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

Reserved on: 5th September, 2019

Decided on: 19th September 2019

+ **W.P.(C) 4178/2015 & CM 7573/2015 (stay)**

**THE SECRETARY, INDIAN COUNCIL OF AGRICULTURAL
RESEARCH (ICAR) & ORS**

..... Petitioners

Through: Mr. Praveen Swarup, Advocate for
ICAR.

Mr. S. S. Lingwal, Advocate for
Petitioner No.2.

versus

IARI STENOGRAPHERS WELFARE ASSOCIATION & ORS.

... Respondents

Through: Mr. Nalin Kohli, with Mr. Padma
Kumar and Ms. Nimeesha Menon,
Advocates.

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE TALWANT SINGH

J U D G M E N T

Dr. S. Muralidhar, J.:

1. The Secretary, Indian Council of Agricultural Research (ICAR) (Petitioner No.1), the Secretary, Department of Agricultural and Research and Education (DARE) (Petitioner No.2), the Director, ICAR (Petitioner No.3) and the Secretary, Department of Expenditure (DOE), Ministry of Finance (MOF), Government of India (Petitioner No.4) have jointly filed this petition under Article 226 of the Constitution of India against the IARI Stenographer's Welfare Association (Respondent No.1) and six private Respondents each of whom were working as Private Secretaries (PSs) at the

Indian Agricultural Research Institute (IARI) Headquarters at Pusa in New Delhi challenging an order dated 1st July, 2014 passed by the Central Administrative Tribunal (CAT), Principal Bench, New Delhi in OA No. 3763/2012.

2. By the impugned order the CAT disposed of the aforementioned application filed by the Respondents No.1 to 7 and directed the Petitioners to consider their claim for grant of grade pay of Rs. 4600/- and 4800/- in Pay Band-II (PB-II) and Rs. 5400/- in PB-III.

Background facts

3. The background facts are that the ICAR is an autonomous organisation wholly funded by the Government of India. It is a society registered under the Societies Registration Act, 1953. It is stated that there are 50 Research Institutions, 17 National Research Centres, 23 Directorates and Project Directorates and 6 National Bureaus and 4 Deemed Universities working under the ICAR, located all over the country. These agricultural research institutes and research centres are located at Port Blair, Bikaner, Cuttack, Avikanagar (Rajasthan), Almora (Uttarakhand) and elsewhere.

4. It is stated that there are 662 Personal Assistants (PAs) and Private Secretary (PSs) working in different institutions, Directorates and research centres apart from other employees. The PAs and PSs of the IARI are claiming parity of pay with their counter parts in the ICAR headquarters (HQ). In other words, they claim parity of pay of PAs (Stenographers Grade-II) working in the ICAR Institutes including IARI with those working

in the ICAR HQ.

5. There are four categories of staff working at the ICAR viz., Scientific, Technical, Administrative and Supporting staff. As far as the PB, nomenclature and recruitment rules (RRs) are concerned, the above categories are treated at par, except the Administrative category. It is stated that under the RRs, the nature of duties of the PSs and PAs at the ICAR HQ and its research Institutes, including IARI, are absolutely identical. Reference in this regard has been made to the RRs notified by ICAR on 27th July, 2000 and by IARI on 11th August, 2000. In para 2 of the letter dated 27th July 2000 whereby the revised RRs for the post of PS were circulated it was stated as under:

"2. In terms of Vth Central Pay Commission recommendations as implemented by the GOI and adopted by ICAR, the pay scales for the posts of Senior Personal Assistant (Rs. 2000-3200) and Private Secretary (Rs. 2000- 3500) have been merged into a common pay scale of Rs. 6500-10500. Thus these two separate grades with hitherto separate recruitment rules are hereby merged into a single designation, post and grade viz. Private Secretary in the pay scale of Rs. 6500-10500 under the ICAR system. The recruitment rules for the post of Private Secretary under ICAR system existing in this grade and pay scale have, therefore, been revised accordingly and as such with the notification of the revised recruitment rules for the post of Private Secretary, there ceased to be any separate post with the designation as Senior Personal Assistant and all existing Senior Personal Assistants will henceforth be designated as Private Secretary."

