

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

OA./21/576/2015

Dated: 31/1/2018

BETWEEN:

Dr. N. Shobha Rani,
D/o. Sri. N.K. Acharya,
aged about 62 years,
Occ: Agricultural Scientist,
Designation: Project Director (Acting) &
Head Crop of Improvement Section (Retd.),
Directorate of Rice Research,
Rajendra Nagar, Hyderabad – 500 030.

..... Applicant

AND

1. The Union of India rep. by
The Secretary,
Ministry of Agriculture,
New Delhi.
2. Indian Council for Agriculture Research (ICAR) rep. by
The Director General,
Krishi Bhavan, New Delhi.
3. Directorate of Rice Research (DRR)
Rajendra Nagar, Hyderabad.

..... Respondents

Counsel for the Applicant : Mr. K. Phani Raju, Advocate
Counsel for the Respondents : Mrs. Vani Reddy, SC for ICAR

CORAM

Hon'ble Mrs. Minnie Mathew, Administrative Member

ORAL ORDER

{Per Hon'ble Mrs. Minnie Mathew, Administrative Member}

This OA has been filed seeking the following relief:-

“to declare the action of the respondents in not settling the Retirement Benefits such as Gratuity, Commutation of pension, etc., though she was Retired on Superannuation on 31.08.2014 is highly illegal, arbitrary, Un-Constitutional violating the Provisions Under Article 14 & 16 of the Constitution of India and Consequently settle her All Retirement benefits such as Gratuity, Commutation of pension etc., forthwith along with Interest for the delay with all consequential benefits and pass any other order as is deemed fit, proper and necessary in the circumstances of the case and interest of Justice.”

2. Briefly stated facts of the case are that the applicant assumed charge of the post of Project Director (Acting), Directorate of Rice Research (DRR), Rajendra Nagar, Hyderabad on 30.05.2014 and retired from service on superannuation on 31.08.2014 after putting in 38 years of service in the Respondent Organisation. But her retirement benefits which are supposed to be handed over on the day of superannuation have not been released by the Respondent Organisation till date in spite of submitting several representations to the Higher Authorities such as Indian Council for Agriculture Research (ICAR) Head Quarter.

3. The applicant submits that she was assigned the post of Project Director consequent on the retirement of the then incumbent on 30.05.2014 i.e. only three months prior to her retirement on 31.08.2014. A Circular was issued by the Administrative Officer for

issuance of 'No Dues Certificate' to her as her retirement was due on 31.08.2014. In response to this, 26 Officers of various sections certified that no dues are pending from her except for one Officer by name Dr. V. Ravindra Babu who was Principal Scientist in Plant Breeding and subsequently became the Director in Respondent Organisation. It is further submitted that the applicant vide order dated 21.05.2014 requested the Administrative Officer to prepare a list of equipments and other assets recorded in her name so as to enable her to transfer the same to the other Scientists in the department. Accordingly, as per the list of equipments supplied by the office on 11.06.2014, the applicant has handed over all the inventories/assets including books, registers, reports, files, soft copies, seed materials etc., and the same was received and signed by the scientists/officers concerned before her retirement. The same was submitted to the Administrative Officer. Further, vigilance clearance was also issued by the ICAR Head Quarters. As all formalities had been completed. The applicant was confident of getting the 'No Dues Certificate' to receive her post retirement benefits. As she did not receive her pensionary benefits on the date of retirement, she addressed a letter to the 2nd Respondent duly enclosing 9 Annexures which shows that the handing over process was completed. On 17.09.2014, she received a letter from the AAO (Store) asking her to report to the Directorate on the ground that the handing over process has not been completed and also enclosing new list of materials which does not relate to her and,

which was not part of the Original list given to her on 11.06.2014 while she was in service. She immediately complied with the requirements and forwarded a letter to the ICAR Head Quarters and also informed that the AAO (Store) refused to sign on the equipments taken over for the second time for the issue of the No Dues Certificate. She, therefore, requested the ICAR Headquarters to resolve the matter through letter dated 15.10.2014 and by subsequent reminders vide letters dated 31.10.2014, 20.11.2014, 22.12.2014, 05.01.2015, 28.01.2015 and 07.03.2015. However there is no response from the Respondents. The applicant further pointed out that after her retirement, the respondents ought to have released all her retirement benefits as she submitted her pension papers six months prior to the date of her retirement and has completed all the formalities before her retirement. However, the respondents have enclosed a new list of inventories which is not a part of the original list given to her in June 2014. Lack of response from the higher authorities at the ICAR Head Quarters has also encouraged the DRR to continue the harassment meted out to her even though she has done commendable work and was the recipient of many prestigious National and International awards.

