

March 30, 2026  
Sl. No.95  
Court No.1  
s.biswas

WPCT 190 of 2023

*Indian Council of Agricultural Research  
and others*

*vs.*

*Smt. Kalpana Dey and others*

Mr. Sudipto Panda

... for the petitioners

Mr. Ashok Sarkar

Mr. Subrata Banerjee

... for the respondent nos.1-38

Mr. Sukanta Chakraborty

Mr. Tirthapati Acharyya

... for the respondent no.39

Dictated by Sujoy Paul, C.J.

1. Mr. Sudipto Panda, learned counsel for the petitioners, Mr. Ashok Sarkar, learned counsel for the respondent nos.1 to 38 and Mr. Sukanta Chakraborty, learned counsel for the respondent no.39, are present. With consent the matter is finally heard.

2. At the outset learned counsel for the petitioners advances a singular contention by contending that in view of the relief claimed by the applicants before the Central Administrative Tribunal, the

matter should have been heard by a Division Bench and learned Single Judge had no jurisdiction to decide the said OA. For this reason alone, the impugned order may be set aside and the matter may be remitted back to the Division Bench of the Tribunal to decide it on merits. He placed reliance on Appendix VII (see Rule 154(c) of the Central Administrative Tribunal Rules of Practice, 1993). He also highlighted subject-wise classification of Single Bench cases mentioned in Appendix VIII. He submits that Single Bench of Tribunal erred in deciding the matter and therefore, the impugned order dated 24.03.2023 passed in O.A. 350/1254/2022 may be set aside.

3. Learned counsel for the respondents/applicants supported the impugned order by contending that – (i) in view of the order of Central Administrative Tribunal, Principal Bench, New Delhi being No.1/32/87-JA (Vol.II) dated

04.04.2000, the present matter is covered in Item 20 of the Schedule which talks about “Cases relating to termination – temporary government servants.” He submits that the applicants before the Tribunal prayed for grant of temporary status and pension which is essentially a Single Bench matter. The matter was heard with consent by the learned Single Bench of the Tribunal.

4. No other point is pressed by learned counsel for the parties.
5. Before dealing with the rival contentions of the parties, it is apposite to reproduce the prayer of the applicants in the O.A. before the Tribunal.

*“a) Leave to file this application jointly under Rule 4(5)(a) of the Administrative Tribunal (Procedure) Rules, 1987, since the cause of action and the relief sought for are same and similar and as per Annexure A-10 and A-11.*

*b) A direction upon the respondents to create appropriate number of posts for regularization of the eligible applicants and/or their deceased predecessor-in-interest which would be coterminous with their service, as*

*they did in the other case and provide the applicant all benefits such as pension, as were granted to the applicants in OA No. 978 of 2000, Taramoni-II and 53 others (Annexure "A-6") hereto, (following the earlier case of Sambhu-II & ORs.) the subsequent affirmation by the Hon'ble High Court in WPCT No. 903 of 2005, ICAR-vs.- Tamanoni-II & 54 others, within one month from the date of communication of this order.*

*c) Any other order or orders as the Hon'ble Court may deem fit and proper."*

6. A microscoping reading of the relief clause shows that the applicants therein prayed for creation of posts for regularization of eligible applicants and thereafter prayed that benefit of pension be provided to them. Thus, creation of number of posts for regularization is the main prayer on which ancillary relief of grant of pension was founded upon.

7. The Appendix VII which deals with Division Bench cases, reads thus:

*APPENDIX VII*  
*[See rule 154(c)]*  
*SUBJECT-WISE CLASSIFICATION OF CASES*  
*DIVISION BENCH CASES*

- 1. Absorption in Public Sector/Autonomous Bodies/Other Departments*
- 2. Ad-hoc Appointments/Regularisation 1.*

3. All India Services
4. Allotment/ Vacation/ Eviction of Quarters
5. Civil Services Examination
- 6. Creation and Abolition of Post**
7. Daily Wages/ Casual/ Regularisation
- 8. Deputation/Regularisation**
9. Disciplinary-Cases
  - (a) Major Punishment-  
Dismissal/ Removal/ Compulsory  
Retirement Reduction in Rank
  - (b) Minor Punishment Other  
Punishments
  - (c) Suspension
10. Extra Departmental Staff
11. Leave Rules-Break in Services/Dies  
Non
12. Lien
13. Medical Facilities
14. Probation
15. Recruitment & Appointment
16. Reservation for SC/ ST/ Ex-  
servicemen/ Physically Handicapped
17. Reversion
18. Retirement under FR 56(J)
19. Scale of Pay
20. Selection/ Promotion
21. Seniority/ Confirmation
22. Surplus Staff-Redeployment of
23. T.A.
24. Temporary Service, Rules/Termination  
of Service
25. Training
26. Uniform and Washing Allowance
27. Voluntary, Resignation/ Retirement
28. All Single, Bench Cases Classified,  
under the Heads (A) to (M) in Appendix VIII

8. A plain reading shows that the principle relief of the petitioner was relating to creation posts and regularization which is covered by Entry 6 and 8 which are

essentially Division Bench matter. The grant of pension which is covered by Single Bench roster depends on the relief of creation of posts and regularization because without such creation and regularization of service, one cannot claim the benefit of pension. Thus, at best, it can be said that the entire relief of petitioner can be divided in two parts – one of which is creation of posts and regularization which are essentially Division Bench matter whereas grant of pension can be Single Bench matter. The Single Bench of Tribunal cannot hear a Division Bench matter but it is not other way round. The Single Bench of the Tribunal, in our considered opinion, exceeded jurisdiction in hearing and deciding the matter claiming regularization. Merely because a consent is recorded, it will not bestow jurisdiction of the Single Bench which it otherwise did not have. This is trite that by consent,

jurisdiction cannot be created. **[See: 1951 SCC 364 (United Commercial Bank Ltd. v. Workmen); (1954) 1 SCC 710 (Kiran Singh v. Chaman Paswan); (1988) 2 SCC 602 (A.R. Antulay v. R.S. Nayak); (1993) 2 SCC 507 (Chiranjilal Shrilal Goenka v. Jasjit Singh); (2005) 7 SCC 791 (Harshad Chiman Lal Modi v. DLF Universal Ltd.)]**

9. Reliance on the notification dated 04.04.2000 is misconceived because Schedule 20 deals with termination of temporary government servant. The relief claimed as noticed above, is not relating to only temporary status or pension, it essentially involves claim of creation of post and regularization.

10. For these cumulative reasons, the impugned order of Tribunal dated 24.03.2024 passed by learned Single Bench is without jurisdiction and accordingly set aside. The original application is remitted back to the Division Bench of the Tribunal by restoring it to its original number and file. Considering the

fact that this is an old matter, the Tribunal is requested to decide it expeditiously preferably within 60 days from the date of production of copy of this order. Petition is **disposed of** without expressing any opinion on merits.

**(Sujoy Paul, C.J.)**

**(Partha Sarathi Sen, J.)**