6. It is stated that the above RRs were in force on the date of implementation of the recommendations of the 6th Central Pay Commission (6th CPC) i.e. 1st

January, 2006. The case of the Respondents before the CAT was that although the PSs and PAs at the IARI are discharging highly specialised and technical oriented jobs, they are denied parity in their pay structure.

7. The Respondents stated that consequent upon the recommendations of the 6th CPC, ICAR implemented the revised pay structure for the category of PSs by giving them a grade pay of Rs.4,800 in the PB-II of Rs. 9,300-34,800/- corresponding to the pre-revised pay scale of Rs.7,500-12,000/- with effect from 1st January, 2006 and on completion of four years in PB-II and PB-III of Rs. 15,600-39,100/-.

8. On the other hand, the Respondents working as PSs at IARI were given a revised pay structure in the PB band of Rs. 9,300-34,800/- corresponding to the pre-revised pay scale of Rs.7,550-11,500 with grade pay of Rs.4,600/- with effect from 1st January, 2006. This was done by notifying the CCS (RP) Rules, 2008 by Office Memorandum ('OM') dated 13th November, 2009 issued by the MOF. It is stated that those working as PAs at IARI have been given revised pay structure in PB-II of Rs. 9,300-34,800/- corresponding to the pre-revised pay scale of Rs.6,500-10,500/- together with grade pay of Rs. 4,200/-.

9. The Respondents complained of the above discrimination as being in violation of Articles 14, 16 and 21 of the Constitution. They submitted that in 1997 the Union Cabinet had approved parity in the pay scales of Assistants/PAs working at ICAR and its constituent units, including IARI. The Cabinet decision was notified by an Office Order dated 16th June, 1997. It was made clear by ICAR that the existing RRs for post of

Assistant/Stenographers (Grade II)/PA at the level of the institutes of ICAR would cease and that the existing RRs for the post of Assistant/PA at ICAR shall apply to all its constituents.

10. It was further stated that OA No. 1499/2009 (*V. K. Sharma v. Union of India*) was filed by the employees of ICAR. The said OA was disposed of by the CAT by order dated 22nd December, 2009 recognising the parity of Section Officers/Private Secretaries in ICAR with the Central Civil Services (CCS) and Central Subordinate State Service (CSSS) extending the benefit of the order dated 13th November, 2003 issued by the Department of Personnel and Training (DOPT).

11. It was pointed out by the Respondents that in para 3.1.9 of its report, the 6th CPC “has also emphatically stressed for removal of disparity and accorded the recommendations for implementation of the revised pay scales for common categories of staff in the Secretariat (including CSS as well as non-participating organization/ministries/departments) which have had a historical parity with the CSS/CSSS.”

12. The pay scales of the post of PAs/PSs in the ICAR were depicted in a tabular form as under as under:

Sl. No.	Name of Post	Group/Classification	4 th CPC scale of pay	5 th CPC Scale of Pay
1	Stenographer-Grade-III	Group C (Non Gazetted)/General Central Service (Ministerial) No.	1200-2040	4000-6000

		Gazetted		
2	Stenographer-Grade-II/PA	Group B (Non Gazetted)/General Central Service (Ministerial)	1400-2600 1640-2900 (Later revised w.e.f. 1.1.96)	5500-9000
3	Private Secretary	Group B (Gazetted)/General Central Service (Ministerial) Gazetted	2000-3500	6500-10500 *8000-13000/- (on completion of four years)

13. On the other hand, the hierarchy of the pay structure of IARI is as under:

Sl. No.	Name of Post	Group/Classification	4 th CPC scale of pay	5 th CPC Scale of Pay
1	Stenographer-Grade-III	Group C (Non Gazetted)/General Central Service (Ministerial) No. Gazetted	1200-2040	4000-6000
2	Stenographer-Grade-II/PA	Group B (Non Gazetted)/General Central Service (Ministerial)	1400-2600 1640-2900 (Revised by the Respondent No. 1/ ICAR in	5500-9000

			the year 1997 as per the decision of the Union Cabinet	
3	Private Secretary	Group B (Gazetted)/General Central Service (Ministerial) Gazetted	2000-3500	6500-10500

14. It is on the above basis that it was contended by the Respondents before the CAT that the difference in the pay scales of PAs/PSs of IARI when compared to the pay scale of their counter parts in the ICAR is discriminatory and violates the principle of equal pay for equal work on a collective reading of Articles 39(d) with Articles 14 and 16 of the Constitution.