4. The respondents have filed a reply statement resisting the pleas of the applicant. Their contention is that the office has well in advance issued the list of inventories held by her vide Dy.No.701 dated 26.05.2014 Annexure-I and she was required to identify the

material and handover the same to the relieving officer well before her retirement. Instead she kept it pending till the last moment. Even after her retirement she was requested to do so vide office letters No.1360 dated 17.09.2014, 25.10.2014, 22.12.2014. Rule 195 of General Financial Rules (GFR) stipulates “that officer - in-charge of the goods, materials etc shall see that the goods or materials are made over correctly to his successor. A statement giving all relevant details of the goods, materials in question shall be prepared and signed with date by the relieving officer and the relieved officer”. In other words it is mandatory for a government servant to hand over complete charge which has to be taken over simultaneously by an officer. However, in the instant case the applicant enclosed a statement showing the material she has handed over. However no one has actually received the same. They also submitted that the Cash Book or imprest account should be closed on the date of transfer and a note recorded in it over the signatures of both the relieving and relieved officer. However, the applicant who was holding the imprest money has not followed the procedure. Handing over procedure is also not followed in respect of equipment worth lakhs of rupees and there is no handing over or taking over report submitted till date, even though she was given sufficient time. They also contended that in the capacity of Head-Crop Improvement she has utilised and kept all the equipments and materials under her control and all other Scientists were forced to utilise the equipments purchased in their respective projects or other departments to carry on the research. When the

Administrative Officer gave a Circular for issuance of No Due Certificate, Section No.1 which comes under Plant Breeding in which Dr. V. Ravindra Babu is the next in-charge after the superannuation of the applicant, did not give the No Due clearance because of non handing over of important AICRIP files, seed material, equipments which are to be handed over physically. She has not handed over the cash of CIS to the Dr. V. Ravindra Babu, and she has not handed over certain library books / not accounted for them in spite of the notices.

5. It is further submitted that Equipments worth lakhs of rupees were purchased and stacked and kept unused and have not been opened or installed /commissioned. All these have attracted audit objections for which she was personally responsible and accountable to the government for financial irregularities. (Annex-V) In addition to this, research materials like scented germplasm, breeding material, elite lines, have not yet been handed over and further research on this has been stalled. She has also formatted the hard disk/computer after removing the valuable AICRIP data base sent from more than 100 co-operating centres. Further when the office issued the list of items/equipments she submitted that she has handed over the same. However, the list has not contained the signature of the receiving officer.

6. The respondents also submitted that a Committee has been constituted vide order dated 23.01.2015 to settle her issue. They have also enclosed the report of the Committee as Annexure-VIII. The

respondents stated that the petitioner cannot wash off her responsibility of not handing over the equipments and materials before her retirement.

7. Respondents also contend that even though Gas Chromatography Mass Spectrometer and Head Space Sampler were purchased for laboratory, the applicant did not allow the scientist to work in the quality lab and touch any of the instruments in the quality laboratory. All the equipments are worth lakhs of rupees and total utilization is zero in spite of the fact that there were persons qualified to handle the equipment. They also submit that they had made all efforts to get her pension papers cleared in spite of her non cooperation and therefore she is already getting monthly pension regularly without any hindrance. It is also alleged that the applicant, by using the power of Acting Project Director forced her subordinates to take over the inventories/items /equipments without actually handing over the material. They also state that vigilance clearance from the Council was obtained on 04.07.2014 which is much before the handing over process was initiated. It has been reiterated that the applicant has not been in a position to handover the important seed material which is the heart of plant breeding, and quality lab equipment worth lakhs of rupees. The very important equipment should be invariably handed over to the individual Scientist on the advice of the next senior most scientist. They also state that the applicant never maintained log books which is also pointed out by Audit.

