

**Indian Council of Agricultural Research Through the
Director General and Anr.**

v.

Rajinder Singh and Ors.

(Civil Appeal Nos. 97-98 of 2012)

22 August 2024

[J.K. Maheshwari and Rajesh Bindal,* JJ.]

Issue for Consideration

Employees working on the technical side in the Agricultural Research Service, if entitled to two advance increments given to the Scientists in Agricultural Research Service on acquiring Ph.D. degree in their service career.

Headnotes[†]

Service Law – Incentives – Grant of two advance increments on acquiring Ph.D. degree to Scientists in Agricultural Research Service – Employees working on the technical side in the Agricultural Research Service seeking the same benefit – Allowed by the tribunal and the High Court – Correctness:

Held: Benefit of two advance increments for acquiring Ph.D. qualification was part of the pay package of the Scientists – Similar benefit was not extended to the technical personnel – For technical personnel, the appellants had adopted the revised scales as recommended by the Government of India for Central Government employees – Merely because Study Leave Regulations, 1991 were extended to technical personnel, would not entitle them to other benefits which are available to the scientists – Merely after having Ph.D. qualification, the technical personnel would not become eligible for grant of two advance increments when the same has not been recommended for them – In any institution incentives may be given to a particular category of employees to get higher qualifications during service, considering their job requirements – Merely because different set of employees, who may be working in aid but governed by different set of rules and having different duties to discharge also obtain that qualification, would not entitle them to the benefits which were extended to different set of employees by the competent authority – Art. 14 would not have any application –

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Tribunal and High Court erred by equating technical personnel and scientists and granting respondents advance increments to which they are not entitled to – Additional qualification merely makes them eligible for the higher post in the different cadre and not to grant them benefits, attached to the higher post in a different cadre – Impugned orders passed by the High Court and the tribunal set aside. [Paras 9, 10, 10.1, 10.2, 11]

List of Acts

Societies Registration Act, 1860; Agricultural Research Service Study Leave Regulations, 1991; Constitution of India.

List of Keywords

Incentives; Two advance increments on acquiring Ph.D. degree; Scientists in Agricultural Research Service; Employees on the technical side in the Agricultural Research Service.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos.97-98 of 2012
From the Judgment and Order dated 21.07.2010 of the High Court of Delhi at New Delhi in WP Nos. 3364 and 3365 of 2004

Appearances for Parties

Praveen Swarup, Ameet Siingh, Ms. Payal Swarup, Ms. Aditi Singh, Devesh Maurya, Syed Zafar Husain, Baij Nath Yadav, Ravi Kumar, K. P. Singh, Advs. for the Appellants.

Dr. K. B. Sounder Rajan, Sr. Adv., Sudarshan Rajan, Mahesh Kumar, Ms. Srishti Sharma, Ramesh Rawat, Rohit Bhardwaj, Hitain Bajaj, Sachin S, Ashutosh Gupta, Nand Ram, Advs. for the Respondents.

Judgment / Order of the Supreme Court

Judgment

Rajesh Bindal, J.

1. The appellants are aggrieved by an order dated 21.07.2010 passed by the High Court¹ in Writ Petition² filed against the order dated

¹ High Court of Delhi

² W.P.(C) Nos. 3364-65/2004

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18.07.2003³ passed by the Tribunal⁴. The Tribunal had allowed the application filed by the respondents, extending them the benefit of the scheme⁵ dated 27.02.1999 in terms of which a scientist was eligible for two advance increments as and when he acquires a Ph.D. degree in his service career.

2. Briefly the facts as are available on record are that the appellant No.1-Indian Council of Agricultural Research (ICAR) before this Court is a Society registered under the Societies Registration Act, 1860. It is engaged in agricultural research. On 01.10.1975, the appellant No.1 constituted two services namely Agricultural Research Service (in short “ARS”) and Technical Service (in short “TS”). These are governed by two sets of Service Rules. The nature of duties performed by the incumbents employed under the two services are totally different.

2.1 The pay scales of the employees of the Central Government were revised on the recommendations of the Fifth Central Pay Commission. The appellant/ICAR issued a scheme vide letter dated 27.02.1999 to all field offices informing them about the revision of pay scales of the scientists working with the appellants. The communication provided for existing pay scales and the corresponding new pay scales for the Scientists, Scientists (senior scale), Scientists (selection grade/Senior Scientists), Principal Scientist and other Senior Officers.