Impugned order of CAT

15. In the impugned order the CAT referred to the fact that on 18th September, 1996 the Cabinet considered a note from the Ministry of Agriculture (MOA), Department of Agricultural Research and Education (DARE) and decided to make a special reference immediately to the 5th CPC. The 5th CPC sent a letter to the Secretary, DOE on 29th October, 1996 where *inter-alia* it was stated as under:

“It would therefore appears prima facie that employees of the ICAR, which is as Central autonomous organization being a Society registered under Societies Registration Act, 1860, are not covered by the Terms of Reference of this Commission. We have so far been not accepting any references from any

Ministry or Department of Central Government with regard to Central autonomous bodies.

In view of the fact, however, that in the present case there is a specific decision of the Union Cabinet, we would like you to clarify as to whether you would like this matter to be considered by us. In case you are in favour of the proposition, you may kindly extend the jurisdiction of this Commission to that extent by a formal Resolution amending the Terms of Reference of the Commission.

As we are about to complete our work, it will be appreciated if the matter is given the highest priority.”

16. The DARE took the stand that the recommendations of the CPC are not directly applicable to the employees of the Central Autonomous Bodies.

However, it was stated as under:

“Though the recommendations of the Pay Commission are not directly applicable to the employees of the Central autonomous bodies, it has been the practice to revise the scale pay of the employees of the Central autonomous bodies on the basis of general revision of scales of pay in the Central Government. Accordingly, the need for revision of scales of pay of Assistants/Stenographers working in the Institute under ICAR may be considered in consultation with the Ministry of Finance on the basis of the recommendations of the Fifth Central Pay Commission.”

17. Finally, pursuant to the decision of the Union Cabinet at its meeting held on 29th April, 1997 the extension of the revised pay scale of RS. 1640-2900 to the existing Assistants/Stenographers (Grade-II) working at ICAR was approved.

18. When the Respondents first approached the CAT by filing OA No.2083/2011 the CAT disposed of the OA with the direction to the MOF to re-examine the case of the PSs/PAs posted at various institutes of ICAR in the background of the Cabinet Note.

19. Following the above order of the CAT, ICAR issued an OM dated 7th September, 2012 in which it was noted that after acceptance of the recommendations of the 5th CPC the pay scale of PAs posted at the ICAR had been higher than their counter parts in the institutes. According to the MOF, since PAs posted in ICAR had “a historical parity with CSSS, they were given benefit at par with CSSS” while those in the institutes could not be given such benefit.

20. The CAT in the impugned order, after noticing the above developments observed as under:

“Once the Union Cabinet categorically viewed that Stenographers (Gr.II) posted at ICAR Hqrs Research Institutes cannot be treated differently and in acceptance of the said view, the benefit of_ Fifth Central Pay Commission was given equally to Private Secretaries/PAs in ICAR Hqrs and Research Institutes, after the recommendations of the VI CPC, they cannot be treated differently.”

21. The CAT also referred to the RRs of ICAR and the fact that those were made applicable not only to the ICAR Headquarters but also to its constituent institutes. It was held that there would be no justification in discriminating between the PAs and PSs at the ICAR Headquarters with those posted in institutes. It was held that the byelaws of the ICAR equally

applied to its Headquarters as well as its institutes.

22. As far as the judgment of this Court dated 14th January, 2013 in WP (C) No.1774/2001 (*IARI Stenographer's Welfare Association v. ICAR*) was concerned, the CAT observed that the only question in the said judgment was whether the pay parity accepted with effect from June, 1997 could have been antedated to 1st January, 1981 and answered the question in the negative. It was noticed that there was no occasion for this Court to consider whether PAs/PSs in the Institutes of ICAR should get the same benefit as those posted in the Headquarters.

