

**Central Administrative Tribunal
Principal Bench**

RA No.261/2016
In
OA No.4087/2014

New Delhi this the 08th day of December, 2016.

***HON'BLE MR. JUSTICE PERMOD KOHLI, CHAIRMAN
HON'BLE MR. K.N. SHRIVASTAVA, MEMBER (A)***

Dr. Manjeet Singh,
S/o Bhale Ram,
R/o 7D, Scientists Apartment,
IARI Pusa Campus,
New Delhi-110012.

-Applicant

-Versus-

1. Indian Council of Agricultural Research,
Through Secretary DARE/D.G., ICAR
Krishi Bhawan, New Delhi-1.
2. The Director,
Indian Agricultural Research Institute,
Pusa, New Delhi-12.

-Respondents

O R D E R (By Circulation)

Mr. K.N. Shrivastava, Member (A):

The review applicant, through the medium of this Review Application (RA), filed under Section 17 (2) of the Administrative Tribunals Act, 1985, has sought review of this Tribunal's order dated 02.09.2016 in OA No.4087/2014. The review applicant has stated in para 3 (a) of the RA that there is an apparent error in para-8 of the order of the Tribunal under review wherein it is

mentioned that the applicant's basic pay was Rs.24300/- with Grade Pay of Rs.8,000/-. According to the applicant, the Tribunal has committed an error in recording so, and that as a matter of fact, the applicant was in the pay scale of Rs.37,400-67000/-+Rs.9000 Grade Pay, as could be seen at pages 43 to 46 of the paper-book. Further contention of the review applicant is that he was eligible for benefits under the Career Advancement Scheme of the respondents (Annexure A-4 of the OA) under which, after completion of three years of service as Scientist/Associate Professor in the Grade Pay of Rs.8,000/- he was entitled for the Grade Pay of Rs.9,000/-.

2. On the power of the Tribunal to review its own orders the Hon'ble Supreme Court has laid down clear guidelines in its judgment in the case of **State of West Bengal & others Vs. Kamal Sengupta and another**, [2008 (3) AISLJ 209] stating therein that "the Tribunal can exercise powers of a Civil Court in relation to matter enumerated in clauses (a) to (i) of sub-section (3) of Section (22) of Administrative Tribunal Act including the power of reviewing its decision."

At Para (28) of the judgment, the principles culled out by the Supreme Court are as under:-

“(i) The power of Tribunal to review its order/decision under Section 22(3) (f) of the Act is akin/analogous to the

power of a Civil Court under Section 114 read with order 47 Rule (1) of CPC.

(ii) The Tribunal can review its decision on either of the grounds enumerated in order 47 Rule 1 and not otherwise.

(iii) The expression “any other sufficient reason” appearing in Order 47 Rule 1 has to be interpreted in the light of other specific grounds

(iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as a error apparent in the fact of record justifying exercise of power under Section 22(2) (f).

(v) An erroneous order/decision cannot be corrected in the guise of exercise of power of review.

(vi) A decision/order cannot be reviewed under Section 22(3) (f) on the basis of subsequent decision/judgment of a coordinate or a larger bench of the Tribunal or of a superior court

(vii) A decision/order cannot be reviewed under Section 22(3)(f).

(viii) While considering an application for review, the Tribunal must confine its adjudication with reference to material which was available at the time of initial decision. The happening of some subsequent event or development cannot be taken note of for declaring the initial order/decision as vitiated by an error apparent.

(ix) Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence the same could not be produced before the Court/Tribunal earlier.”

3. The issue raised in the RA has been squarely dealt with and discussed by the Tribunal in para-9 of its order under review. For clarity, we consider it appropriate to reproduce the said para as under:

“9. We also notice some palpable dichotomy between the averments made by the applicant in para-4.2 of the OA wherein it is stated that the applicant has been placed in PB-4 with Grade Pay of Rs.9,000/- w.e.f. 29.06.2010 on completion of three years service in Grade Pay of Rs.8,000/- in PB-3 and the LPC issued, vide Annexure A-2 by the previous organization, namely, SKUAST, Jammu, for him, which is dated 16.08.2010, indicating therein that the applicant is in PB-4 with Grade Pay of Rs.9,000/-. The applicant had joined IARI on 03.07.2010. Even if the averment made in para-4.2 is taken on its face value that the applicant was placed in PB-4 with Grade Pay Rs.9,000/- w.e.f. 29.06.2010 but then in support of it, the corresponding LPC ought to have been issued on or after that date. By its very nomenclature LPC, it should indicate the last pay drawn by the applicant. Obviously, the applicant prior to his joining IARI on 03.07.2010 was not in PB-4 with Grade Pay Rs.9,000/-. Thus there is palpable incongruity in the LPC. Admittedly, he was in PB-3 with Grade Pay Rs.8,000/-. As such, we do not find any flaw in the action of the respondents in not considering the applicant's request for grant of Grade Pay of Rs.9,000/- in PB-4 to him. As a matter of fact, the respondents have been gracious enough not only to grant him pay protection but taking into consideration his future career advancement, they have placed him in PB-4 for protecting his pay albeit continued him with Grade Pay of Rs.8,000/- in consonance with the terms of the post advertised in ASRB advertisement No.01/09 (Item No.69). As observed by us, in para-8, applicant would be eligible for consideration for grant of Grade Pay of Rs.9,000/- on acquisition of the essential and desirable qualifications for the post of Senior Scientist as prescribed w.e.f. 26.04.2012 (details at page 67-68 of the paper-book). Needless to say that the applicant would be entitled for career advancement, in terms of Annexure A-4 Scheme of the respondents as per his eligibility.”

4. Admittedly, the applicant joined IARI on 03.07.2010. The Last Pay Certificate (LPC) dated 06.07.2010 (Annexure A-9-page 42 of the paper book of the OA), which was issued just three days after the applicant's joining IARI, indicates the pay of

the applicant as Rs.24300/- with Grade Pay of Rs.8,000/-. The Tribunal has, therefore, correctly noted in the order under review that the applicant was in the Grade Pay of Rs.8,000/- and not in the Grade Pay of Rs.9,000/- as contended by him. The applicant in the RA has drawn our attention to pages 43 to 46 of the paper-book which are part of Annexure A-9. At page 46 of the OA, which is part of Annexure A-9, it is written as under by the Accounts Officer:

“the Pay Band of 36400-6700+9000 Grade Pay has been allowed in f/o said official from the date of completion of three years service in the Pay Band Rs.15600-39100+8000 Grade Pay in terms of M.H.R.D. notification No.1-32/2006-0 U.I. (i) Govt. of India dated 31.12.2009 (Table No. 1 To 9) of MHRD letter F-3-1-2009-U(I) dated 4.6.2009 implemented by the SKUAST-J vide U.O. No.24(ES-I) of 2009 dated 01.08.2009. Hence his Pay has been fixed Rs.37400-9000 Grade Pay as on 29.06.2010.”

5. The Accounts Officer's noting in the service book of the applicant is dated 11.08.2010, i.e., after more than a month of the applicant joining the IARI as Associate Professor. This entry further corroborates that the applicant was not in the Grade Pay of Rs.9,000/- on the day of his joining IARI. Thus, we do not find any apparent error in the order under review as to the LPC of the applicant at the time of his joining IARI. The claim of the applicant for Grade Pay of Rs.9,000/- on his purported completion of three years of service in the Grade Pay of Rs.8,000/- has been elaborately dealt with by the Tribunal in the order under review.

6. The *sine qua non* triggering review of an order is existence of any apparent error on the record. We do not find any apparent error in the order under review. Under these circumstances, the RA is dismissed in circulation.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

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