

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

O.A. No.884/2012

Thursday, this the 1st day of August 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Hari Sharan Harit & others ..Applicants
(Mr. Rajesh Srivastava, Advocate)

Versus
UOI & others through ..Respondents
Ministry of Agriculture & others
(Mr. Praveen Swarup and Mr. Sagar, Advocates)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicants were working as Assistants and Assistant Administrative Officers (AAOs) in the Indian Agriculture Research Institute (IARI), a Unit of Indian Council of Agriculture Research (ICAR), the 4th respondent, which, in turn, is under the Ministry of Agriculture.

2. The 6th Central Pay Commission (CPC) recommended the pay scale of ₹9300-34800 with Grade Pay of ₹4200/- for the Assistants/Personal Assistants and the pay scale of ₹9300-34800 with Grade Pay of ₹4800/- for the Administrative Officers (AOs), which is equivalent to Section Officer (SO)/

Private Secretary (PS). That, in turn, was accepted by the 4th respondent, vide O.M. dated 07.11.2008.

3. The Assistants and AOs working in the Headquarters of 4th respondent made representation, stating that their pay scales used to be on par with similar employees in Central Secretariat Service (CSS) and for the Assistants in CSS, the grade pay is ₹4600/-. Accordingly, they made a request for extension of the same to them. On consideration of the request and in consultation with the Ministry of Finance, the 4th respondent issued office order dated 26.11.2010.

4. The applicants and their association made a request that they be extended the benefit of Grade Pay of ₹4600/- since they are also discharging the same functions as their counterparts in the Headquarters. It was also stated that in view of the decision taken by the Government and the 4th respondent vide office order dated 16.06.1997, the distinction that existed between the Headquarters and Units, disappeared and there is no basis for maintaining any disparity. That, however, was rejected through order dated 26.11.2010. Hence this O.A.

5. The applicants contend that the distinction, that existed between the employees of Headquarters on the one hand and Units on the other, till 1996, was virtually wiped away on account of office order dated 16.06.1997 issued by the 4th respondent. It is stated that ever since then, parity was being

maintained in all respects, between the employees of erstwhile Headquarters on the one hand and Units on the other, and that for the first time, the dichotomy was brought into existence in the year 2007. They submit that the action of the respondents is arbitrary, discriminatory and violative of Articles 14 & 16 of the Constitution of India.

6. The respondents filed a detailed counter affidavit opposing O.A. It is stated that the posts in Headquarters on the one hand and Units on the other, were always treated differently, in particular, when the recommendations of 3rd & 4th CPCs were under implementation. The particulars thereof are also furnished. It is stated that with a view to bring about the merger of the services at Headquarters and other Units, office order dated 16.06.1997 was issued, but the same did not materialize even after one decade.

7. The respondents further stated that duties discharged by the Assistants and other employees at the Headquarters are substantially different, and they were treated on par with their counterparts in CSS. It is stated that the applicants are not entitled to claim the benefit of Grade Pay of ₹4600/- for the post of Assistant / Personal Assistant.

8. We heard Mr. Rajesh Srivastava, learned counsel for applicants and Mr. Praveen Swarup, learned counsel for respondents, in detail.

9. The 4th respondent is an organization, entrusted by the Ministry of Agriculture with the work of research in agriculture. Naturally, it has Headquarter at Delhi and Research Stations at various places in the country. It has the establishment and staff, both on technical and administrative sides. The posts, such as AO, SO and Stenographers exist not only in the Headquarters, but also in the Units. The methods of appointment and pay scales for the employees of the same category, who were working at Headquarters on the one hand and Units on the other, were different.

10. In the year 1997, a proposal was mooted for bringing about the unification of the cadres of Assistants / Stenographers at the Headquarters and its Research Institutes. After due deliberation, office order was passed on 16.06.1997 by the 4th respondent. It reads:

“Subject: Extension of revised pay scale of Rs.1640-2900 for the Assistants/Stenographers (Grade-II) of Indian Council of Agricultural Research Institutes – Implementation of Cabinet’s decision regarding.

1. In pursuance of the decision of the Union Cabinet on the above subject in its meeting held on 29.04.1997, the Competent Authority has been pleased to approve the unification of the cadres of Assistants/ Stenographers (Grade-II) at the ICAR Hqrs. and its Research Institutes with immediate effect. In pursuance of the aforesaid decision of the Union Cabinet, the Competent Authority has also approved extension of the Assistants/ Stenographers (Grade-II) working at the ICAR Research Institutes with immediate effect.

