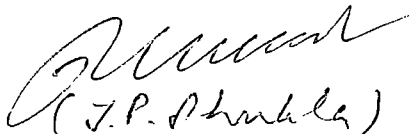



OA 49/2003 with MAs 329 & 368/2004

1/11/07

Mr. R.P. Sharma, Counsel for applicant.
Mr. V.C. Bhojraj, Counsel for respondents.

Heard. The OA as well as
connected MAs stand disposed of by
a separate order.


(J.P. Shrivastava)
M(A)


(M.L. Chavhan)
M(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 1st day of November, 2007

ORIGINAL APPLICATION NO.49/2003

WITH

MSIC. APPLICATION NO.339/2004

AND

MISC. APPLICATION NO.348/2004 *lv*

CORAM :

HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER
HON'BLE MR.J.P.SHUKLA, ADMINISTRATIVE MEMBER

Dr.A.K.Mishra,
T.7-8 (Medical Officer),
Central Sheep & Wool Research Institute,
Avikanagar via Malpura,
District Tonk (Rajasthan).

... Applicant

(By Advocate : Shri R.P.Sharma)

Versus

1. Indian Council for Agricultural Research
Through Secretary,
Krishi Bhawan,
New Delhi.
2. Director General,
Indian Counsel for Agricultural Research,
Krishi Bhawan,
New Delhi.
3. Director,
Central Sheep & Wool Research Institute,
Avikanagar via Malpura,
District Tonk.

... Respondents

lv (By Advocate : Shri V.S.Gurjar)

ORDER (ORAL)PER HON'BLE MR.M.L.CHAUHAN

The applicant has filed this OA thereby praying for the following relief :

"The respondents may be directed to award all the benefits of Technical Service Rules to the applicant by giving weightage of the past services and thereby provide all consequential benefits including the merit promotion/benefit of career advancement on completion of every five years."

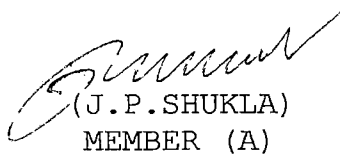
2. Notice of this OA was given to the respondents, who have opposed the claim of the applicant. However, subsequently, the respondents filed MA (No.348/2004), whereby it has been stated that the applicant is not pressing his claim, as pleaded in the OA, and the applicant is basing his claim on the basis of decision rendered by the Apex Court in the case of ICAR v. Molly Kutty K.P., whereby the said SLP was disposed of with the observations to the effect that since the respondent (Molly Kutty K.P.) submitted an affidavit on 16.12.2005 to the effect that she wants to continue with the benefits under the ACP Scheme and forgoes the right to be covered under five yearly assessment scheme meant for technical staff, therefore, the Hon'ble Supreme Court was not inclined to interfere in the matter. The appeal filed by the respondent was dismissed. Pursuant to the observations made by the Apex Court while disposing of the aforesaid SLP, the respondents have issued communication dated 31.7.2006 thereby asking for one time option to the employees who were in Auxiliary/Administrative/Supporting Category and were reclassified under the Technical Category in August, 1996 to go back to the Auxiliary/Administrative/Supporting Category in order to enable them to avail the benefit of ACP scheme, subject to the condition that if the employee opts to go back to Auxiliary/Administrative/Supporting Category, he/she shall have to forego the benefits of assessment promotion/increment or any other benefit


availed under Technical Service Rules. The respondents have placed a copy of the said communication dated 31.7.2006 on record as Ann.MAR/2. In view of the said communication, the applicant submitted his option, in the prescribed proforma, for change of category, which is also placed on record as Ann.MAR/3.

3. In view of this subsequent development, whereby the applicant has given his option for change of category and forgoing his claim for the benefit of assessment promotion/increment or any other benefit availed under Technical Service Rules w.e.f. 29.6.96, and going back to Auxiliary category, the present OA does not survive for consideration as the same has become infructuous.

4. Accordingly, the present OA stands dismissed as having become infructuous. No costs.

5. In view of the order passed in the OA, no order is required to be passed in MAs (NO.339/⁰⁴ & 348/200⁰⁴). The same shall also stand disposed of.


(J.P.SHUKLA)
MEMBER (A)


(M.L.CHAUHAN)
MEMBER (J)

vk