

**Central Administrative Tribunal
Principal Bench**

OA No.4087/2014
MA No.1837/2015

New Delhi this the 2nd day of September, 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

(By Advocate Shri Chitarnjan Hati)

-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

(By Advocate Shri Rishi Kant Singh)

O R D E R (ORAL)

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

This Original Application (OA) has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 praying for the following main relief:

“8.1 This Hon’ble Tribunal may kindly be pleased to set aside/quash the order No.F.No.1-33/2007-Per.II dated 22.08.2014 and grant PB IV with RGP of Rs.9000/- to the applicant w.e.f. 03.07.2010, counting past service of the applicant rendered at SKUST Jammu under Career Advancement Scheme of the respondents.”

2. The factual matrix of this case is as under.

2.1 The applicant was earlier working as an Associate Professor at S.K. University of Agricultural Sciences and Technology (SKUAST), Jammu. He was in the pay scale of Rs.12000-18300/-, which is equivalent to PB-3 (Rs.15600-39100)+ Grade Pay Rs.8000/-.

2.2 The Indian Agricultural Research Institute (IARI) sent a requisition vide letter No.I-33/2007/2007-P-II dated 28.12.2007 to Agricultural Scientists’ Recruitment Board (ASRB) for recruiting one post of Senior Scientist for it. The ASRB advertised the said post together with other posts vide its advertisement no.01/2009. Pursuant to the said advertisement, the applicant applied for the said post. The advertisement clearly indicated that the post of Senior Scientist is in PB-3 (Rs.15600-39100)+Research Grade Pay (RGP) of Rs.8000/-. It was also indicated therein that the post shall carry a minimum pay of Rs.22800/- in PB-3. The applicant was selected for the said post and an offer of appointment was issued to him on 25.01.2010 stipulating therein that he may have to join within one month. Due to his personal circumstances, applicant

sought extension of time for joining the post till July, 2010, which was duly agreed upon by respondent no.2. Finally, the applicant joined IARI on 03.07.2010. Before joining the said post, the applicant vide his Annexure A-6 letter dated 10.03.2010 wrote to respondent no.1 that the appointment letter is silent on pay and service protection issues, whereas he had asked for service and pay protection in his application form.

The relevant extract of the said letter is reproduced below:

- “1. That I have been offered appointment as Senior Scientist (Agri. Extension), at IARI New Delhi in Pay Band-3 with a minimum pay of Rs.22300+Research Grade Pay of Rs.8000).
2. That council has granted three months extension for joining of new assignment up to 25.04.2010.
3. That I was selected as Associate Professor on 29.06.2007 and working in PB-3 with AGP of Rs.8000/- from same date. As on date my basic pay is Rs.25300/-+AGPRs.8000.
4. That I am eligible to be placed in PB-4 with AGP/RGP of Rs.9000/- w.e.f. 29.06.2010.
5. That the appointment offer is silent on pay and service protection issue, whereas, I had asked for service and pay protection in my application form also.

In light of above mentioned points kindly clarify whether the council is going to protect my pay and services as Associate Professor and the placement in PB-4 with AGP/RGP due to me on 29.06.2010 (After completion of three years in AGP/RGP of Rs.8000/-) will be affected from due date i.e. 29.06.2010. As such it is requested that the decision may kindly be communicated at the earliest preferably via Fax (No.0191-2263891) as it will facilitate my early joining of new assignment.”

2.3 On the same issue, he wrote another letter to respondent no.2 on 26.05.2014 (Annexure A-15), reiterating the same issue, as raised by him in his Annexure A-6 letter. Respondent No.1 vide Annexure A-1 letter dated 22.08.2014 intimated to the respondent no.2 as under:

“Subject: Protection of Pay and grade in respect of Dr. Manjeet Singh, Sr. Scientist, Agril. Extension Division, IARI, New Delhi-reg.

Sir,

This has reference to your letter No.6-47/2010-P.I, dated 26.05.2014, on the subject cited above.

The issue has been examined in the Council and it has emerged that in light of the provisions of Govt. of India rules provided under FR 22, the pay of Dr. Manjeet Singh, which he was drawing at SKUAST, Jammu (his previous office) in PB-4, can be protected. However, the request for protection of Grade Pay in PB-4 of Rs.9000/- cannot be extended to Dr. Manjeet Singh.

Therefore, his pay may be protected with the Pay Scale in PB-4 i.e., Rs.37,400-67000 with RGP of Rs.8000/-.”

2.4 The applicant has been demanding that he should be placed in PB-4 with RGP Rs.9000/- but the same has not been agreed upon by the respondents. As his request has not been considered by the respondents, the applicant has filed the instant OA.

3. Pursuant to the notices issued, the respondents entered appearance and filed their reply. The applicant filed his rejoinder thereafter. With the completion of the pleadings, the case was taken up for hearing the arguments of the parties on 02.09.2016. Shri Chitranjan Hati, learned counsel for the applicant and Shri Rishi Kant Singh, learned counsel for the respondents argued the case.