23. Accordingly, by the impugned judgment the CAT disposed of the application filed by the Respondents with the direction to the present Petitioners

“to consider the claim of the applicant for the Grade Pay of Rs.4600 and Rs.4800 in, Pay Band-2 and Rs.5400 in Pay Band-3, having due regard to the fact that the Union Cabinet had accepted the pay parity between the employees of the Institutes of ICAR and its Headquarters and the benefit of Fifth Central Pay Commission was equally extended to them. In the event the unification of the Grades/cadres of the two services In Headquarters and Institutes is needed in the interest of administration and unification is considered as pre-condition to prescribe the same pay scale for the incumbents of the posts in the two categories in Headquarters and Institutes, it would be open to respondents, to do such exercise. The pay parity in the Institutes as recommended by Cabinet Note may not be disturbed by the administrative machinery and such decision has to be taken at the level of the Union Cabinet only.”

24. This Court has heard the submissions of Mr. Praveen Swarup, learned counsel appearing for the ICAR, Mr. S.S. Lingwal, learned counsel appearing for the MOF and Mr. Nalin Kohli, learned counsel for Respondent No.1.

25. At the outset it requires to be noticed that the demand of the Respondents 'for parity of pay scales' has had the full support of the MOA as well as the ICAR. However, the ICAR appears to have been asked to file the present petition and been made to change its stand to question the impugned order of the CAT.

Note of the Ministry of Agriculture

26. In the proposal prepared by the MOA and placed before the Union Cabinet regarding adoption of the revised pay scale of Rs.1640-2900 for Assistants as Stenographers (Grade-II) working at the ICAR Institutes as well as ICAR, it has been mentioned that prior to the re-organisation of ICAR it was a department attached to the Government of India under the Ministry of Food and Agriculture. In the attached department there were two categories of employees, viz., central government employees and employees of the ICAR society. Both categories drew the same pay and allowances with the same service conditions.

27. When ICAR was reorganised in 1966, government employees working in the ICAR as well as in the Ministry of Food and Agriculture were given an option to continue in the service of the ICAR. In the option papers a commitment was made in consultation with the Ministry of Law and the

MOF as under:

"Grant of pay, leave, traveling and other allowances and other service conditions of the said staff shall be regulated mutatis mutandis in accordance with the Fundamental and Supplementary Rules and such other rules and orders as are issued by the Govt. of India from time to time".

28. It was further mentioned that under Bye-law 30 (a) Employees of the ICAR are governed by the same service and financial rules as framed by the Government of India unless a specific provision in that regard has been made by the society. The said bye-law reads as under:

“Bye-Law 30 (a) Except in regard to matters for which specific provision has been made in the Rules, Bye-laws, Regulations or orders made or issued by the Society, the service and Financial Rules framed by the Government of India from time to time shall apply mutatis mutandis to the employees concerning their conditions of service.

(b) Notwithstanding anything contained in this Byelaw, the Governing Body shall have the powers to relax the requirement of any rule mentioned in (a) above by this Bye-law to such extent and subject to conditions as may be considered necessary.”

29. The note also mentioned how the earlier CPCs had made recommendations for adopting the scale of pay of Assistants/PAs in the CSS/CSSS for their counter parts in the ICAR Headquarters as well as the institutions in a tabular form as under:

	Scale of pay adopted for the Assts/PAS	Scale of pay adopted for the Asstts/Stenographers (Gr.II) at ICAR Hqrs	Scale of pay adopted for the Asstts/Stenographers (Grade II) at
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	in CSS/CSSS		the ICAR research Institutes
As recommended by 1 st Pay Commission	Rs.160- 450	Rs. 160-450	Rs. 160-450
2 nd Pay Commission	Rs.210- 530	Rs.210-530	Rs.210-530 Rs.210-425*
IIIrd Pay Commission	Rs.425- 800	Rs.425-800	Rs.425-700
IVth Pay Commission	Rs.1400- 2600 Revised to Rs.1640- 2900	Rs.1400-2600 Revised to Rs.1640- 2900**	Rs.1400-2600 (Stenographer s) Rs.1400- 2300

