

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

**ORDER SHEET
ORDERS OF THE TRIBUNAL**

16.03.2009

OA No.507/2006

Applicant present in person
Ms. Kavita Bhati, proxy counsel for
Mr. Kunal Rawat, counsel for respondents

Heard the applicant, who is present in person and
the learned proxy counsel appearing on behalf of the
respondents.

For the reasons dictated separately, the OA
stands disposed of.


(M.L.CHAUHAN)

Judl.Member

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 16th day of March, 2009

ORIGINAL APPLICATION No.507/2006

CORAM:

HON'BLE MR.M.L.CHAUHAN, MEMBER (JUDICIAL)

Dr. G.S.Somawat,
s/o late Shri K.R.Somawat,
aged 54 years,
Director, Office of the National
Commission for Schedules Tribes,
Government of India,
Regional Office, Jaipur and
r/o C-62, Balnagar, Kartarpura,
Jaipur.

.. Applicant

(Applicant in person)

Versus

1. Union of India
through its Secretary,
Department of Agriculture & Cooperation,
Ministry of Agriculture,
Government of India,
Krishi Bhavan,
New Delhi.
2. Principal,
Extension Education Institute,
Nilokheri,
District Karnal,
Haryana.

... Respondents

(By Advocate: Ms. Kavita Bhati, proxy counsel for Mr.
Kunal Rawat)

O R D E R (ORAL)

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

- i) That the letter No.F.18(1)/92-Estt.(I) dated 19.10.2006 issued by the Respondent No.1 may please be quashed and to direct to the Respondents to sanction two advance increments to the Applicant for acquiring Ph.D. degree while in service as per the Respondent No.1 letter F.No. 1(15)/98-Per.IV dated 3.3.1999 and also the Ministry of Human Resource Development, Government of India vide O.M. No. F.1-22/97-U 1 dated 27.7.1998.
- ii) Any other order or orders as are deemed fit and proper in the interest of justice and the facts and circumstances of the case may kindly be passed in favour of the Applicant.

2. Briefly state, facts of the case, so far as relevant for decision of this case, are that the applicant acquired M.Phil. Degree in 1978 before joining the Government service and thereafter he was granted Special Overseas Study Leave for completing his Ph.D. course for the period from 22.9.1984 to 18.5.1986 from London School of Hygiene Tropical Medicines under the National Overseas Scholarship Scheme. The grievance of the applicant is that his case for grant of advance increment for acquiring higher educational qualification of Ph.D. degree has been wrongly rejected by the respondents vide letter dated 19th October, 2006 (Ann.A1). Thus, the applicant has filed this OA thereby praying for the aforesaid reliefs.

3. Notice of this application was given to the respondents. The respondents have filed reply whereby the respondents have justified their action on the basis of the decision taken vide letter dated 19th October, 2006, relevant portion of which thus reads:-

"The observations of the competent authority in the instant representation are as follows:-

(i) Dr. Somawat acquired the M.Phil degree before joining government service and as such he does not qualify for grant of incentive as per conditions laid down in FR 27 (15) (iv) and Department of Personnel and Training's OM No. 1/2/89-Estt. (Pay I) dated 28.6.1993, 31.1.1995, 9.4.1999 & 1.7.2004.

(ii) Dr. Somawat had been granted Special Overseas Leave for completing his Ph.D. course for the period from 22.9.1984 to 18.5.1986 from London School of Hygiene Tropical Medicines under the National Overseas Scholarship Scheme. Copy of the relevant order No. 19-173/89-CA III/Extn. (Part) dated 25.3.1994 is enclosed as Annexure I for ready reference.

(iii) As per FR 27 (15) (iii) a Central Govt. servant who acquires higher qualification by availing of study leave would not be eligible for any incentive. Therefore, Dr. Somawat cannot be treated as eligible for grant of special incentive for acquiring his Ph.D. since he had been granted special Overseas Study Leave;

(iv) Dr. Somawat had acquired Ph.D. degree while serving as Lecturer in the EEI Nilokheri, which was being governed by rules/instructions of the government till 31.01.1991. Therefore, his plea that his request for grant of incentive for acquiring higher educational qualification under the Career Progression Scheme for Lecturers in the Central Universities/ICAR etc. by Ministry of Human Resource Development cannot be acceded to simply because EEI Nilokheri cannot be classified as a central university etc."

