is entitled for incremental arrears from 1-9-1992 on

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the basis of the notional fixation of pay from 1.2.1986.

11. The OA is ordered accordingly. No costs.



(R. Rangarajan)
Member (Admn.)

Dated 1st March, 1995.

Open court dictation.



Deputy Registrar (J) CC

NS/Grh.

To

1. The Secretary, Indian Council of Agricultural Research
Krishibhavan, New Delhi.
2. The Director, Central Marine Fisheries
Research Institute P.B.No. 1603,
Tatapuram(PO) Cochin.
3. One copy to Mr.V.Vidyasagar, Advocate, 1-1-256
Chikkadapally, Hyderabad.
4. One copy to Mr. N.R.Devraj, Sr.CGSC.CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE- CHAIRMAN

AND

THE HON'BLE MR. R. RANGARAJAN; M (ADMN)

DATED - 1 - 3 1995.

~~ORDER~~/JUDGMENT:

M. A. /R. A. /C. A. No.

O. A. No.

in

21/94

T. A. No.

(W. P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected.

No. order as to costs.

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