30. Thus, there was no problem of implementation upto the stage of the 2nd CPC. It is only from the 3rd CPC that a problem arose. While Assistants and Stenographers of the ICAR were granted a pay scale of Rs.425-800/- the same pay scale could not be adopted for the counter parts in the institutes performing similar duties. The note mentioned that:

“this anomalous position was absolutely unwarranted and unjustified considering that after getting its autonomous status in 1966 the ICAR became a central autonomous body being a Society registered under the Societies Registration Act, 1860. The ICAR Hqrs and its different Research Institutes constituted its constituent units and therefore there could not be any valid ground or rationale for any disparity of pay scale between the same grade, post and category of employees working at the different constituent units of ICAR.”

31. The note drew attention to Rule 2 (k) of the Rules and Bye-laws of the

ICAR Society where the expression “the Constituent Units of the Society” meant the ICAR HQ, its research institutions, regional and sub-stations, research laboratories and co-ordinated projects. A reference has also been made to the ICAR’s sister research organisations, viz., the Council of Scientific Industrial and Research (CSIR) and Indian Council of Medical Research (ICMR) which are two central autonomous bodies on the pattern of the ICAR registered under the Societies Registration Act, 1860.

32. The note pointed out that the above anomaly did not cause much of resentment since in actual practice it did not cause too much disparity. By the time the employees reached the maximum of Rs.700/- he/she normally stood chance of promotion to the next grade. However, with the 4th CPC there was a noticeable and substantial difference in the scales. While ICMR and CSIR adopted a uniform pay scale of Rs.1640-2900/- for all their PAs/PSs whether they were working at the HQ or in the research labs/Institutes, those working in the ICAR HQ were denied the pay scale of Rs. 1640-2900/- and granted only Rs. 1400-2300/- or Rs. 1400-2600/-.

33. The note also mentioned how looking at the long standing grievance of the employees of the institutes of the ICAR, the ICAR itself appointed a High Power Committee in June, 1995 which submitted a report in May, 1996 and strongly recommended for the immediate removal of the disparity in pay scale of similar category, grade and post of employees working at the HQ and research Institutes and for adoption of uniform RRs and service conditions as in the case of ICMR and CSIR. To quote the Committee:

"The Committee is fully convinced that there is not any justification for this difference in the scale of pay, especially when the channels of recruitment and duties are the same. The ICAR Rules and Bye-laws visualize the ICAR Hqrs, Research Institutes, Regional and Sub-stations, Research Laboratories etc. and coordinated Projects managed and administered by the Society as "the constituent units of the Society" vide Rule 2 (K), at par with each other. The Committee strongly recommends that the pay scale of Assistants at ICAR Hqrs and the Institutes/NRCs/ Directors, should be at par and as has been done in the case of the former, be revised to Rs. 1640-2900"

34. Similarly in the case of Stenographers:

"The Committee recommends that the disparity in the pay scales of Stenographers at the ICAR Institutes/NRCs/Directorates etc. and the ICAR Hqrs be removed by equating them and their pay scales revised from Rs. 1400-2600 to Rs. 1640-2900."

35. The recommendations of the Committee were examined and accepted in principle by the ICAR. In the note prepared for the Union Cabinet, it was stated

"because the adoption of uniform pay scales, service conditions and recruitment rules for the similar post, grade and category of employees doing same duties in the different constituent units of ICAR, and their interchangeability, transferability and mobility within ICAR as in the case of sister research organizations i.e. ICMR and CSIR, is seen as an unavoidable and urgent necessity to extinguish a persistent and perennial cause of resentment and frustration amongst a group of its employees, and to foster a true spirit of team work which is a hallmark of any scientific organization like ICAR."