4. The learned counsel for the applicant during the course of his arguments submitted the following important points in support of the claim of the applicant made in the OA:

i) The respondents vide Annexure A-7 letter dated 25.03.2010 had given assurance to the applicant that his pay and services in ICAR shall be regulated as per the Last Pay Certificate (LPC) issued by his previous Organization, i.e., SKUSAST, Jammu, and that they have resiled from the said assurance in view of their Annexure A-1 impugned letter dated 22.08.2014, which tantamounts to breach of trust.

ii) The respondents have not granted benefits of Career Advancement Scheme (CAS) effective from 01.01.2009 to the applicant, according to which, a Senior Scientist on completion of three years of service will be automatically placed in the RGP Rs.9,000/- without any formal assessment (Annexure A-12). They have also failed to grant the benefit of their own OM dated 05.11.2012 (Annexure A-13), according to which the previous regular service, whether National or International, a Scientist/Senior Scientist or Principal Scientist or equivalent in State Agricultural University etc. should be counted for direct recruitment and promotion under CAS as Scientist, Senior Scientist, Principal Scientist or any other nomenclature these posts are described, provided the essential qualifications of the post held were not lower than the qualification prescribed by the ICAR for Scientist/Senior Scientist and Principal Scientist, as the case may be and the post was in equivalent grade.

iii) As per the LPC dated 16.08.2010 issued by his previous organization, viz. SKUSAST, Jammu, he was placed in PB-4 (Rs.37400-67000)+GP Rs.9,000/- (Annexure A-2) the respondents were obliged to fix the pay of the applicant based on the said LPC but they have failed to do so.

iv) Denial of pay fixation legitimately due to the applicant on the part of the respondents would prejudice the career of the applicant as also he will become junior to his own juniors.

4.1 Concluding his arguments, the learned counsel prayed for allowing the reliefs claimed by the applicant in the OA.

5. Per contra, the learned counsel for the respondents denying the averments of the applicant in the OA, made the following important points during the course of his arguments:

a) The post of Senior Scientist was advertised vide ASRB advertisement no.01/09 (Item No.69) in PB-3 (Rs.15600-39100)+ Grade Pay Rs.8000/-. The applicant had applied pursuant to the said advertisement and has been selected for the said post. As such, he could not have been placed in PB-4 with Grade Pay of Rs.9,000/- as demanded by him.

b) The respondents have honoured their commitment to the applicant made in their Annexure A-7 letter dated 23.05.2010 wherein it has been stated that his pay and services in ICAR

shall be regulated as per the last LPC issued by his previous organization. The respondents have protected his pay in PB-4 with Grade Pay of Rs.8,000/- vide the impugned Annexure A-1 letter dated 22.08.2014.

c) With effect from 26.04.2012, the position of Senior Scientist is being filled in PB-4 with Grade Pay of Rs.9,000/- for which essential as well as desirable qualifications have been modified.

d) The earlier organization of the applicant, namely, SKUAST, Jammu vide Annexure A-2 LPC dated 16.08.2010, is purported to have placed the applicant in PB-4 with Grade Pay Rs.9,000/- w.e.f. 29.06.2010. The respondents could not have acted upon this LPC in view of the clear stipulation in the advertisement that the post of Senior Scientist for which the applicant was selected, was in PB-3 with Grade Pay Rs.8,000/-.

5.1 Concluding his arguments, the learned counsel submitted that the respondents have granted pay protection to the applicant and that the claim of the applicant to grant him Grade Pay of Rs.9,000/- is not justified and as such the OA is liable for dismissal.

6. We have considered the arguments put-forth by the learned counsel for the parties and have also perused the pleadings and the documents annexed thereto.

7. Indisputably, the post of Senior Scientist advertised by the respondents vide ASRB advertisement no.01/09 (Item No.69) carried the pay scale of PB-3 with Grade Pay Rs.8,000/-. The applicant was aware of it while applying. After his selection he sought clarification as to protection of his pay and services. The respondents vide their Annexure A-7 communication dated 25.03.2010 assured him that his pay and services in the ICAR shall be regulated as per the LPC of his parent department, i.e., SKUAST, Jammu. The applicant at the time of applying for the said post was working as an Associate Professor, which carried the pay equivalent to PB-3 (Rs.15600-39100) +Grade Pay Rs.8,000/- in terms of the VI Central Pay Commission's recommendations.

8. As per the extract of his service book at Annexure A-9 dated 06.07.2010, he was having a basic pay of Rs.24330/- with Grade Pay Rs.8,000/-. The respondents vide their impugned Annexure A-1 have not only protected his pay but have also done so by placing him in the higher Pay Band of PB-4. However, they have retained his Grade Pay at Rs. 8,000/-. The respondents in their reply have clearly stated that the position of Senior Scientist in ICAR/IARI has been revised w.e.f. 26.04.2012 and so also its essential and desirable qualifications, as could be seen from the reply at pages 67-68 of the paper-book. The post of Senior Scientist is now placed in

PB-4 with Grade Pay of Rs.9,000/- . The essential and desirable qualifications have also been upwardly revised. The applicant can be given benefits of this pay revision provided he also acquires the prescribed qualifications.

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.

10. In view of the foregoing discussions, we do not find any illegality in the Annexure A-1 communication dated 22.08.2014 of the respondents. Accordingly, the OA is dismissed being found devoid of merit.

11. No order as to costs.

(K.N. Shrivastava)
Member (A)

‘San.’

(Justice Permod Kohli)
Chairman