

IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED : 18.11.2015

CORAM :

THE HONOURABLE DR.JUSTICE S.TAMILVANAN
and
THE HONOURABLE MR.JUSTICE C.T.SELVAM

W.P.No.26936 of 2009

Indian Council of Agricultural Research
Krishi Bhavan, New Delhi - 110 001.
Rep. by its Director General

... Petitioner

Vs.

1. S.Kulasekarapandian

2. The Registrar
Central Administrative Tribunal,
Madras Bench, Chennai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the order, dated 17.12.2008 made in O.A.No.868 of 2007 on the file of the Registrar, Central Administrative Tribunal, Madras Bench, Chennai, the second respondent Tribunal herein and quash the same.

For Petitioner : Mr.M.T.Arunan

For Respondents : Mr.V.Selvaraj for R1
R2 Tribunal

ORDER

(Order of the Court was made by S.TAMILVANAN,J)

The Writ Petition has been preferred challenging the order, dated 17.12.2008 made in O.A.No.868 of 2007 on the file of the Registrar, Central Administrative Tribunal, Madras Bench, Chennai.

2. The case of the first respondent / applicant is as follows :

The first respondent / applicant has passed M.Sc., and holds Ph.D., Degree and joined as ARS Scientist SI during 1977.

The first respondent / applicant holds Ph.D., Degree, while joining the service, since the minimum qualification prescribed was M.Sc., for holding the said post. As per the recommendation of the V Pay Commission, the petitioner passed an order on 27.02.1999, regarding revision of pay scales. In the said order, inter alia, there was a provision for 4 advance increments given to those, who hold Ph.D., Degree as Scientist. In addition to the proceedings of the writ petitioner, dated 27.02.1999, another circular was issued on 14.11.2005, wherein it was clarified that all those who acquired Ph.D., during service, will be given uniform incentive, since 27.07.1998. The first respondent / applicant submitted his application, dated 28.11.2005, requesting grant of 4 advance increments to him, since he joined the service with Ph.D., qualification. The petitioner in their letter, dated 12.12.2006, has intimated the first respondent / applicant that advance increment cannot be given to those who joined service prior to 1986 with Ph.D., qualification.

3. Taking into account the facts and circumstances of the case and after going through the clarifications, the Tribunal passed the order, which reads as follows :

"In the light of the foregoing discussions and the citation, we are of the view that the applicant is entitled to the 4 advance increments for possessing the Ph.D., Degree at the time of recruitment as well as 2 more advance increments for moving over to the post of Selection Grade as Sr. Scientist. The consequential benefit will be from 27.07.1998 as clarified from time to time. The respondents are directed to pass appropriate orders within a period of two months from the date of receipt of this order of the Tribunal."

4. Aggrieved over the order passed by the Tribunal, the petitioner is before this Court, by way of filing this writ petition.

5. Learned counsel for the petitioner submitted that the first respondent / applicant had joined the service prior to 1986, i.e., during 1977 and the UGC Career Advancement Scheme was made applicable with effect from 01.01.1986 and he was given promotion in the next higher grade and was given relaxation of three years of service for possessing of three years of service and for possessing Ph.D., Degree prior to 01.01.1986, as envisaged under 1986 scheme. He would further submit that since the first respondent / applicant had already availed of and was

granted benefit even prior to introduction of 1999 scheme, which was made applicable from 27.07.1998, the first respondent / applicant was not eligible for grant of the benefit under the new scheme. Hence, the writ petition prays for setting aside the impugned order passed by the Tribunal.

6. Per contra, learned counsel for the first respondent / applicant submits that the first respondent would be entitled to 4 advance increments, as per the proceedings of the petitioner, dated 27.02.1999 and by further proceedings, dated 14.11.2005, it was clarified by the writ petitioner that all those who acquired Ph.D., degree during service, will be given uniform incentive from 27.07.1998. He would further submit that on an incorrect interpretation of the order, those who joined service prior to 1986 with Ph.D., qualification are denied advance increments by the writ petitioner and that the first respondent / applicant was informed by the writ petitioner, by letter, dated 01.08.2006 that the issue regarding the grant of advance increments to Scientists, who joined service with Ph.D., qualification prior to 1986 was under consideration in consultation with the Ministry of Human Resources Development. However, on 12.12.2006, the petitioner sent a communication, stating that the increments cannot be given to those who joined service prior to 1986 with Ph.D., qualification, which is a discrimination violating the mandate of Article 14 of the Constitution. Hence, he prays for dismissal of the writ petition.

7. We have heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the first respondent / applicant.

8. It is an admitted fact that similarly placed officials / employees holding Ph.D., qualification are entitled to get advance increments, however, the same was denied for the first respondent / applicant, only on the ground that he joined the service with Ph.D., qualification. The Central Administrative Tribunal has held that denial of increment for the first respondent / applicant is only a discrimination, violative of Article 14 of the Constitution and accordingly, allowed claim of the first respondent / applicant in the O.A.No.868 of 2007. Even the writ petitioner also sent a letter, dated 01.08.2006 to the first respondent / applicant that his claim is under consideration.

9. Hence, having gone through the facts and circumstances of the case and the submissions made by both the learned counsel, we are of the considered view that the first respondent / applicant is eligible for the incentive, like other similarly

placed employees / Scientist, holding Ph.D., Degree. When the purpose of the scheme is to provide incentive to Scientists, who have Ph.D., qualification, it is not all reasonable for denying the incentive to the first respondent / applicant, merely because he acquired the qualification prior to his joining in service. Hence, we could find no error or infirmity in the impugned order passed by the Central Administrative Tribunal, so as to warrant any interference by this Court. Therefore, the writ petition is liable to be dismissed.

10. In the result, this writ petition is dismissed, confirming the order, dated 17.12.2008 made in O.A.No.868 of 2007 on the file of the Registrar, Central Administrative Tribunal, Madras Bench, Chennai. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vga / tsvn

To

The Registrar
Central Administrative Tribunal,
Madras Bench, Chennai.

+1cc to Mr.M.T.Arunan, Advocate, S.R.No.62401
+1cc to Mr.V.Selvaraj, Advocate, S.R.No.63022

W.P.No.26936 of 2009

PUR(CO)
CA(17/02/2016)

WEB COPY