36. The note also dealt with the objections then raised by the DOE in the

MOF and disagreed with the contention of the DOE about the mode of recruitment in the two streams being different. It was emphasized that when seen in the correct perspective, employees under the ICAR were doing “same duties and working on the same post”. It was further pointed out that the posts of Assistants Stenographers at the institution of the ICAR had the same classification and were comparable in every respect of the posts of Assistant Stenographers at the ICAR HQ as well as ICMR and CSIR.

37. When the Cabinet note was referred to the Department of Personnel and Training (DOPT) it was stated that all matters relating to pay and allowances should be referred to the 5th CPC. The MOA however disagreed and urged that the anomaly was required to be removed “immediately and before the implementation of the 5th Pay Commission to avoid its further percolation.” It was further pointed out that financial implications were not going to be significant and that about 970 employees were affected.

38. However, the note of the MOA ended up with the Cabinet making a reference of the issue to the 5th CPC. The recommendations of the 5th CPC in its letter to the MOF has been referred to hereinbefore. MOF however did not agree with the proposal. In view of the above correspondence, the MOA initiated another note dated 7th April, 1997 to the Cabinet reiterating its demand for grant of parity in pay scales.

39. Finally, pursuant to the decision of the Union Cabinet held in its meeting dated 29th April, 1997 the note was approved and an order dated 16th June, 1997 was passed unifying the cadres of Assistants/Stenographers (Grade-II)

at the ICAR HQ and its research Institutes with immediate effect. The Cabinet also approved the extension of the revised pay scale of Rs. 1640-2900/- to the existing Assistants/Stenographers (Grade-II) working at the ICAR Research Institutes with immediate effect.

40. Respondent No.1 approached CAT by filing OA No. 2083/2011. However, when a direction was issued by the CAT in the said OA to the MOF to re-examine the case of the PSs/PAs, ICAR issued a memorandum dated 7th September, 2012 taking the view that after acceptance of the 5th CPC the pay scale of PAs at the ICAR had been on the higher side than those of the ICAR institutes and therefore the request could not be acceded to.

Stand of the Department of Expenditure

41. This Court has perused the note dated 28th January, 2016 of the DOE in the MOF regarding implementation of the impugned judgment of the CAT. The said note reads as under:

“1. Ministry of Agriculture may please refer to their notes at prepage regarding implementation of CAT (PB), New Delhi order dated 1.7.2014 in OA No.3763/2012 led by Stenographers Welfare Association of IARI, New Delhi for grant of Grade Pay of Rs.4600/- to Personal Assistant and S.P. of Rs. 4800/- and after completion of 4 years service Non Functional Pay Scale of PB-3 Rs.15600-3910Gwith Grade Pay of RS.540Q/- to Private Secretaries in institute of Indian Council of Agricultural Assistant(ICAR) at par with that of Headquarters of ICAR.

2. The matter has been examined in this department and it is observed that:

(i) The benefit of pay scale of Rs.4800/- to SO/PS and Rs.5400/- after 4 years of service was granted in C5IR without the approval of this department. Since the concurrence of this department was not obtained before the above said upgradation, they have been requested to withdraw the upgraded pay scale.

(ii) Retired judges of Supreme Court, on consultation has clear cut mentioned I that the order of CAT dated 01.07.2014 is not correct and is required to be challenged before the High Court.

(iii) The case filed against the CAT order dated 01.07,2014 is still in progress and ICAR may wait for final outcome of the writ petition filed in the High Court. Once the court case is finalized in the High Court, further appropriate action will be considered;

(iv) It is seen that the pay scales of Assistant/PAs in ICAR Headquarters and ICAR Institute were different in the 3rd CPC also. The pay scale of first was 425-800 whereas the latter was in 425-700, It means that difference in pay scale between Headquarters staff and Institute staff is not new phenomenon,

(v) As recommended by 6th CPC, the same pay scale was required to be given in ICAR Headquarter and ICAR Institute only after unification of both the cadres which implies that both are different cadres. It is also felt that despite recommendation, AM has felt difficulty in merging these two cadres due to administrative problem. It implies that the merger/unification of these cadres will create major problems from function point of view.