8. The respondents further state that the averment of the applicant that many items are stated to be condemned, is not supported by any document or a condemnation certificate. It is submitted that when the office issued the list of equipments, she asked for a soft copy and edited the list. They denied the allegation of vindictiveness and submitted that they are ready to release all retirement benefits provided she hands over all items duly signed by the relieving and receiving officer.

9. The applicant has filed a rejoinder rebutting the contentions of respondents in reply statement and repeating the averments in the OA. She point out that the Administrative Officer had sent her a list of inventories on 26.05.2014 in which inventories such as lab equipments, furniture, computer and computer peripheral were all mixed up. So the applicant requested for a soft copy and got the items categorized into steel items, equipments, computer and computer peripherals, furniture and fixtures, miscellaneous items etc., and vehemently denied that she has committed fraud by editing the documents. She also submits that the additional list of inventories contain farm related items which were never taken over by her as she was never in-charge of Ramachandrapuram farm of DRR. This additional list of equipments has been added after her retirement. She also pointed out that the Committee has given a vague report and has shown items in Appendix III of Annexure A-VIII which was never taken over by the applicant and the same should be accounted by the officers-in-charge of Ramachandrapuram Farm Dr. T. Ram and Dr. L.V. Subba Rao as majority of the items are farm and field related

items which they would have used for farm activities.

10. The Respondents have also filed Additional Reply Statement pointing out that the applicant without handing over the inventories just obtained signatures from junior Scientists by pressurising them and not handing over most of the items and simply signed as handed over. They have also stated that the applicant is well aware that her predecessor had handed over charge to her and that she is required to hand over to the Senior most Scientist of the breeding section and that till date no handing over was done to Dr. V. Ravindra Babu.

11. I have considered the submissions on both sides, and also perused the record. The contention of the respondents is that the applicant has pressurised her subordinate staff to take over inventories and compel them to sign as having taken over without actual returning all the items. Thus they have denied the authenticity of the Annexure - II statement showing the list of items purported to have been handed over. The other contentions are that the applicant purchased equipments worth lakhs of rupees, without utilising the same and as such they have become absolute as pointed out by Audit. They also stated that the applicant has not handed over important seed material which is the heart of plant breeding. Further she has kept costly equipments without even opening the packing which amounts to misusing the National property and that such action constitutes a type of corruption.

12. From the material on record it is seen that the applicant had made a request on 21.05.2014 to the Administrative Officer DRR asking the office to arrange to prepare a list of equipment and other assets which are recorded in her name so as to transfer the same to the other scientists in the department. Accordingly, Annexure-AIV statement was sent which shows the signature of the persons who have taken over the charge. Some equipments have been taken over but have been shown as not in working condition. Subsequently, some of the persons who have signed in the said statement have retracted and have submitted letters on 27.08.2014 which is about four days prior to the retirement of the applicant stating that they should not be responsible for the equipments and that their signatures be considered as null and void. The stand of the respondents is that the applicant had simply prepared a statement without physically handing over and had pressurised her subordinate staff to put their signatures.

13. I am not inclined to accept these contentions as the persons who had initially signed the inventory list, but later submitted that they had not received the same and that their signature may be treated as null and void are not lower level subordinate staff, but responsible scientists who are expected to apply their minds and be aware of what they are signing. After acknowledgment, is it is not open to them to take back their statements. Further the Respondents contention is that many equipments are not in working condition. If the respondents have a case that the applicant is personally responsible for the damage

or malfunction of an equipment it would be necessary to first proceed against her under the provision of the Rules. But there is nothing on record to show that the applicant is held personally liable in this regard.