4. I have heard the applicant who is present in person and the learned proxy counsel for the respondents. The learned proxy counsel for the

respondents has relied upon the order passed by the competent authority and submits that the applicant is not entitled to grant of relief in terms of conditions laid down in FR 27(15)(iv) and DOPT OM dated 9.4.1999 and 1.7.2004. Further plea taken by the respondents is that the applicant had acquired Ph.D. degree in the year 1990 while serving as Lecturer in the EEI, Nilokheri which is being governed by the rules/instructions of the Government of India till 31.1.1991. Therefore, his plea for grant of incentive for acquiring higher educational qualification under the Career Progression Scheme for Lecturer in the Central Universities/ICAR etc. by Ministry of Human Resource Development could not be acceded simply because EEI, Nilokheri cannot be classified as Central University by the Government of India, Ministry of Agriculture.

5. I have given due consideration to the submissions made by the learned counsel for the respondents. I am of the view that the applicant has made out a case for grant of relief so far as case of grant of additional increment for acquiring higher educational qualification of Ph.D. is concerned. Since the applicant is confining his case only to grant of advance increment so far as Ph.D. degree is concerned and not regarding M.Phil. degree, as such, the matter is considered only for this purpose. As can be seen

10

from order dated 25 March, 1994 issued by the Ministry of Agriculture, Department of Agriculture and Cooperation, Krishi Bhawan, the applicant was granted Special Leave on half of the leave salary as is admissible while on earned leave in accordance with rule 40(3) read with Rule 40(1) of the Central Civil Service (Leave) Rules, 1972. This rule is contained in Chapter-V of the CCS (Leave) Rules, 1972 whereas the provisions regarding grant of Study Leave contained in Chapter-VI which are entirely different and in a case where a person has been granted study leave, he is entitled to full salary alongwith other allowances during the period of study leave. Thus, the contention of the respondents that the applicant was granted study leave, as such, he is not entitled to grant of advance increments in terms of FR 27 (15) (iii) and DOPT instructions as mentioned above are wholly misconceived. According to me, the case of the applicant has not been considered in proper perspective and provisions of FR-27(15) (iii) [FR-27 (14) (iii) of FR SR Part-I, 2001 Edition] have been wrongly applied in order to defeat the case of the applicant.

6. The applicant further submits that he is also entitled to the relief even on the ground that EEI-Nilokheri has been classified as Central University. In this regard, the applicant has drawn my attention

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to para 4 of the letter dated 17th June, 1987 (Ann.A5) which stipulates that the scheme is being implemented in the Central Universities and other institutions fully financed by the Central Government. Since the EEI-Nilokheri is fully finance by the Central Government, as such, it is Central University and thus, on this ground the applicant is also entitled to the benefit of Career Progression.

7. Since as per own showing of the respondents the applicant was governed by Government rules when he acquired Ph.D. degree and case of the applicant was governed under FR-27, I am not going into the larger question whether EEI-Nilokheri is Central University or not and the applicant is entitled to relief on this account also. Suffice it to say that the case of the applicant has been wrongly rejected by applying FR 27(15)(iii) on the premise that he has acquired higher qualification by availing of study leave whereas the applicant has acquired higher qualification by treating the period of absence as Earned Leave with half pay, as such, it cannot be said that the applicant has acquired higher qualification by availing study leave. Thus, according to me, the applicant has made out a case for grant of relief.

8. Accordingly, the impugned letter dated 19th October, 2006 (Ann.A1) is partially quashed. The respondents are directed to grant advance increment to

the applicant for acquiring higher educational qualification of Ph.D. in terms of FR-27 within a period of three months from the date of receipt of a copy of this order. No costs.


(M.L.CHAUHAN)
Judl.Member

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