2.2 Clause (ii) of the aforesaid communication provided for incentives for Ph.D./M.Phil. Sub-clause (d) which is relevant for the case at hand provided that a ‘scientist will be eligible for two advance increments as and when he acquires a Ph.D. degree in his service career’. The aforesaid clause is the root cause for the litigation in question.

2.3 The respondents who are working on technical side in Indian Agricultural Research Institute (for short “IARI”), a unit under the appellant No.1 approached the Tribunal by filing an application⁶

3 Passed in OA No. 2939/2002

4 Central Administrative Tribunal, Principal Bench, New Delhi

5 Order No. 1 (15)98-Per IV of Indian Council of Agricultural Research, Krishi Bhavan, New Delhi

6 Original Application No. 1536/2002

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for a direction to the appellants for grant of advance increments to them in terms of letter dated 27.02.1999 on acquiring the Ph.D. degree as was applicable in the case of scientists. The Tribunal *vide* order dated 06.06.2002 directed the appellants to consider the representation made by the respondents claiming the aforesaid relief.

- 2.4 In terms of the directions issued by the Tribunal, the appellant/ ICAR considered the representation and rejected the same *vide* memorandum dated 02.08.2002. It was mentioned therein that the appellant had categorized its staff as scientific, technical, administrative, auxiliary and supporting staff. Each of the categories were governed by separate set of rules and had independent cadres. The recruitment of the scientists was at the entry level of ₹8,000-13,500 and made on All India basis through a written competitive examination followed by interview whereas in technical service there were 3 categories i.e. grades I, II and III. The recruitment in these categories was made at the institute level. The appellants had adopted UGC pay scales for scientists in ARS with effect from 01.01.1986 and award of advance increments to the scientists in ARS for having Ph.D. qualification during service was part and parcel of the pay package applicable to the scientists. As respondents are part of the technical service, the pay scales as recommended by the Government of India for the Central Government employees were adopted. There was no additional incentive to the respondents for Ph.D. qualification, if obtained during service career.
- 2.5 Aggrieved against the aforesaid order, the respondents filed OA No. 2939/2002 before the Tribunal. The same was allowed *vide* order dated 18.07.2003. Aggrieved against the same the appellants preferred Writ Petitions before the High Court, which were dismissed. The said order is under challenge in the present appeals.
3. Learned Counsel for the appellants submitted that the Tribunal, while allowing the application filed by the respondents had travelled beyond the jurisdiction vested in it. It was wrongly opined that both categories of employees, namely the scientists and technical personnel, are working with the appellant for the same object, hence,

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there should not be any distinction. If the scientist were granted two advance increments on acquiring Ph.D. qualification during service, the respondents should not have been discriminated. The Tribunal could not have ventured into this aspect of the matter as the competent authority, in its wisdom, had granted the benefit of two advance increments to the category of employees, who deserved it. Merely because other sets of employees also obtained the same qualification, they will not be eligible to get those benefits.

- 3.1 He further submitted that extension of ARS Study Leave Regulations, 1991 to the technical personnel had nothing to do with grant of advance increments. It was merely to encourage them to improve their qualifications with no promise of any financial benefit. The writ petition was dismissed by a cryptic order. The High Court upheld the order of the Tribunal on wrong premise by invoking Article 14, trying to equate the scientist and technical staff, merely because they are working with the appellants. They are governed by different sets of rules and belong to different cadres.
- 3.2 The prayer in the present appeal is to set aside the order of the Tribunal as well as the High Court and rejection of the application filed by the respondents before the Tribunal.
4. On the other hand, learned Senior Counsel appearing for the respondents relied upon Entry 66 in List I to the 7th Schedule attached to the Constitution of India which deals with determination of standards in institutions for higher education or research and scientific and technical institutions. The submission was that the words 'research' and 'technical' have been mentioned in the same Entry. Even if the scientists were directly engaged in research, the respondents are working on the technical side. As the added qualification of Ph.D., made their assistance in research better, the relief claimed by them was rightly allowed by the impugned order.
 - 4.1 It was further submitted that Study Leave Regulations, 1991 which were applicable to the scientists were made applicable to the technical personnel, in terms of which they were entitled to get study leave for a period of 3 years for undertaking Ph.D. program. This establishes that they were being equated with the scientists and the study leave granted for undertaking

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program was to enable them to assist the scientists in a better way. Hence, the benefit of two advance increments, which are admissible to the scientists, was rightly awarded to the respondents.

