

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.2656/2013

Tuesday, this the 19th day of February 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Mahavir Prasad s/o Sh. Chheda Lal
Sr. Computer T-5, Office of the Director
Central Institute for Research on Goats
Makhdoom, Post Farah – 281122 (District Mathura)
r/o Quarter No. III/3, Central Institute for Research on
Goats Campus
Makhdoom, Post Farah 281122 (District Mathura)

..Applicant

(Mr. V K Sharma, Advocate)

Versus

1. Union of India (through the Secretary/
Director General)
Ministry of Agriculture, Indian Council of
Agriculture Research
Krishi Bhawan, New Delhi
2. The Director
Central Institute for Research on Goats,
Makhdoom
Post Farah 281122,
District Mathura (UP)

..Respondents

(Mr. Gagan Mathur, Advocate)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant joined the service of Indian Council of Agricultural Research (ICAR), the 2nd respondent herein, as Senior Computer (T-2) in the pay scale of ₹330-560. Thereafter, he

earned promotions and by the year 2009, he became Senior Computer (T-5).

2. The applicant made a representation on 23.03.2009, stating that he was entitled to be placed in the pay scale of ₹425-600 at the initial stage itself and that he was entitled to be sanctioned higher scale of pay at various stages. He has also drawn comparison with one Mr. Rajesh Kumar, who was appointed as Computer (T-2) at IGFRI, Jhansi.

3. The 2nd respondent-organization passed order dated 25.05.2009 informing the applicant that in the Advertisement itself, the scale of pay for the post of Computer (T-2) was indicated as ₹330-560 and that he cannot have any objection for that at a later stage. It is also stated that the revision of pay scale of other posts was totally on different ground.

4. As regards the case of Mr. Rajesh Kumar, it is stated that though initially, on a mistaken impression, he was put in the pay scale of ₹1400-2300 (4th Central Pay Commission), on further scrutiny, it was reduced to pre-revised pay scale of ₹1200-2040.

5. This O.A. is filed challenging the order dated 25.05.2009.

6. The applicant contends that for the post similar to Senior Computer (T-2), a higher scale of pay was sanctioned in the 2nd respondent-organization itself and various other Departments,

and there was no basis to put him on a lower scale of pay. It is also stated that the applicant was entitled to be put on a higher scale of pay as and when he progressed in the career and the respondents have denied him what was genuinely due to him.

7. The respondents filed the counter affidavit opposing the O.A. It is stated that in the Advertisement for appointment to the post of Senior Computer (T-2), the pay scale for the post was mentioned as ₹330-560 and that he is estopped from making any claim to the contrary. It is stated that though Mr. Rajesh Kumar was extended the benefit of higher scale of pay, corrective steps were taken, duly giving notice when it was found that he was not entitled for the same later on.

8. We heard Mr. V K Sharma, learned counsel for applicant and Mr. Gagan Mathur, learned counsel for respondents.

9. The applicant joined the 2nd respondent-organization in the post of Senior Computer (T-2). The selection and appointment was made on the basis of an Advertisement, wherein the scale of pay for the post was mentioned as ₹330-560. In his representation made long thereafter, the applicant stated that he was entitled to be placed in the higher scale of pay. On consideration of representation, the respondents indicated the manner in which the applicant was appointed and the replacement scales were

granted to certain other persons. The first paragraph of the impugned order dated 25.05.2009 reads as under:-

“This has reference to your representation dt. 23.3.09 received through the Project Coordinating Cell, CIRG, Makhdoom vide letter No.PC/Estt./2008-09 dt. 23rd March, 2009 on the above cited subject. At the outset, I would like to say that the post against which you were selected as Sr. Computer (T-2) at CIRG, Makhdoom had been sanctioned in the pre-revised scale of Rs.330-560 and this fact was also mentioned in the advertisement. Thus, with full knowledge of the situation, you accepted the offer of the appointment in that scale. Council granted the replacement scale of Rs.425-600 (pre-revised) to the Sr. Computers/Computers of ICAR institutes, the posts for whom have been sanctioned in the pre-revised scale of Rs.168-300. Judgment of the Supreme Court in the Civil Appeal No. Civil Apopeal No.6673 of 1997 arising out of SLP (C) No.23741 of 1995 in the case of Shri B.B. Nayak vs. ICAR was circulated to ICAR institutes for information, guidance and record only. Your case is not similar to that of Shri B.B. Nayak.”

10. Once the applicant did not dispute that he responded to an Advertisement, in which, the pay scale of the post of Senior Computer (T-2) is indicated as ₹330-560, he cannot claim any higher scale of pay. If the scale of pay of the similarly situated persons was found to be higher, it could be on account of their being internal candidates or their having earned increments in the previous service. The applicant cannot draw any comparison in that behalf.

11. In the impugned order, the comparison that was drawn between the applicant and Mr. Rajesh Kumar was dealt with. The details are mentioned in paragraph 3 of the impugned order. The relevant portion reads as under:-

“....After considering all these facts, Council rectified its mistake of upgradation of the pay scale given to Shri Rajesh Kumar. A show cause notice was issued to him before cancelling/withdrawing the order dt. 7.11.200 issued by IGFRI granting him the pay scale of Rs.1400-2300 and to restore his appointment in T-2 grade in the pre-revised scale of Rs.1200-2040 w.e.f. 15.12.1988. Finally he was placed in the T-2 grade w.e.f. 15.12.88 and his further promotions were regulated accordingly. These facts will sufficiently explain that Council have not shown any discrimination to you.”

12. From a perusal of the same, it becomes clear that on a wrong notion, Mr. Rajesh Kumar was placed on a higher scale of pay, but once it was found on verification that he was not entitled for it, the mistake was rectified.

13. Viewed from any angle, we do not find any merit in this O.A. It is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

February 19, 2019
/sunil/