

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2012

CORAM

THE HONOURABLE MR. JUSTICE ELIPE DHARMA RAO
and
THE HONOURABLE MR. JUSTICE M.VENUGOPAL

Writ Petition No.26273 of 2010

1.A.Ravi
2.P.G.Geetha Devi
3.K.Manoj Kumar
4.M.K.Prakasan
5.S.Rajkumar

... Petitioners

vs

1.Indian Council of Medical Research
rep. by the Director General,
Dr.V.Ramalingaswami Bhavan,
Ansari Nagar, New Delhi-110 029.
2.The Director,
Vector Control Research Centre,
Medical Complex,
Indira Nagar,
Puducherry-605 006.
3.The Central Administrative Tribunal,
Additional Bench at Madras rep. by its
Registrar, Chennai.

... Respondents.

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the entire records relating to the order passed by the third respondent in O.A.No.820 of 2006, dated 04.05.2009 and quash the same and consequently, allow the said original application No.820/06.

For Petitioner : Mr.Bharat Chakravathy for
M/s.Sai Bharath and Ilan.

For Respondents : Mr.M.T.Arunan for R1 & R2.
R-3 - Tribunal.

O R D E R
(Order of the Court was made by
Justice Elipe Dharma Rao.)

This writ petition is directed against the order, dated 04.05.2009, made in O.A.No.820 of 2006, whereby the original application, which was filed by the petitioners challenging the order of revision of pay scale from Rs.3050-4590 to Rs.2650-4000 issued by the first respondent and the second respondent, dated 12.10.2006 and 26.10.2006 respectively, was disposed of directing the respondents 1 and 2 not to recover the higher pay scale already granted to the petitioners from their salary, with a further direction that the pay scale of Rs.2650-4000 would be applicable to applicants/petitioners with effect from 12.10.2006.

2.It is the case of the petitioners that petitioners 1, 2 and 4 are possessing the minimum educational qualification of Matriculation/SSLC, whereas petitioners 3 and 5 are possessing Bachelors Degrees and pursuant to the notification, dated 24.08.1992, issued by the second respondent, they were appointed as Laboratory Attendant in the second respondent Institution in the pre-revised pay scale of Rs.800-1150 and as per the recommendation of the V Pay Commission, their pay scale was revised to Rs.2650-4000 and thereafter, based on the recommendation made by the Anomaly Committee, their pay scale was further revised to Rs.3050-4590. It is also the case of the petitioners that thereafter, vide orders dated 12.10.2006 and 26.10.2006 issued by the first respondent and the second respondent respectively, their pay scale was withdrawn and they were placed in the pay scale of Rs.2650-65-3300-70-4000 with effect from 01.01.1996 in view of the judgment of the Central Administrative Tribunal in O.A.No.489 of 2005, dated 28.02.2006, which states that, 'the stand taken by the Director General, Indian Council of Medical Research, is unexpected as what is required to be satisfied in service law is whether a person who is placed in a particular post fulfills the minimum prescribed qualification and whether his pay is fixed in the scale approved for that post and the minimum prescribed qualification being Middle pass and the pay fixed is Rs.2650-4000, there appears to be no ground for grievance and there is much any less anomaly as averred by the applicants'. Aggrieved by the said order, the petitioners have filed O.A.No.820 of 2006 before the Central Administrative Tribunal.

3.The Tribunal, on consideration of the facts and circumstances of the case and after following the order made in O.A.No.489 of 2005, disposed of the original application by directing the respondents 1 and 2 not to recover the higher pay already granted to the petitioners from their salary, with a further direction that the pay scale of Rs.2650-4000 would be applicable to applicants/petitioners with effect from 12.10.2006. Aggrieved by the said order, the present writ petition has been filed.

4. Heard the learned counsel for the petitioners and the learned counsel for the respondents 1 and 2.

5. On going through the entire materials placed on record, it is seen that aggrieved by the orders passed by the respondents 1 and 2, dated 12.10.2006 and 26.10.2006 respectively and also the letter of the ICMR dated 31.03.2006, thereby withdrawing the higher pay scale of Rs.3050-75-3950-80-4590 given to the petitioners with effect from 01.01.1996 vide order dated 22.11.2002 and 30.02.2003 and placing them in the pay scale of Rs.2650-65-3300-70-4000 with effect from 01.01.2006, on the ground that they have been recruited with High School qualification, the petitioners have approached the Central Administrative Tribunal by way of filing O.A.No.820 of 2006 and when the Tribunal, after following its earlier order made in O.A.No.489 of 2005, dated 28.02.2006, directed the respondents 1 and 2 not to recover the higher pay scale from the salary of the petitioners, but to reduce the pay scale to Rs.2650-4000 with effect from 12.10.2006, they have filed the present writ petitions.

6. It is submitted by the learned counsel for the petitioners that in respect of some other employees of the respondents 1 and 2, when they were not given the higher pay scales, they have approached the Central Administrative Tribunal by filing O.A.No.489 of 2005 and the Tribunal, on consideration of the facts and circumstances of the case, dismissed the original application by holding that they are not entitled to claim higher pay scales, whereas, the petitioners herein are qualified to receive the above pay scale and without considering the fact that the petitioners herein are having higher qualification and merely on the dictation of the Director of ICMR through his letter dated 31.03.2006, the impugned proceedings were issued reducing the pay scale from 01.01.2006 till 26.10.2006 without giving an opportunity to the petitioners and hence, the entire action of the respondents 1 and 2 amounts to arbitrary and violation of the principles of the natural justice.

7. It is also submitted that when the respondents 1 and 2 are passing the order involving civil consequences, they should have given opportunity to explain the case of the affected parties and more over, the Tribunal has committed an illegality in rejecting the claim made by the petitioners on the basis of its earlier order made in O.A.No.489 of 2005, dated 28.02.2006, in respect of some other employees, who are not having qualification to claim higher pay scales, whereas in the case of the petitioners, after verifying the qualifications only, their pay scales were fixed as early as on 01.01.1996 and hence, the orders passed by the respondents, referred to above, and also the order passed by the Tribunal in dismissing the claim made by the petitioners are liable to be set aside.

8.After hearing the learned counsel on either side and after perusing the entire materials placed on record, we are satisfied that ends of justice would be met, if the higher pay given to the petitioners is protected. Hence, the orders passed by the respondents 1 and 2, dated 12.10.2006 and 26.10.2006 respectively as well as the order passed by the Tribunal in O.A.No.820 of 2006, dated 04.05.2009 are set aside. The writ petition is allowed. However, there will be no order as to costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1. The Director General
Indian Council of Medical Research
Dr.V.Ramalingaswami Bhavan,
Ansari Nagar, New Delhi-110 029.
2. The Director, Vector Control Research Centre,
Medical Complex, Indira Nagar,
Puducherry-605 006.
3. The Registrar,
The Central Administrative Tribunal,
Additional Bench at Madras
Chennai.

+ 1 CC To Mr.M.T.Arunan Advocate SR NO.17651

+ 1 CC To M/S.Sai,Bharath & Ilan Advocate SR NO.17857

W.P.No.26273 of 2010

NG(CO)
ABH/27.03.2012