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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA NO. 439/2003

OA NO. 1564/2003

NEW DELHI, THIS THE 15TH DAY OF APRIL, 2005

HON'BLE MR. SHANKER RAJU, MEMBER (J)

HON'BLE MR. M.K. MISRA, MEMBER (A)

O.A. NO. 439/2003

1. Federation of All India ICMR Employees,
Institute for Research in Medical Statistics,
Ansari Nagar, New Delhi - 110 029 through
Mr. Bhagirath Lal, its Secretary General.
2. Dr. Desai Vijaya Bhaskar Rao,
s/o Sh. Desai Gundu Rao, working as RA,
Tuberculosis Research Centre, ICMR, Chennai-31.
3. Sh. Rajendra Singh, s/o Sh. Badleey Singh,
working as Statistical Assistant,
Institute for Research in Medical Statistics,
I.C.M.R., Ansari Nagar, New Delhi - 110 029.
4. Sh. Rohitash Singh s/o Sh. Sita Ram Singh,
working as Statistical Assistant,
I.C.M.R. Ansari Nagar, New Delhi-029. ...Applicants

(through Sh. R.N. Singh, Advocate)

-versus-

1. Indian Council of Medical Research (ICMR),
Ansari Nagar, Post Box 4911,
New Delhi - 110 029
Through: The Director General.
2. The Director,
Indian Council of Medical Statistics,
ICMR, Ansari Nagar, New Delhi - 110 029
3. Union of India,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi - 110 011.
Through: The Secretary.
4. Ministry of Finance & Company Affairs
Deptt. of Expenditure, North Block
New Delhi - 1 through The Secretary.

...Respondents

(through Sh. V.K. Rao and Sh. S.K. Gupta, proxy for Sh. Madhav Paniker, Advocate)

OA No. 1564/2003

1. Federation of All India ICMR Employees,
Institute for Research in Medical Statistics,
Ansari Nagar, New Delhi - 110 029 through
Mr. Bhagirath Lal, its Secretary General.
2. Sh. Kishore Toppo,
s/o Sh. Fransis Toppo,
working as Data Entry Operators Grade-D,
I.C.M.R. (HQ), DIVISION RHN,
Ansari Nagar,
New Delhi - 110 029.
3. Sh. Naresh Agarwal s/o Sh. Jaidev Saran Agarwal,
working as Assistant Library Inf. Officer,
Institute for Research in Medical Statistics,
I.C.M.R. Ansari Nagar,
New Delhi - 110 029.

...Applicants

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ORDER (ORAL)**Mr. Shankar Raju, Member (J):**

Heard the learned counsel.

2. In OA-439/2003, an Association, along with others, has assailed respondents' order dated 03.10.2002 and sought for grant of benefits of the recommendations of the IVth Central Pay Commission to the Statistical Assistants and Research Assistants in the pay scale of Rs. 1640-2900 as well as Rs. 6500-10500.
3. In OA-1564/2003, a declaration has been sought to declare the rolling back of financial upgradation granted through extension of Part 'B' & 'C' of Vth Central Pay Commission recommendation, as arbitrary and illegal.
4. A reference has been made to the Full Bench on the grounds whether in the event of civil consequences ensued, a prayer of reasonable opportunity to show cause notice is obligatory or not? And whether the special approval of the Government is to be sought before extension of benefit of Vth CPC in ICMR?.
5. Full Bench of the Tribunal by an order dated 15.07.2004 in the above OAs ruled the post decisional hearing as valid in law and further approval of the Government is obligated before extension of the benefit of Vth Central Pay Commission in ICMR.
6. In the light of the above, on upgradation, the applicants, who have been granted the benefit of Vth CPC with approval by the Government, has rightly been rolled back and recoveries have been affected.

7. In the light of OA-97/2003 decided by the Madras Bench of the Tribunal on 06.03.2003 where before affecting recovery it was observed that a reasonable opportunity to show cause would have to be afforded, in the light of rejection of the claim of the applicant for grant of pay scale and their challenge to rolling back of the pay scales, we dispose of these OAs with directions to the respondents to follow the dicta in OA-97/2003. For further action in accordance with Rules & Law.

(M.K.Mishra)
Member(A)

(Shanker Raju)
Member(J)

/vv/

Shanker Raju