

**Central Administrative Tribunal
Principal Bench**

OA No. 1897/2016

New Delhi, this the 29th day of August, 2019

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

Dr. O.P. Agarwal, aged 71 years
Designation-Head RPDD
Flat No. 27, Saakshara Apartments
A-3 Block, Paschim Vihar
New Delhi-110063. ... Applicant

(through Ms. Gauri Puri)

Versus

1. Council of Scientific and Industrial Research(CSIR)
Through Joint Secretary
Anusandhan Bhawan, 2, Rafi Marg
New Delhi-110001.
2. Ministry of Finance
Department of Expenditure
Through Joint Secretary
North Block, New Delhi. ... Respondents

(through Sh. Arun Sanwal)

ORDER (ORAL)

Justice L. Narasimha Reddy:-

The applicant was a Scientist in the CSIR. By the year 2002, he was holding the position of Scientist Grade (SG) IV (6). The respondents initiated steps for appointment of the

Head of Research, Planning and Business Development Division (RPBDD). The Selection Committee constituted for this purpose recommended the name of the applicant and accordingly he was appointed to that post, vide office order No.191 dated 18.06.2002. It was mentioned that the pay scale of that post was 18400-500-22400.

2. The applicant made a representation as regards the classification of the posts of the Head Department of RPBDD. Through office circular dated 11.05.2005, the Joint Secretary (Admn.) informed the applicant that the post is SG IV (7). However, it was mentioned that the pay scale would be the same, as mentioned in the advertisement was 18400-500-22400.

3. The CSIR Recruitment and Promotion Rules 2001 came into force from 01.04.2002. The scale of pay for Scientist Group IV (7) was mentioned as 18400-500-22500. The appointment of the applicant as Head of RPBDD was subsequent to the amendment of the rules. Therefore, he made a representation stating that he was entitled to be extended the pay scale attached to grade IV (7). Initially, a reply was given to the applicant on 01.01.2009 stating that in view of the provisions contained in FR 22(3), the benefit of fixation of pay under FR 22(1)(a)(i) cannot be extended. The

applicant went on making further representations relying on some more material, but the same was rejected through order dated 14.03.2016. Hence this OA.

4. The applicant contends that the post of Head of RPBDD was classified as SG IV(7) which carried the pay scale of 18400-500-22400 and there was absolutely no basis for the respondents in denying the same to him.

5. The respondents filed a detailed counter affidavit opposing the OA and raising an objection as to limitation. It is stated that the applicant was already informed in the year 2009 and subsequent representations do not extend the period of limitation. On merits, the respondents state that the advertisement with reference to which, the applicant was appointed as Head of RPBDD was issued under the old rules and he cannot claim the benefit under the new rules. It is also stated that the procedure under the new rules for promotion to SG IV(7) is totally different.

6. We heard Ms. Gauri Puri, learned counsel for the applicant and Shri Arun Sanwal, learned counsel for the respondents.

7. The applicant was holding the post of SG IV (6), by the year 2002. The respondents issued an advertisement for

appointment to the post of Head RPBDD. The Selection Committee recommended his name and accordingly, he was appointed. The order dated 18.06.2002 reads as under:-

“On the recommendation of the Selection Committee which met on 31.05.2002, the Hon’ble President, Council of Scientific and Industrial Research (Prime Minister of India), has been pleased to accord approval to the appointment of Dr. O.P. Agarwal, Scientist Gr. IV (6) as Head, RPBD, in the pay scale of Rs. 18,400-500-22,400.

The pay of Dr. Agarwal will be fixed according to normal rules. However he shall have the option to be exercised within one month from the date of appointment, for fixation of his pay in the new post with effect from the date of appointment to the new post or with effect from the date of increment in the old post.

Dr. Agarwal will be on probation for a period of one year, from the date of the joining which can be extended or curtailed at the discretion of the competent authority. Dr. Agarwal will continue to be governed by other existing terms and conditions of his appointment as a Scientist in CSIR.”

8. By the time the order of appointment was issued, the promotion rules for the post of SG IV(7) came into force w.e.f. 01.04.2002. The pay scale is mentioned as 18400-500-22500. The applicant sought a clarification as to the classification of the post. Through an order dated 11.05.2005, the respondents informed the applicant that the post is classified as SG IV (7). At the same time, the pay scale which

is attached to SG IV (6) was mentioned. Therefore, the applicant made his claim on 05.09.2005 as under:-

Vide OM No. 6-8(1483)/86-E III dated May 11, 2005, it has been acknowledged that the undersigned was appointed as Head (RPBD), on June 18, 2002 in group IV (7).

In view of this clarification my basic pay was to be refixed from the date of appointment. On the eve of retirement, I was assured that it would be done soon. But more than 3 months have passed since then, still no progress has taken place in this direction. This is also hampering my getting correct pension. Obviously this is a cause of concern. I hope you will look into the matter and get the matter settled soon."

The reply to this was given four years thereafter on 01.01.2009 as under:-

"With reference to your letter dated 24.12.2008 regarding grant of benefit of FR 22(a)(i) on promotion in the same scale carrying higher responsibilities, I am directed to state that the matter has been considered by the competent authority and it is regretted that in view of the provisions contained in FR-22(1)(a)(i) cannot be extended in your case."

9. When repeated representations were made pointing out the defects therein, the respondents passed the impugned order dated 14.03.2016.

10. In none of the impugned orders, the respondents have mentioned any specific reasons as to why the applicant is denied the pay scale attached to the post of SG IV(7).

11. In the counter affidavit and in the course of arguments, an attempt is made to state that the advertisement was issued under what is known as MANAS and according to that, the pay scale was 18000-500-22500. Nowhere it is mentioned that the new rules which stipulated the pay scale of 18400-500-22400 are not applicable to the post of Head RPBD. It is brought to our notice that the successors of the applicant in the office of RPBD were paid the pay scale as per the new rules only. It is mentioned in those rules that they would not apply to the employees of that group, unless they are appointed or promoted subsequent to the amended rules. In fact such a stipulation cannot be made in law, at all. We are of the view that the applicant was entitled to be put in the pay scale of Rs.18000-500-22500.

12. In the context of moulding the relief, the aspect of delay comes into play. It may be true that the applicant went on making representations. However, the respondents cannot be mulcted with the liability to pay for the errors for all this period. We are of the view that while granting the reliefs, he can be denied the arrears from the period up to the date of

this order and he shall be entitled to the revision of his pension.

13. We, therefore, allow the OA and direct that the applicant shall be extended the benefit of pay scale of Rs.18400-500-22500 attached to the post of Scientist Group IV(7). This benefit, however, shall be restricted to the one of revision of his pension and he shall not be entitled to any arrears. The revision of pension shall be made within a period of six weeks from the date of receipt of a copy of this order.

There shall be no order as to costs.

(Mohd. Jamshed)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

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