In view of the above, the proposal for upgradation of grade pay from Rs. to the Assistant/PAs and Rs, 4800/- &Rs, 5400/- (after 4 years) to SO/PSs the ICAR Institutes may not been agreed to.”

Objections of DOE untenable

42. During the pendency of the present matter, the Court was informed that

after the impugned order of the CAT, the governing body of the ICAR had passed a resolution which had been sent to the MOF for action. This was noted in the order dated 21st November, 2016 and the petition was adjourned to 7th February, 2017 with the “hope and trust” that the Petitioners would be able to take a firm stand on the next date of hearing”. However, what this resulted in was an additional affidavit being filed by the Petitioners on 28th February, 2019 reiterating the stand that grant of parity would disturb “vertical and horizontal relativities.”

43. Reference has been made to a note of the Department of Legal Affairs dated 26th April, 2018 which reads thus:

“Once the issue of historical parity between the Assistants/SOs of ICAR 1-headquarters with those of CSS has been upheld by the High Court and SLP against the same was dismissed, the issue of historical parity between the employees of ICAR Headquarters with the officers of CSS appears to have attained finality. In absence of any specific recommendation in the 7th CPC to downgrade the pay scales and disturb the said parity by suo-moto review by the Government may amount to contempt of Court and will definitely invite numbers of litigations.”

44. It thus appears to the Court that it is only the DOE which is opposed to the grant of parity in pay scales to the PAs/PSs of IARI on par with their counterparts in the ICAR HQ. Each of the objections raised by the DOE have in fact been dealt with by the CAT in the impugned judgment. As far as the unification of both cadres is concerned, this has already been accepted. The mere fact that the MOA might have had difficulty in merging of the cadres would not justify the denial of parity of pay scale.

45. It was submitted on behalf of the Petitioners that there is an additional post of PPS created in the ICAR HQ. However, that is an intermediate post and does not affect equating the pay scales of PAs/PSs posted at the Institutes and the ICAR HQ. This, therefore, cannot be a valid justification to deny parity of pay scale. The historical differentiation brought about by the 3rd CPC was what led to the entire litigation and therefore it is futile for the DOE to fall back on that disparity to justify its continuance.

46. To the Court it appears that the real objection of the DOE is only that the earlier benefit of pay scale of Rs. 4,800/- to SO/PS and Rs. 5400/- after four years of service was granted “without the approval” of the MOF. That by itself cannot be a justification to deny parity of pay scale.

Case law cited by the Petitioners

47. Learned counsel for the Petitioners sought to place reliance on the decision in ***State of Haryana v. Tilak Raj AIR 2003 SC 2658*** which is a decision essentially on equal pay for equal work in different organisations and not within two sets of employees in the same organisation as in the present case. For that matter, the reliance on ***S. C. Chandra v. State of Jharkhand AIR 2007 SC 3021*** is also misplaced.

48. While as a broad proposition as explained in ***State of U.P v. J.P. Chaurasia AIR 1989 SC 19*** there had to be a detailed study of the job profile in two different posts, in the present case the detailed note prepared by the MOA itself explains in great detail that functionally the task

performed in the two posts of PSs/PAs whether at the ICAR Headquarters or at the other institutes are not different. The Court finds that there is no basis for continuing to differentiate in the pay scales of PAs/PSs working in the ICAR Headquarters and institutes.

49. As rightly pointed out in the impugned order of the CAT the earlier decision of this Court in *ICAR Stenographer's Association v. ICAR* (*supra*) was on the limited aspect of the retrospective nature of the proposal to equate the pay scales with effect from 1st January, 1997 and did not actually address the issue whether there was justification in differentiating in the pay scales of PAs/PSs of the IARI and their counterparts in the ICAR HQ.

50. For all of the aforementioned reasons, the Court finds no grounds having been made out by the Petitioners for interference with the impugned order of the CAT.

51. The petition is accordingly dismissed. The pending application is also dismissed.

S. MURALIDHAR, J.

TAWANT SINGH, J.

SEPTEMBER 19, 2019

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