- 4.2 He further referred to a Circular⁷ dated 01.05.1995 in terms of which the names of the technical staff who have obtained Ph.D. qualification will also be permitted to be included in the research projects/papers/reports, in addition to other scientists. It was further argued that when the technical personnel acquires a Ph.D. qualification, they become eligible for lateral entry to the scientists cadre. Hence, the qualification has relation with the scientist cadre.
- 4.3 The submission is that there is no error in the orders passed by the High Court as well as the Tribunal. Grant of advance increments merely encouraged the respondents and the other technical personnel to improve their qualifications and contribute more efficiently to the research.
5. Heard Learned Counsel for the parties and perused the relevant referred record.
6. The root cause of the litigation is the circular dated 27.02.1999 *vide* which the pay scales of the scientists working with the appellants were revised after acceptance of the recommendations by the Fifth Central Pay Commission. The relevant clause is extracted below:

“(ii) Incentives for Ph.D./M.Phil

- (a) Four and two advance increments will be admissible to those who hold Ph.D. and M.Phil degrees, respectively, at the time of recruitment as Scientists.
- (b) One increment will be admissible to those scientists with M.Phil degree who acquire Ph.D. within two years of recruitment.

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- (c) A Scientist with Ph.D. will be eligible for two advance increments when he moves into the Selection Grade as Sr. Scientists.
- (d) A Scientist will be eligible for two advance increments as and when he acquires a Ph.D. degree in his service career."

(emphasis supplied)

7. The argument raised by the appellants is that it constituted two services, namely Agricultural Research Service (ARS) and Technical Service (TS) on 01.10.1975. Both the services are governed by their independent sets of rules having different cadres and different promotional avenues.
8. Reliance was placed on Bye-laws 21 of Rules and Bye-laws of ICAR, which classified scientific and technical categories. The same is extracted below:

“(A) SCIENTIFIC: Scientific personnel shall be those who are engaged in agricultural research and education (including extension educational whether in physical, statistical, biological, engineering, technological or social sciences. This category shall also include persons engaged in planning, programming and management of scientific research.

(B) TECHNICAL: Technical Personnel shall be those, who perform technical service in support of research and education whether in the Laboratory, Workshop or Field, or in areas like Library, Documentation, Publication and Agricultural Communication.”

9. At the time of argument, it was not denied by the respondents that they are governed by different set of rules, have their own channel of promotion, and different qualifications prescribed for recruitment. The duties assigned to them are also different as compared to the scientists, who are engaged in core work of agricultural research and education whereas the respondents being technical personnel provide support in different areas. It is further the stand of the appellants that the scientists belonging to Agricultural Research

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Service are getting UGC pay scales with effect from 01.01.1986. The benefit of two advance increments for acquiring Ph.D. qualification was part of their pay package. Similar benefit was not extended to the technical personnel. For technical personnel, the appellants had adopted the revised scales as recommended by the Government of India for Central Government employees.

10. Merely because Study Leave Regulations, 1991 were extended to technical personnel, this would not entitle them to other benefits which are available to the scientists. The idea of grant of study leave for pursuing Ph.D. to the technical personnel was only to enable them to improve their qualifications.

- 10.1 Merely after having Ph.D. qualification, the technical personnel will not become eligible for grant of two advance increments when the same has not been recommended for them. In any institution incentives may be given to a particular category of employees to get higher qualifications during service, considering their job requirements. Merely because different set of employees, who may be working in aid but governed by different set of rules and having different duties to discharge also obtain that qualification, will not entitle them to the benefits which were extended to different set of employees by the competent authority. In the said sequel of facts, Article 14 of the Constitution of India will not have any application.

- 10.2 The Tribunal and High Court have erred by equating technical personnel and scientists and granting respondents advance increments to which they are not entitled to. The argument raised by the respondents that after obtaining the Ph.D. qualification, the Technical Staff are entitled to be considered for lateral entry into the scientists is also to be noticed and rejected as the additional qualification merely makes them eligible for the higher post in the different cadre and not to grant them benefits, which are attached to the higher post in a different cadre. Similar is the position regarding Entry 66 in List I to the 7th Schedule attached to the Constitution of India. The contents of the Entries in 7th Schedule only prescribe limits of the powers of the Parliament or the State Legislature to enact laws.

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11. For the reasons mentioned above, we find merit in the present appeals. The same are allowed. The impugned orders passed by the High Court and the Tribunal are set aside. The Original Applications filed by the respondents before the Tribunal are dismissed. No order as to costs.

Result of the case: Appeals allowed.

[†]Headnotes prepared by: Nidhi Jain