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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
CP(C) 180/00022/2017**

in

**Original Application No.1128/2012
Friday, this the 25th day of May, 2018**

CORAM:

**HON'BLE Mr.U.SARATHCHANDRAN, JUDICIAL MEMBER
HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER**

P.K.Krishnankutty
S/o.P.K.Kandai, aged 56 years,
T2,JTA, CPCRI Head Office,
Kasargod, residing permanently at Padoor House
Manakody P.O, Thrissur ..Petitioner

(By Advocate Mr.M.R.Hariraj)

V e r s u s

- 1 Dr.P.Chowdappa
Director to CPCRI
Department of Central Plantation Crops Research Institute
Kasargod – 671 124
2. Shri.Suresh Kumar
Chief Administrative Officer
CPCRI, Kasargod-671 124
3. Dr.Trilochan Mohapatra
Secretary, DARE and Director General
ICAR, New Delhi
4. Mr.Chhavilendra Roul
Adl.Secretary DARE and Secretary
Indian Council for Agricultural Research
Krishi Bhavan, New Delhi- 110 001 Respondents

(By Advocate Mr.P.Santhosh Kumar)

This application having been heard on 18th May 2018, the Tribunal on 25th May 2018 delivered the following :

ORDER

HON'BLE Mr.U.SARATHCHANDRAN, JUDICIAL MEMBER

O.A 1128/12 was allowed by this Tribunal on 6.8.2015 declaring that the applicant is entitled to be promoted as T-1-3 on 27.12.2009 and that he is entitled to get the consequential benefits pursuant to the same. It was also directed that respondents shall give effect to the same within two months from the date of receipt of a copy of the order of this Tribunal.

2. The petitioner has come up with this CP(C) stating that despite the High Court of Kerala had dismissed the OP(CAT) 3/2016 filed by the respondents challenging the aforementioned order of this Tribunal, they did not implement the directions of this Tribunal even after they have granted promotions to his juniors. According to the petitioner, the respondents have willfully disobeyed the directions of this Tribunal and have thus committed contempt of this Tribunal.

3. On 25.5.2017, this Tribunal directed respondent no.3 to appear in person if the order is not implemented by 28.6.2017. Accordingly an affidavit was filed by respondent no.1 on behalf of respondent nos.2-4 averring that after a meeting of the assessment committee convened on 22.6.2017, promotion order as directed by this Tribunal was issued vide Annexure R1(a). It is further stated that subsequently, based on the option exercised by the petitioner his pay fixation order was issued vide Annexure R1(b) and a due-

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drawn statement also was prepared vide Annexure R1(c).

4 On 30.6.2017 Shri.M.R.Hariraj, learned counsel for the petitioner submitted that the affidavit does not indicate full compliance of Annexure A-1 order because there are many other consequential benefits the petitioner is entitled to and are yet to be disbursed by the respondents. This submission was repeated by the petitioner's counsel on 18.7.2017 also and further submitted that respondents have not disbursed the admitted amount due to the petitioner as indicated in Annexure R1(c)/4.

5 Respondents have again filed an affidavit dated 2.8.2017 stating that arrears of pay of Rs.2,81,517/- was drawn and disbursed through electronic fund transfer on 20.7.2017 as evidenced by Annexure R-1 (d) print out of the report of Electronic Fund transfer.

6 On 27.11.2017, learned counsel for the petitioner submitted that while the petitioner was promoted to the higher grade of T-1-3 with effect from 27.12.2009 and arrears were disbursed to him, the consequential benefit in the form of one advance increment due to him on completion of 5 years with effect from 2009 onwards is yet to be granted despite the petitioner sending Annexure A-3 representation dated 2.8.2017.

7 Learned standing counsel for the respondents Shri.P.Santhosh Kumar submitted that the aforementioned Annexure A-3 representation was

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considered by the respondents and was rejected. On 2.4.2018 when this case was taken up Shri.M.R.Hariraj submitted the denial of advance increment which flows out of “consequential benefits” mentioned in Annexure A-1 order of this Tribunal tantamounts to willful disobedience on the part of the respondents forcing the petitioner to file litigation repeatedly. Shri.M.R.Hariraj pointed out that the advance increment have been granted to similarly situated persons as can be seen from Annexure A-5.

8 Not appreciating the stand taken by the respondents in Annexure A-4 communication that the petitioner's eligibility for grant of advance increment has ceased to exist on account of the adoption of new TSR, this Tribunal directed the personal appearance of respondent no.1 to explain why Annexure A-1 has not been complied with in full. Though M.A 515/2018 was filed by the respondents for dispensing with personal appearance of respondent no.1, the same was not allowed.

