

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

O.A.NO.1116 OF 2014New Delhi, this the 8th day of December, 2015

CORAM:

HON'BLE SHRI SHEKHAR AGARWAL, ADMINISTRATIVE MEMBER**AND****HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER**

í ..

Gulshan Kumar Kaushik,
 s/o Sh. Har Swarup Kaushik,
 Technical Officer-T-7/8,
 Division of Microbiology(CCUBGA),
 Indian Agriculture Research Institute,
 Pusa Campus, New Delhi 110012í í í
 Applicant

(By Advocate: Mr.K.K.Sharma)

Vs.

1. Director General,
 Indian Council of Agricultural Research,
 Krishni Bhavan,
 New Delhi
2. The Secretary,
 Indian Council of Agricultural Research,
 Krishi Bhawan,
 New Delhi 110001
3. Director,
 Indian Agriculture Research Institute,
 Pusa Institute, New Delhi 110012í í .. Respondents

(By Advocate: Mr.Rajeev Sharma)

í í ..

ORDER**RAJ VIR SHARMA, MEMBER(J):**

The applicant has filed the present O.A. seeking the following
 reliefs:

- ó(1) Quash and set aside- (1) Office order dated 11-6-2012 to the extent it does away with grant of upto 3 advance increments; and (2) order dated 22-04-2013 issued by the

ICAR according approval to the amendment in rule 6 of Technical service Rules and confirming the same as delineated in the Office Order dated 11.06.2012;

- (2) Direct Respondents not to initiate steps to recover the three advance increments already granted to the applicant by authority of law vide Office Orders dated 13.01.2006 and dated 15.09.2008 in lieu of promotion as recommended by the duly constituted Assessment Committee based on applicant's five yearly assessment;
- (3) Direct respondents to pay cost for this uncalled for litigation.
- (4) Pass such further or other order(s) in favour of the applicant as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.ö

2. The applicant is presently working as Technical Officer (T-7/8) in the Division of Microbiology (CCUBGA), Indian Agriculture Research Institute [Indian Council of Agricultural Research (ICAR)]. It is his case that while he was working as Technical Officer in T-6 grade, in the years 2005/2006 and 2008, the Assessment Committee considered his case for grant of merit promotion to T-7/8 grade under the Technical Service Rules. Although he was not recommended for merit promotion to T-7/8 grade, yet the Assessment Committee recommended grant of advance increments to him on both the occasions. On the basis of the said recommendations of the Assessment Committee, he was granted three advance increments; the first advance increment being granted to him with effect from 3.2.2005, vide office order dated 13.01.2006 (Annexure A/3); and the second advance increment being granted to him with effect from 3.2.2007 and third advance increment being granted to him with effect from 3.2.2008, vide office order dated 15.9.2008 (Annexure A/4). The said three increments were granted to him under the Technical Service Rules of the ICAR. Thereafter, in the year

2013, on the basis of assessment of his performances during the period 3.2.2010 to 2.2.2011, the Assessment Committee recommended his case for grant of merit promotion to T-7/8 grade with effect from 3.2.2011. Accordingly, by the office order dated 16.3.2013 (Annexure A/5), he was granted merit promotion to T-7/8 grade with effect from 3.2.2011.

3. In the present O.A., the applicant has challenged the legality and validity of the circular dated 11.6.2012(Annexure A/1) whereby the ICAR decided, *inter alia*, that the pay of the employees, who had been granted advance increment(s) prior to 1.1.2006 would be fixed in the revised pay structure corresponding to the stage at which their basic pay was as on 1.1.2006. In the case of employees, who had been granted advance increment(s) between 1.1.2006 and 31.8.2008 under the CCS (Revised Pay) Rules, 2008, it was decided that such employees would only be granted annual increment on 1st of July of every year. No advance increments, corresponding to the advance increments granted under the pre-revised pay scale, would be granted to them during the period between 1.1.2006 and 31.8.2008 while making their due-drawn statement. During this period, advance increment would be given as per the fixed amount approved by the Ministry of Finance. Only one advance increment at the rate prescribed in the said circular dated 11.6.2012 would be granted to those technical personnel who have been recommended / approved for grant of advance increment with effect from 1.2.2006. In cases where more than one advance increments had already been granted from 1.1.2006, the same would be

restricted to only one advance increment to be paid at the rate indicated in the said circular dated 11.6.2012 and necessary recovery would be made for the excess payment, if any. The applicant has also challenged the legality and validity of the circular dated 22.4.2013 (Annexure A/2) whereby it was notified that the Governing Body of ICAR, in its 226th meeting held on 14.2.2013, approved the amendment in Rule 6.1 and paragraph 10 of Appendix III for Category I, II and III under Rule 6.13 of the Technical Service Rules to the extent that only one advance increment would be granted in the same grade on the basis of assessment performance of employees in the Technical Service after expiry of the number of the prescribed years of service, and that the advance increment with effect from 1.1.2006 would be granted as per the rate prescribed in the circular dated 11.6.2012, *ibid.*

3. Opposing the O.A., the respondents have filed a counter reply.
4. A rejoinder reply has also been filed by the applicant controverting the stand taken by the respondents.
5. On 18.11.2015, the present O.A. and another O.A. No.862 of 2014 filed by one Mr.Kay Prasad, working as Executive Engineer (T-9) in National Phytotron Facility, Indian Agriculture Research Institute (Indian Council of Agriculture Research) were heard by us. The issues involved in both the O.As. are almost common. The averments made by the parties, and the contentions raised by them in support of their respective cases, as well as

the submissions made by the learned counsel appearing for them, are almost identical in both the O.As.

6. In a separate order pronounced by us today in O.A.No.862 of 2014 (**Kay Prasad v. Director General, ICAR and others**), we have considered, in detail, the pleadings and the rival contentions of the parties, and have partly allowed the O.A. to the extent indicated in the order. In **Kay Prasad's case** (supra), while upholding all other provisions of the circulars dated 11.6.2012 and 22.4.2013 (Annexure A/1 and Annexure A/2), we have quashed the decision of the respondents to recover the excess amount from the applicant and other similarly placed personnel in the Technical Service of the ICAR, as contained in the said circulars. Consequently, we have directed the respondents not to recover the said excess amount from the applicant and other similarly placed personnel in the Technical Service of the ICAR.

7. The present O.A. is squarely covered by the decision rendered by us in **K.Prasad's case** (supra). Accordingly, in terms of our decision in **K.Prasad's case** (supra), we direct the respondents not to recover the excess amount from the applicant.

8. Resultantly, the O.A. is partly allowed to the extent indicated above. No costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SHEKHAR AGARWAL)
ADMINISTRATIVE MEMBER

