

Central Administrative Tribunal
Principal Bench, New Delhi.

OA-2560/2003

New Delhi this the 28th day of November, 2005.

Hon'ble Shri Shanker Raju, Member(J)

Dr. S.B. Lal,
Retired Principal Scientist,
J-1072 Palam Vihar,
Gurgaon, Haryana.

.... Applicant

(through Ms. Shilpa Chauhan, proxy for Sh. Naresh Kaushik, Advocate)

Versus

1. Indian Council of Agricultural Research
through Its Secretary,
Krishi Bhavan, New Delhi.
2. Govt. of Uttar Pradesh
through Secretary,
Department of Agriculture,
U.P. Sachiv, Lucknow
Uttar Pradesh.
3. Chandershekar Azad University of Agriculture
and Technology through
its Vice Chancellor
Kanpur, Uttar Pradesh.
4. Union of India through
Secretary,
Ministry of Personnel,
Public Grievances and Pensions,
Department of Administrative Reforms
and Public Grievances,
Sardar Patel Bhavan,
Sansad Marg, New Delhi.
5. Accountant General of U.P.
Allahabad, U.P.

.... Respondents

(through Sh. A.K. Gupta, proxy for Sh. B.S. Mor, Advocate and Sh. C.D. Singh, Advocate)

Order (Oral)

Applicant has prayed for the following reliefs:-

"(a) Direct the respondent no.1 to grant consolidated pension to the applicant on the combined period of service from 1.1.1950 to 31.1.1985 along with arrears with interest @ 18% p.a. for delayed period along with other consequential benefits;

(b) direct the respondent no.2 to remit the LS & PC amount for the period i.e. 6.1.1962 to 15.5.1971 to respondent no.1 or direct respondent no.1 to bear the said liability and thereafter take steps for its recovery if any."

2. Briefly stated that the applicant was selected as Senior Research Assistant on 6.1.1950 and was posted at Kanpur on 24.12.1958. On 6.1.1962, he was proceeded on deputation with CPRI, Shimla, the Central Government Institution which was brought under the autonomous control of ICAR in 1966. He was selected as Director on 8.7.1963. He retired prematurely from U.P. Government on 15.5.1971 and during the period from 6.1.1962 to 15.5.1971 he was treated as on foreign service with the ICAR and was permanently absorbed on 16.5.1971. He superannuated on 31.10.1985.

3. Grievance of the applicant is that it is the inaction on the part of Respondent No.5 in remitting the amount for the period from 6.1.1962 to 15.5.1971, which Respondent No.1 has already paid to Respondent No.2 during the period of deputation, whereas the said amount was required to be remitted to the Accountant General. Though Respondent No.1 has received the pension contribution for the period from 6.1.1950 to

15.5.1971 from Respondent No.3 but there is no disbursement of pension of this amount. As such, applicant states that he is entitled to the pension of 35 years combined service.

4. Respondent No.1 (ICAR's) learned counsel stated that Respondent No.3 has remitted the pensionary benefits to the ICAR for the period from 6.1.1950 to 5.1.1962 but the pensionary liability for the subsequent period from 6.1.1962 to 15.5.1971 has not been paid by the U.P. Government. It is stated that U.P. Government, which has to pay pro-rata pensionary liability which is no more res integra in the light of decision of the Apex Court in **Civil Appeal No. 6681 of 1997** decided on 26.9.1997, Respondent No.1 cannot be compelled to pensionary benefits for the period from 6.1.1962 to 15.5.1971.

5. Counsel for Respondent No.3 i.e. Chandershekar Azad University of Agriculture and Technology contended that respondents liability from 6.1.1950 to 5.1.1962 has already been received by Respondent No.1 from them.

6. Respondent No.2 i.e. Government of U.P. stated that State Government vide letter dated 3.10.2004 has requested the Accountant General, Uttar Pradesh to return the Contribution of Pension for the period from 6.1.1962 to 15.5.1971 to ICAR followed with reminders but nothing stands materialized.

7. By an order dated 8.7.2005, this Tribunal allowed the applicant to amend the memo of parties and to implead Accountant General (UP) as a necessary party. As such, on service through post and on dasti notices

having been served, opportunities had been given on 7.9.2005, 5.10.2005, 25.10.2005 and lastly on 18.11.2005 to Respondent No.5 to have his say in the O.A. As none appeared for Respondent No.5 and also no reply has come forth, is proceeded ex-parte under Rule 16 of the Central Administrative Tribunal (Procedure) Rules, 1987.

8. As regards deprivation of pension of combined service, the service rendered in State Government as per the decision of the Apex Court (supra) is to be treated as a qualifying service and to be counted towards determination of combined pension is solely attributable to Respondent No. 5 as their liability has not been remitted to Respondent No.1 for the period from 6.1.1962 to 15.5.1971.

9. In the above view of the matter, this O.A. is partly allowed. Respondent No.5 is directed to discharge the liability by remitting the amount in the form of LS & PC for the period from 6.1.1962 to 15.5.1971 to Respondent No.1 (ICAR) and thereafter pensionary benefits be calculated and paid to the applicant along with arrears with a simple interest of 6% per annum. This shall be done within a period of two months.

10. Let a copy of this order be sent to all the respondents including Respondent No.5.

S. Raju
(Shanker Raju)
Member(J)