2. Consequently, the existing requirement rules for the post of Assistant/ Stenographers (Grade-II) at the ICAR Research Instts. will cease have effect and no recruitment will be made there under hereinafter. The existing recruitment rules for the posts of Assistants/ Stenographers (Grade-II) at the ICAR Hqrs. shall henceforth apply to the Assistants/Stenographers (Grade-II) at the ICAR Research Institutes.”

11. Had this materialized, there would not have been any distinction between the Assistants working at Headquarters or those working at Research Institutes. However, it is not in dispute that the merger contemplated under the said order did not materialize at all.

12. The 6th CPC recommended the pay scale of ₹9300-34800 with Grade Pay of ₹4200/- to the Assistants and that, in turn, was adopted by the 4th respondent, through O.M. dated 07.11.2008, which reads:-

“Office Memorandum

Sub: Implementation of 6th CPC recommendation for the Assistant/ Personal Assistant and Section Officer/ Private Secretary in Indian Council of Agricultural Research Hqrs.

The undersigned is directed to state that in pursuance of Ministry of Finance, Department of Expenditure's O.M. No.7/23/2008-E.III (A) dated 7.10.2008, the applicability of part B of the First Schedule to the CCS (Revised) Pay Rules, 2008 in ICAR was examined by a Group of Officers constituted vide Council's O.O. No.7 (28)/2008 Estt. I dated 3.10.2008. The recommendations of the Group of Officers was accordingly referred to the Ministry of Finance vide their U.O. No.7/1/2008-IC dated 31.10.2008 has approved that the pay structure for Assistants and Sanction Officers/Private Secretaries in Indian Council of Agricultural Research Hqrs. as follows:

Post	Pre-Revised pay scale	Corresponding revised pay band and grade pay
Assistant/ Personal Assistant	Rs.6500-10500*	PB-2 of Rs. 9300-34800 along with grade pay of Rs.4200
Section Officer/ Private Secretary	Rs.7500-12000	PB-2 of Rs. 9300-34800 along with grade pay of Rs. 4800
	Rs.8000-13500 (on completion of four years)	PB-3 of Rs. 15600-39100 along with grade pay of Rs. 5400 (on completion of four years)

* As applicable and implemented in the Central Secretariat.”

13. The applicants did not have any issue, when the pay band and grade pay were allowed to their posts. In fact, no grievance was ventilated at any point of time.

14. The Personal Assistants in the Headquarters made a representation, stating that their pay scales used to be on par with those of their counterparts in CSS and since the latter are granted the Grade Pay of ₹4600/-, they too are entitled for the same. The issue was examined in detail and with the approval of the Ministry of Finance, the 4th respondent issued office order dated 26.11.2010, which reads:

“Sub: Grant of the pay structure of grade pay of Rs.4600 in the pay band PB-2 to Assistants and Personal Assistants of Indian Council of Agricultural Research Headquarters.

The undersigned is directed to refer to this department's office order No.7 (28)/2008-Estt.I dated 7.11.2009 vide which the same pay structure for Assistants & Personal Assistants in the Central Secretariat was extended to the Assistants & Personal Assistants in ICAR Hqrs. In pursuance of Ministry of Finance, Department of Expenditure's O.M. No.1/1/2008-IC dated 16.11.2009 vide which the pay structure of grade pay of Rs.4600/- in the pay band PB-2 was granted to the Assistants and Personal Assistants of Central Secretariat Services, a proposal for the grant of grade pay of Rs.4600/- in the PB-2, Rs.9300-34800 corresponding to the pre-revised pay scale of Rs.7450-121500 w.e.f. 1.01.2006 to the Assistants & Personal Assistants was referred to the Ministry of Finance, Department of Expenditure for consideration and approval. The Ministry of Finance vide their U.O. No.1 (8)-E.III (B)/201023 dated 24.11.2010 has now approved the proposal of ICAR to extend the pay structure of grade pay of Rs.4600 in the pay band PB-2 to the Assistants & Personal Assistants in Indian Council of Agricultural Research Hqrs. w.e.f. 1.01.2006.”

