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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

C.P. No.140 of 2004 In *MA 1066/2004/W*
Original Application No.2325 of 2003

New Delhi, this the 1st day of June, 2004

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)
HON'BLE MR.S.A. SINGH, MEMBER (A)

Shri S.K. Upadhyaya and Others
All C/o Malaria Research Centre
(Indian Council of Medical Research)
22-Sham Nath Marg,
Delhi-110 054.Petitioners

By Advocate: Shri Sunil Sharma.

Versus

1. Mr. J.V.R. Prasad Rao
Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan,
New Delhi.
2. Dr. N.K. Ganguly
Director General,
Indian Council of Medical Research,
Ansari Nagar,
New Delhi-110 029.
3. Dr. M.A. Ansari
Office-in-Charge,
Malaria Research Centre (ICMR)
(Under Ministry of Health and Family
Welfare)
20, Madhubhan, Delhi-92.Respondents

By Advocate: Shri V.K. Rao.

O R D E R(ORAL)

By Hon'ble Mr.Kuldip Singh, Member(Judl)

The applicant has filed this CP as he has a grievance that despite the orders passed by this court in the OA whereby the respondents were directed to dispose of the claim of the applicant to release 40% fitment benefit as contained in the representation by treating the OA as a supplementary representation, the respondents have now passed an order dated 19/21.5.2004 wherein it is mentioned that after examining the case the department of


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expenditure had clarified that the project staff of ICMR are not covered by the order dated 2.12.1997 and hence are not entitled to 40% fitment benefit and, therefore, the order extending 40% fitment benefit to the employees of long-term projects under ICMR including IDVC project w.e.f. 1.4.1998 should immediately be rescinded.

2. In view of this, the respondents submitted that they are unable to release the payment of 40% fitment benefit as demanded by the applicants.

3. The learned counsel for the applicants also submitted that earlier they were being paid 40% fitment but they had withdrawn that benefit also and respondents are expressing that they are unable to pay. In our view this contention of the applicant for taking contempt action against the respondents is not tenable because the court had directed the respondents to dispose of the representation by considering the case of the applicants by releasing the arrears and to pass a detailed and speaking order and since the respondents had expressed their inability as department of expenditure had stated that the applicants are not entitled to 40% fitment benefit as they are project employees so the applicant are at liberty to challenge the same by way of separate OA.

4. In view of the above, ^{we hold that} ~~it is admitted~~ that there is no wilful disobedience of the order passed by the Tribunal so the CP is dropped. Notices are discharged.


(S.A. SINGH)
MEMBER (A)


(KULDIP SINGH)
MEMBER (JUDL)

/Rakesh