

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

OA No.112/2018 with MA No.91/2018

This the 07th day of December, 2018

**Coram : Hon'ble Ms. Archana Nigam, Administrative Member
Hon'ble Shri M.C.Verma, Judicial Member**

Dr. Jyotika A Kashyap
Aged about 49 years (DOB being 28.10.1968)
W/o. Late Shri A.N. Babu
Presently working as Research Officer (Medical) in ICMR
Residing at 'Datt Prasad' Opp. 'O' Block
Doctor's Quarters
Indira Avenue,. Jail Road
Vadodara 390 001.. Applicant

(By Advocate : Shri M. S.Rao)

VERSUS

1. Indian Council of Medical Research
(Notice to be served through its Director General)
Ansari Nagar, Post Box No. 4911,
New Delhi 110 029.
2. The Dean
(Officer in charge of the ICMR's HRRC Project)
Medical College & SSG Hospital
Vadodara 390 001.
3. Union of India

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(Through its Secretary to the Govt. of India
Department of Health Research, Ministry of Health and Family
Welfare, Govt. of India,
2nd Floor, IRCS Building
No.1 Red Cross Building
New Delhi 110 001.

4. The Secretary to the Govt. of India
Department of Expenditure (DoE)
Ministry of Finance
Government of India
Room No.129/A
North Block
New Delhi 110 001.
5. The Director
National Institution for Research in Reproduction Health (NIRRH)
Indian Council of Medical Research
Jehangir Merwanji Street
Parel,
Mumbai 400 012..... Respondents.

(By Advocate : Shri Ajay V. Shinde)

ORDER – ORAL

Per : Hon'ble Shri M.C.Verma, Member (J)

Heard Shri M.S.Rao counsel for the applicant and Shri
Ajay Shinde, learned counsel for respondent Nos. 1 & 5.

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2. Instant OA filed by the applicant is having prayer :

(A) Call upon the respondents herein to place before this Hon'ble Tribunal all the relevant and material original documents including the correspondence exchanged amongst the respondents herein which gave rise to the issuance of the impugned Office Memorandum bearing No.37/Legal Cell/2013 dated 20.12.2013 at Annexure A-1 hereto and also the aforementioned impugned Communication No.V-25011/391/2014-HR/FTS-113857 dated 27th February 2017 at Annexure A-2 hereto :

(B) upon a close perusal and scrutiny of the aforesaid original documents, this Hon'ble Tribunal may be graciously pleased to :

(B-1) quash an set aside the impugned (i) Office Memorandum bearing No. No.37/Legal Cell/2013 dated 20.12.2013 at Annexure A-1 hereto in so far as it seeks to impose a condition at item No.(iv) of the said Office Memorandum to the effects that applicant herein shall be governed by the new structured defined contribution pension system as per provisions contained in the Ministry of Finance, Department of Economic Affairs (ECB & PR Division)'s Notification No.5/7/2003-ECB & PR dated 22.12.2003 effective from 01.01.2004 and also (ii) the Communication No.V-25011/391/2014-HR/FTS-113857 dated 27th February 2017 at Annexure A-2 hereto in so far as it seeks to exclude the case of the applicant herein in the matter of extension of benefit of Old Pension Scheme to the petitioners before the Hon'ble High Court of Madras, even though a very senior officer Dr. Smita Mahale in her Additional Affidavit dated 09.4.2015 filed before this Hon'ble Tribunal in CP No.34/2013 had taken a categorical stand for and on behalf of the ICMR that once the petitioners before the Hon'ble Madras High Court are granted the benefits of Old Pension Scheme, the answering respondents i.e. in the aforesaid CP No.34/2013

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will consider grant of Old Pension Scheme to the applicant herein as well.

(B-2) Issue appropriate directions to the respondents herein to forthwith :-

(B-2-1) give due weightage to the expectation which the Hon'ble Central Administrative Tribunal, Ahmedabad Bench had expressed in last paragraph of its order dated 09.4.2015 which finally disposing of the applicant's Contempt Petition No. 34/2013 and instruct their officers in the ICMR to (a) forthwith extend the benefit to the applicant herein the benefits of Old Pension Scheme at par with the aforesaid 20 petitioners in the aforesaid contempt petitions Nos. 1221, 1309 & 1310 of 2011, as per the orders dated 01.8.2012 of the Hon'ble Madras High Court.

(B-2-2) grant to the applicant herein the first pay Upgradation under the erstwhile Assured Career Progression Scheme of the Government of India w.e.f. 15.9.2007 and also the 2nd Pay upgradation under the ongoing MACP scheme w.e.f. 14.9.2015, inasmuch as the applicant herein had completed more than 22 years of service.

(C) impose exemplary costs on the respondent Nos.1, 3, 4 & 5 herein

(D) grant such other and further relief/s as may be deemed fit and appropriate in the peculiar facts and circumstances of the present case..”

3. Notice on OA was issued to the respondents but Respondent Nos. 2, 3 & 4 did not appear and it is only Respondent Nos.1 and 4 who appeared and to contest filed their

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reply. Rejoinder to reply of Respondent Nos.1 & 5 has also been filed by applicant.

4. Today at the time of final hearing, learned counsel for applicant placed on Board a table having details regarding the payment of applicant, which according to the applicant is due and has also been admitted by the respondents. Learned counsel submits that presently only grievance of the applicant is that though due of applicant has been admitted by the respondents but no payment has yet been made and that applicant would have no grievance and would not press this OA if respondents be directed to make the payment of dues, as per their admission given in the table, within a schedule time frame fixed by the Tribunal. The Table supplied has been marked as 'X'. For sake of brevity is reproduced below :

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Sl. No	Name of Employee	Received	Due	Remarks
1	-----	-----	-----	----
2	-----	-----	-----	-----
3	-----	-----	-----	-----
4	Dr. Jyotika A Kashyap (Existing Staff)	(i) Pay fixation order from date of appointment i.e. 15.9.1995 (With ACP & MACP Scheme) (ii) Salary from the month of April 2018 onwards according to 7 th pay commission	(i) Arrears from 15.9.1995 to 31.3.2018 due to difference in pay after pay fixation	

5. Copy of aforesaid table, placed on record today by applicant, supplied to learned counsel, Shri Ajay Shinde, who appears for the respondent Nos.1 & 5 and he endorsed that whatsoever has been stated in this table is admitted by the Department, he also informed and that this table was made available to him by the counsel for the applicant, in advance, he referred the table to the Department and Departmental Authority had checked its correctness and instructed him to make statement at Bar.

6. In view of above said development, though respondent Nos.2, 3 & 4 have not appeared yet, the matter may be disposed of finally at this stage, with direction to the respondent Nos. 1 &

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5 to make payment of the amount due to the applicant expeditiously and learned counsel for the respondents submits that amount would be paid on or before 18th January 2019.

7. Taking note of said undertaking of learned counsel for respondents, we want to dispose of this OA with direction to the Respondent Nos.1 & 5 to honour the undertaking given on their behalf by their counsel and to ensure that entire amount of admitted dues be paid to the applicant on or before 18th January, 2019.

8. With aforesaid direction and observation, this OA stands disposed off. In view of disposal of OA, MA No.91/2018 also stands disposed off.

(M.C.Verma)
Member (J)

(Archana Nigam)
Member (A)