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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 2711/2018 & CM APPL. 11027/2018

INDIAN COUNCIL OF AGRICULTURAL RESEARCH & ANR

..... Petitioner

Through: Mr. S.K. Gupta with Mr. Vikram
Singh, Advs.

versus

DR. SANGEETA AHUJA Respondent

Through: respondent in person

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

05.12.2018

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The petitioner Indian Council of Agricultural Research has preferred the present writ petition to assail the order dated 26.04.2017 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 1058/2016. By the impugned order the Tribunal has allowed the Original Application of the respondent and quashed the orders passed by the petitioner purporting to seek a refund of the salary paid to the respondent for the Study Leave Period from 01.07.2004 to 12.11.2007. The Tribunal has directed that any recovery, if already made, should be refunded to the applicant within a month of making of the order.

The respondent joined as an Agricultural Research Service Scientist with the petitioner –Indian Agricultural Statistics Research Institute – a Unit

of Indian Council of Agricultural Research on 27.10.1999. She applied for Study Leave for pursuing Ph.D. Programme in Computer Science from the Department of Mathematical Sciences, University of Delhi. She was granted Study Leave from 01.07.2004 to 30.06.2006. On her request, the Leave was extended for a period of one more year i.e. up to 20.06.2007. In continuation of Study Leave, she was granted Maternity Leave for a period of 135 days w.e.f. 01.07.2007 to 12.11.2007. She joined back her services in the Indian Agricultural Statistics Research Institute on 13.11.2007.

By the impugned orders dated 06.07.2015 and 24.08.2015, the petitioner sought to make a recovery of an amount of Rs. 9,58,950/- i.e. the salary paid for the leave period with interest in 86 monthly instalments of Rs. 11,000/- each. The representation made by the respondent was rejected and, consequently, she approached the Tribunal.

The Tribunal examined the Study Leave Regulations relevant for Agricultural Research Service Scientist and, in particular Regulations 4 & 6 thereof. The Tribunal held that the respondent was not liable to refund the salary for the Study Leave Period keeping in view the spirit of the said Regulations and the fact that the respondent had actually obtained the Ph.D. Degree, though belatedly. The Tribunal took note of the fact that generally speaking, the Ph.D. Degree cannot be obtained in the period of three years.

The submission of Mr. Gupta is that under Regulation 6, inter alia, a Scientist who is unable to complete his studies within the period of Study Leave granted to him, shall be liable to refund to the organisation the amount of leave salary and allowances and other expenses, incurred on the scientist or paid to him in connection with the course of study.

We do not find any merit in this submission for the reason that though

the period of Study may be limited to 3 years, the grant of the Ph.D. by the concerned University may itself take much longer on account of the elaborate procedure for the grant of Ph.D. stipulated in law, over which the researcher may have no control. It appears that, keeping in view the said reality of life, under the Explanation to Regulation 6, firstly, a Scientist is entitled to apply for extension and, secondly, there is a power to relax in the competent authority.

In our view, it would be very unfair for the petitioner to make such a huge deduction and recovery from the respondent, since it is not a case where the respondent has not actually obtained a Ph.D degree. She has obtained the same, though it has taken a longer period than 3 years.

In these circumstances, we are not inclined to interfere with the impugned order in the exercise of our discretionary jurisdiction of judicial review.

Dismissed.

VIPIN SANGHI, J

A. K. CHAWLA, J

DECEMBER 05, 2018

N.Khanna