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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OF.1640/95

decided on : 14-6-96

Between

M.A. Rasheed

: Applicant

and

Director General
Indian Council of Agricultural Research(ICAR)
Krishi Bhavan, New Delhi

2. Director (Vig.)
ICAR, Krishi Bhavan
New Delhi

3. Director
Central Research Instt. of Dry Land Agriculture(CRIDA)
Santosh Nagar, Hyderabad

4. Senior Admn. Officer
Central Research Instt. of Dryland Agriculture
Santosh Nagar, Hyderabad

: Respondents

Counsel for the applicant

: V. Venkateswara Rao
Advocate

Counsel for the respondents

: N.R. Devaraj, Sr. CGSC

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HON. MR. JUSTICE M.G. CHOUDHARI, VICE CHAIRMAN

HON. MR. R. RANGARAJAN, MEMBER (ADMN.)

Judgement

Oral order (per Hon. Mr. R. Rangarajan, Member (Admn.))

Heard Sri V. Venkateswara Rao for the applicant.

Heard Sri N.R. Devaraj for the respondents.

The applicant in this OA was suspended on 10.3.94 and it is stated that
/ his subsistence allowance at that time was decided in accordance with ~~xxx~~ rules. Thereafter he submitted an appeal for enhancement of subsistence allowance which was

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rejected by the impugned order dated 24-10-94. Against this order he filed OA.719/95 on the file of this Bench which was disposed of on 19-9-95 directing the respondents to reconsider the issue of enhancing subsistence allowance for the period from 10-6-1994. In pursuance of this direction the subsistence allowance of the applicant herein was increased from Rs.1300 p.m. to Rs.1950/- p.m. with effect from 10-6-94. In the same order a further review was done by the Disciplinary authority for the subsequent period with effect from 20-12-1994 and subsistence allowance was reduced beyond that period from Rs.1950/- to Rs.1300/- p.m. in terms of order dated 25-11-1995 vide Annexure A.5.

3. This OA is filed praying for setting aside the impugned order dated 25-11-1995 whereby his subsistence allowance was reduced from Rs.1950/- to Rs.1300/- with effect from 20-12-1994 and for a further direction for revocation of the suspension.

4. The main contention of the applicant in this OA is that the applicant has been harassed by reducing his subsistence allowance from 20-12-1994 for no reasons. The judgement of this Tribunal in OA.719/95 was delivered on 19-9-1995 and hence the respondents cannot reduce his subsistence allowance for the period before that date. Further in OA.536/94 on the file of this Bench, the ex-parte inquiry conducted for the charges framed against the applicant was set aside and as the reduction of the subsistence allowance in this case is for delay caused by the applicant in not attending the ex-parte inquiry which was set aside reduction now ordered with effect from 20-12-1994 is not tenable. It is further submitted by the learned counsel

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for the applicant that he had not acted in any way dilatory to retard the progress of the inquiry.

5. The respondents have filed a reply resisting the OA. The main contention of the respondents in this connection is that the applicant has acted in such a manner which retarded progress of the inquiry and they have indicated various instances on and after 31-10-1994 which caused set back in conducting inquiry. It is further stated that the above instances are nothing but dilatory attitude on the part of the applicant to face inquiry thereby causing delay in finalisation of the inquiry.

6. We have heard Sri V. Venkateswara Rao and Sri N.R. Devaraj.

7. In the OA the applicant stated in para 9 that alternate "Remedies available have been exhausted" before approaching this Tribunal. However, we find that as per CCS (CCA) Rules, the order of reduction of the subsistence allowance is an appealable one. The applicant for unknown reasons has not taken recourse to this alternate remedy and he approached this Tribunal straightaway in a hasty manner. Thus on this reason itself this OA can be rejected. However, we thought it preferable to dispose of this OA on merits rather than on technical grounds.

8. Court/Tribunal has ~~no~~ only very limited power to interfere in cases like this where relief is asked for to enhance the subsistence allowance and to revoke suspension. The scrutiny in this connection is restricted normally to some technical grounds or in regard to the malafides if attributed to the respondents who issues the impugned order. We find from the OA that though the applicant submits that this order of reduction of subsistence allowance was with a

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view to harass the applicant, we do not find any justifiable material in this OA to come to such conclusion. The respondents in their reply has given the instances wherein the inquiry authority was forced to come to the conclusion that the applicant has not acted diligently in completing the inquiry in time. No rejoinder has been filed in this connection to rebut these contentions in the reply.

9. Learned counsel for the applicant though submits that the only instance on 18-5-95 has been taken into account to reduce the allowance we find from the reply that 3,4 instances in the reply have been quoted which caused set back to the inquiry. Hence, it cannot be said that only one instance has been taken into account by the respondents for reduction of subsistence allowance. As we stated earlier scrutiny by the Tribunal in Disciplinary cases can only be if the case is foisted or some order was given due malafide intentions on the part of the respondents. We do not find any malafide intention nor any colourable exercise of power blatantly by the Disciplinary authorities. Hence, it is to be concluded that the decision taken for reduction of subsistence allowance was on bonafide ground and cannot be set aside just because the applicant avers that the reduction is to harass him.


10. Further, we also find that the applicant had already been compulsorily retired from service and he has already filed an appeal against compulsory retirement. The competent authority has to take a view in regard to the appeal and while taking a view in his appeal the competent authority has also to decide in regard to the treating of


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the suspension period. Hence, it is premature to give any direction as to how the suspension period is to be treated. Competent authority will no doubt give necessary direction in this connection while disposing of the appeal.

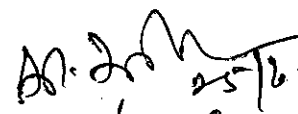
11. In view of what is stated, no direction is necessary in regard to the prayer of the applicant for revocation of the suspension as he had already been compulsorily retired and treatment of the suspension period will naturally be decided by the competent authority in accordance with rules. The prayer for increased subsistence allowance with effect from 20-12-1994 is only liable to be dismissed for reasons stated supra.

12. In the result the OA is dismissed. No costs.


(R. Rangarajan)
Member (Admn.)


(M.G. Chaudhari)
Vice Chairman

Dated : June 14, 96
Dictated in Open Court


25/6/96
Deputy Registrar (D) cc

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O.A.No. 1640/95.

To

1. The Director General,
Indian Council of Agricultural Research(ICAR)
Krishibhavan, New Delhi.
2. The Director(vig.)
ICAR Krishi Bhavan, New Delhi.
3. The Director, Central Research Institute
of Dry Land Agriculture(CRIDA) Santosh Nagar,
Hyderabad.
4. The Senior Admn.Officer,
Central Research Institute of Dryland
Agriculture, Santoshnagar, Hyderabad.
5. One copy to Mr.v.venkateswar Rao, Advocate, CAT.Hyd.
6. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
7. One copy to Library CAT.Hyd.
8. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

R. Rongapara
THE HON'BLE MR. H. RAJENDRA PRASAD (A)

Dated: 14-6-1996

~~ORDER~~/JUDGMENT

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

in

O.A.No. ~~595/96~~ 1640/95.

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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केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal ब्रेषण/DESPATCH - 1 JUL 1996 हैदराबाद बेंच HYDERABAD BENCH
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