9 On 18.5.2018, Dr.P.Chowdappa, Director of CPCRI (respondent no.1) along with his Administrative Officer Shri.T.E.Janardhanan appeared before us. We have heard them. Explaining the position with reference to the communication with file No.F.No.19(10)/2009-Estt.IV dated 8.6.2011 the Administrative Officer submitted that the ICAR has decided that the concept of category bar for the purpose of merit promotion was done away with in 1995 and 2000 for category II and category III respectively and as a result employees in grade T-1-3 and T-5 became eligible for merit promotion and

therefore, the rationale for grant of advance increments to the employees in those categories has ceased to exist. Respondent no.1 and his Administrative Officer explained that in the light of the above decision stopping advance increments to the employees in T-1-3 the petitioner is not eligible for grant of advance increment claimed by him by way of the 'consequential benefits' ordered in Annexure A-1 order of this Tribunal.

10. We have carefully considered the submissions made by the officials who appeared on behalf of the respondents and those of Shri.M.R.Hariraj learned counsel appearing for the petitioner.

11. We are mindful of the fact that we are dealing with a Contempt Petition where the main aspect to be adjudicated is whether there was a willful disobedience on the part of the respondents in not complying with the order of this Tribunal. In the instant case, petitioner has been promoted as T-1-3 vide Annexure R1(a) order with effect from 27.12.2009 although the same was done nearly 2 years after Annexure A-1 order. Annexure A-1 order grants the petitioner consequential benefits also. The arrears of pay and other allowances by way of consequential benefits were actually disbursed to the petitioner only on 20.7.2017 vide Annexure R1(d). The petitioner pursued the present Contempt Petition contending that respondents, by not granting the advance increments which his other colleagues similarly situated have received, have committed willful disobedience as of the order of this Tribunal. According to the petitioner the Advance increment also form part of the

“consequential benefits” granted to him by Annexure A-1 order.

12 After hearing both sides, we are of the view that though there was considerable delay in complying with Annexure A-1 order of this Tribunal, respondents have ultimately complied with the directions of this Tribunal to grant promotion with effect from the stipulated date. The respondents produced the proof of payments of arrears of salary vide Annexure R1(d) report of Electronic Fund Transfer. Granting of consequential benefits was the only remaining contentious issue in this CP(C).

13. In our view, Respondent no.1 and his Administrative Officer who appeared before us in person have sufficiently explained the reason for not granting the advance increments claimed by the petitioner. While noting that in a contempt proceedings such details regarding minute compliance of the order passed by this Tribunal are not necessary, as there is substantial compliance of the order passed by this Tribunal, we do not propose to proceed with the CP(C).

14. With the above observations, we do not find any reason to keep this Contempt Petition open and accordingly we close the CP(C). Nevertheless, the petitioner is permitted to resort to appropriate legal proceedings if he has any grievances left out. Ordered accordingly. Notices shall stand discharged. No costs.

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER
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(U.SARATHCHANDRAN)
JUDICIAL MEMBER

List of Annexures

Annexure A-1 - A true copy of the final order dated 6.8.2015 in O.A No.1128/2012 on the file of this Tribunal

Annexure A-2 - A true copy of the order in MA NO.1053/2015 in OA No.1128/2012 dated 2.2.2016 of this Tribunal.

Annexure R1(a) - True copy of office order F.No.4(158)/2016-Estt. Dated 22nd June 2017 by the ICAR-Central Plantation Crops Research Institute, Kasargod

Annexure R1(b) - True copy of Office order F.No.4(1460)/2010-Estt. Dated 23.6.2017 issued by the ICAR - Central Plantation Crops Research Institute, Kasargod

Annexure R1(c) - True copy of due drawn statement regarding the arrears of pay in respect of Sri.P.K.Krishnankutty, Sr.Technician

Annexure A3 - A true copy of the representation dated 2.8.2017

Annexure R1(d) - True copy of ICAR Electronic Fund Transfer Report dated 20.7.17 in respect of arrears remitted to the bank account no.31184121627 of the applicant Shri.P.K.Krishnankutty

Annexure R1(e) - True copy of the ICAR letter No.F.19(37)/04-E-IV dated 16.3.2006

Annexure R1(f) - True coy of CPCRI Note No.4(158)/2016-Estt. Dated 10.8.2017

Annexure A-4 - A true copy of the Note N.F.4(158)/2016-Estt dated 10.8.2017.

Annexure A-5 - A true copy of the Order No.F.No.4(158)/2008-Estt dated 10.1.2011

Annexure R1(g) - True copy of the letter No.F.512/Admn/1309 dated 21.9.2017.