14. Be that as it may, the respondents have decided to constitute a Committee to conduct physical verification of the equipments issued to the applicant and Dr. Viraktamath and settle the issue before 20.01.2015. In the meeting held on 08.12.2014 the Committee made the following recommendations for completion of the formalities in connection with No Due Certificate:-

“1. Dr. M. Azam, Principal Scientist was request to identify the items for “identification purpose” the items which cannot be identified by the stores and those items would be signed by Dr. N. Shobha Rani, former Principal Scientist & Head, CIS, DRR. The stores staff along with Dr. Azam should complete the job within ten days w.e.f. 8/12/2014.

2. The items which are in the name of Dr. J. Ramakrishna Rao and Dr. U. Prasada Rao (her predecessors) and others if any, Dr. N. Shobha Rani will not be responsible except for the list with her signature if available. (They are all farm and field equipments. Such farm and field equipments were under the control of the successive Officers incharge of the Ramachandrapuram farm and many were auctioned and written-off.

3. The whole process needs to be completed before 20th December, 2014 and a meeting of the Committee with Project Director, AO, AAO (stores) and Dr.N. Shobha Rani, to be called on 22.12.2014 (Monday) for final settlement of the “No Dues” certificate.

Thereafter, vide Annexure-VIII to the reply statement, three Appendixes have been prepared. Appendix-I shows the list of items which are physically available at various places in the Institute,

condemned items are shown in Appendix-II and consumables as well as items which are not available are shown in Appendix-III. Although this report was submitted on 09.04.2015 it would appear that the respondents have not taken any further action to settle the pending issue.

15. As rightly observed in the Annexure-XII(d) proceedings of 08.12.2014 given along with the reply statement, the applicant can be held responsible only for those items for which she has acknowledged receipt. The respondents have given her a second list of inventories after her retirement and held that she had not handed over the same. The respondents have not shown any material evidence to show that all the items reported to be missing / not handed over, were actually handed over to her by her predecessor and that she has duly acknowledged the same. Therefore, before withholding the No Dues Certificate and the retiral benefits of the applicants, the respondents should have evidence that the applicant has taken over these equipments and materials from her predecessor.

16. The respondents also have alleged that the applicant by negligence failed to utilise equipments which have been purchased spending lakhs of rupees and that the same has been pointed out by Audit. From the Annexure-V Internal Audit Report it is seen that the Inspection relates to 2011-12 and has been received in DRR in July 2013, which is more than one year prior to the retirement of the applicant. There is a mention in the Audit report that some equipments are lying idle and unused for want of repairs and that such machines should be repaired expeditiously and those which are beyond repair

should be condemned. If, the respondents have a case that the applicant is personally responsible for the idling of equipments they should have proceeded against her under the relevant provisions of the disciplinary rules governing the Institute and taken action for recovery of any pecuniary loss. They have failed to produce any record to show that disciplinary action or that even a show cause notice or charge memo was issued to the applicant for the aforesaid lapses and alleged financial irregularities. In the absence of this the reasons put forth by the Respondents are not acceptable and there can be no justification for withholding the retirement benefits which are due to her.

17. Further despite the fact that Committee was constituted for physical verification more than three and half years, ago there has been no action to quantify loss or fix responsibility or issue the No Due Certificate. Even commutation value of pension has been withheld when there is no provision for recovery of loss dues from Commutation Value of Pension. Dues to the Government if any, can only be recovered from gratuity. Therefore there are no valid reasons for not releasing the Commutation Value of Pension.

18. In this view of the matter, I deem it fit to dispose of the OA, with a direction to the respondents to take action on the report of the Committee constituted by them for physical verification and quantify the loss if, any duly ignoring consumable items and items which have

not been handed over to the applicant by her predecessor, as well as items for which she cannot be personally held responsible for damage, and thereafter release the gratuity withholding only such amounts in accordance with law for which the applicant can be held directly responsible. There shall also be a direction to the respondents to release the commutation value of pension forthwith. The applicant shall also be entitled to interest at the rate applicable to GPF deposits if respondents fail to comply with these orders within a period of eight weeks from the date of receipt of a copy of this order. No order as to costs.

(MINNIE MATHEW)
ADMN. MEMBER

Dated the 31st January, 2018
(Dictated in the Open Court)

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