15. This office order gave rise to some dissatisfaction on the part of the applicants. Claiming parity with the Assistants in Headquarters, they preferred representation, which was turned down, through order dated 18.04.2011. It reads:

“Subject: Regarding upgradation in pay band/grade pay of Assistants, PA, JAOs, AF & AAOs and Private Secretaries of ICAR Institutes.

Sir,

Representations have been received from Assistants/ Personal Assistants, JAOs, AF & AAOs and Private Secretaries posted in various Institutes of ICAR requesting for upgradation in pay band / grade pay at par with SOs/ PSs/Assistants/PAs at ICAR Hqrs. The matter was referred to the Ministry of Finance (Dept. of Expr.)

for concurrence, but the same has not been agreed to by them for the reason that the pay scales at ICAR Hqrs. are patterned on the lines of Central Secretariat Services (CSS) whereas those at the Institutes are akin to subordinate offices. It is requested to inform all concerned posted in your Institute accordingly.”

16. Now the entire issue revolves around the question as to whether there existed any difference between the Assistants working in the Headquarters on the one hand, and those working in Research Stations on the other. The post, no doubt, is Assistant and it may be true that the qualifications stipulated for that post, at both the places, are the same. The fact, however, remains that the nature of duties to be discharged by those working in the Headquarters on the one hand and Research Stations on the other, are substantially different.

17. Further, it is not as if disparity was brought into the existence for the first time, through order dated 26.11.2010. The respondents, in their counter affidavit, have stated that such disparity existed even when the recommendations of 3rd & 4th CPCs were in force. The relevant portion reads as under:-

“...That in response to the contents of paragraph 4.13 to 4.16, it is respectfully submitted that it is denied that the pay scale for Assistants of ICAR institute were always at par with those at ICAR Hqrs. Assistants in ICAR institutes were in a lower III CPC pay scale of Rs.425-700 whereas Assistants of ICAR Hqrs were in the higher III CPC pay scale of Rs.425-800 at par with their counterparts in CSS. When the IV CPC was implemented, Assistants of ICAR institutes were given revised pay scale of Rs.1400-2300 and Assistants of ICAR Hqrs. were given the revised pay scale of Rs.1400-2300 and Assistants of ICAR Hqrs. were

given the revised pay scale of Rs.1400-2600 at par with their counterparts in CSS.”

18. This disparity was temporarily discontinued on account of office order dated 16.06.1997 at a time when the recommendations of 5th CPC were being implemented. This was obviously in contemplation of merger of the post of Assistant in Headquarters and Research Stations. For one reason or the other, the merger did not take place. Once the recommendations of 6th CPC were implemented, the Assistants working in the Headquarters demanded parity with their counterparts in CSS.

19. Though the applicants made an effort to convince this Tribunal that there is nothing like Headquarters in the establishment of the 4th respondent at all, clause 2 (k) of the Rules & Bye-Laws of ICAR, makes this aspect clear. It reads:-

“2 (k) The Constituent Units of the Society" means the Indian Council of Agricultural Research Headquarters, its Research Institutions, regional and sub-stations, research laboratories etc. and Co-ordinated-Projects managed and administered by the Society.”

From this, it becomes evident that there existed the Headquarter for the 4th respondent and it has also Research Institutions and Stations at various places.

20. Reliance is placed by learned counsel for applicants on an order passed by this Tribunal in **IARI – Stenographers'**

Welfare Association & others v. Union of India & others (O.A. No.3763/2012) decided on 01.07.2014. That was a case pertaining to Stenographers. The relief was granted straightway, taking into account the office order dated 16.06.1997 and on the assumption that there does not exist any difference between the employees of Headquarters on the one hand and Research Stations on the other. Once it emerges that the merger contemplated under the office order dated 16.06.1997 does not take place, it is very difficult to ignore such distinction. At any rate, the persons, who did not have any grievance when the pay scale was implemented, cannot feel aggrieved, at a subsequent stage.

21. It is fairly well settled that un-equals cannot be treated as equals and the Court/Tribunal cannot enter the delicate area of fixation of pay scales or maintaining distinction between various categories of employees. The applicants are not able to demonstrate that they stand on the same footing as do their counterparts in the Headquarters or those in CSS.

22. We do not find any merit in this O.A. It is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

August 1, 2019
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