

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00384/2015

Date of Order: This, the 26th Day of November, 2019

**THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER
THE HON'BLE MR. N. NEHSIAL, ADMINISTRATIVE MEMBER**



1. Sri Harakanta Hazarika
Son of Late Moniram Hazarika
Eri Silkworm Seed production Centre
Azara, Assam, at present residing
at City Heart Apartment, Block-3,
A-2, Soniram borah Road, Lachit
Nagar, P.O. Lachit Nagar, District
– Kamrup, Assam.
2. Dr. Amal Bhattacharya
Son of Late B.N. Bhattacharya
Regional Office, Guwahati, at
present residing at H.No. – 1, Bye
Lane 1, Ushanagar, P.O. – Dispur,
District – Kamrup, Assam.
3. Dr. Jibon Ch. Dhekial Phukan
Bhetapara Vidya Mandir Path,
Synergy Paradise, C-1, 5th Floor,
Guwahati – 29.
4. Sri Aswatha Reddy
Regional Silk Technological
Research Station, Khanapara,
Assam.
5. Sri Ravikumar, D
Regional Silk Technological
Research Station, Khanapara,
Assam.

6. Sri Soni Vijaykumar Ram Das
Regional Silk Technological
Research Station, Khanapara,
Assam.
7. Dr. Binita Tamuli Kakati
Regional Office, Guwahati.
8. Sri Prabhat Borpuzari
Silkworm Seed Production Centre
Kaliabari, Assam.
9. Ms. Bidyapati Devi
Regional Tasar Research Station,
Imphal.
10. Ms Reeta Luikham
Regional Tasar Research Station,
Imphal.
11. Ms Nizora Bhuyan Baruah
Muga Silkworm Seed
Organization, Guwahati.
12. Sri Banka Behari Singha
Eri Silkworm Seed Production
Centre, Azara, Assam.
13. Dr. Reena Choudhury
Muga Silkworm Seed
Organization, P3, Nongpoh,
Meghalaya.
14. Sri Uttam Chandra Borua
Muga Silkworm Seed
Organization, P3, Rompara,
Meghalaya.
15. Dr. N. Ibotombi Singh
Central Muga & Eri Research and
Training Institute, Lahdoigarh,
Jorhat.
16. Sri Tushar Kanti Biswas



Regional Sericulture Research
Station, Jorhat, Assam.

17. Ms Mamani Sahu
Eri Silkworm Seed Production
Centre, Azara, Assam.

18. Dr. K. Chaoba Singh
Regional Tasar Research Station,
Imphal.

19. Dr. K. Giridhar
Central Muga & Eri Research and
Training Institute, Lahdoigarh,
Jorhat



20. Dr. Gajendra Pal Singh Regional
Muga Research Station, Boko,
Assam.

21. Sri Ananda Krishna Gogoi
Regional Muga Research Station,
Boko, Assam.

22. Sri Premananda Borgohain
Regional Eri Research Station,
Mendipathar, Meghalaya.

23. Sri Brajendra Choudhury
Central Muga & Eri Research and
Training Institute, Lahdoigarh,
Jorhat.

24. Dr. Ranjana Das
Central Muga & Eri Research and
Training Institute, Lahdoigarh,
Jorhat.

25. Sri Probin Kumar Handique
Central Muga & Eri Research and
Training Institute, Lahdoigarh,
Jorhat.

26. Dr. Mridul Chandra Sarmah

Central Muga & Eri Research and Training Institute, Lahdoigarh, Jorhat.

27. Sri Girin Rajkhowa
Central Muga & Eri Research and Training Institute, Lahdoigarh, Jorhat.

28. Sri Dulal Goswami
Central Muga & Eri Research and Training Institute, Lahdoigarh, Jorhat.



29. Sri MattiPalli Sankar
Regional Sericulture Research Station, Jorhat, Assam.

30. Dr. Yumnam Debaraj
Regional Sericulture Research Station, Jorhat, Assam.

31. Dr. Anukul Barah
Research Extension Centre, Dimapur, Nagaland.

32. Dr. Sumendra Nath Gogoi
Regional Sericulture Research Station, Jorhat, Assam.

33. Sri Benedict Basumatary
Research Extension Centre, Mongoldoi, Assam.

34. Sri Sarat Kumar Saikia
Research Extension Centre, Lakhimpur, Assam.

35. Sri Rabi Ram Basumatary
Research Extension Centre, Sub Unit, Kokrajhar

36. Dr. Bijoy Kumar Singh

Muga Silkworm Seed
Organization, Guwahati.

...Applicant

-Versus-

1. Union of India
Represented by the Secretary
Ministry of Textiles, Udyog
Bhawan, New Delhi -1.
2. The Central Silk Board
A statutory Body represented
through the Member Secretary
having his Office at BTM Layout,
Madivala, Bangalore.

...Respondents



By Advocate: Sri P D Nair, Sri G Alam, Sri H Rahman & Sri
D Nag

By Advocate: Sri B Pathak for Respondent no.2

ORDER (ORAL)

MANJULA DAS, JUDICIAL MEMBER:

In this second round of litigation, the applicants
are seeking the following relief(s):-

“8.1 to set aside and quash the impugned Circular letter dated 27.09.2013 (ANNEXURE: A9) and declare the action of the respondents in depriving the applicants of their legitimate rights to get the promotion under the FCS with all consequential benefits including the further promotion accrued and becoming due from time to time as illegal and arbitrary and direct the respondent No. 2 to consider their respective promotion under FCS.

8.2 to pay all the consequential arrear benefits as accrued and become payable to the applicants and/or pass any other order relief to which the applicant is found entitled to under the law and the facts and circumstances of the case and;

8.3 Cost of the application"



2. The applicants are/were scientists in the Central Silk Board (CSB) which is a constitutional body under Section 4 of the CSB Act, 1948. Some of them have retired on attaining the age of superannuation and some of them are still in service. Following the 5th Central Pay Commission, the Government of India by order dated 09.11.1998 introduced the Flexible Complementing Scheme (FCS) for Scientists and Technologists holding Scientific posts in Scientific and Technological Department. The CSB and its research institutes were recognized as S&T organization w.e.f. 30.07.2001, but the said scheme was adopted by the CSB w.e.f. 30.08.2006 prospectively. The present applicants have earlier filed OA. No.167/2014 claiming they are similarly circumstanced to the OA.75/2008 decided by CAT Ranchi Circuit Bench on 13.01.2009, upheld by the Hon'ble High Court of Jharkhand and also by the Hon'ble Supreme Court and therefore prayed similar relief. Vide order

dated 03.02.2015, said OA was disposed directing disposal of representation to consider the applicability of the above judgments. The respondents vide the order 24.04.2015 rejected the claim of the applicants. Therefore, the applicants have again approached this Tribunal vide this OA seeking relief(s) quoted above.



3. The respondents have filed a detailed counter reply denying and disputing the claim of the applicants. They have contended that Hon'ble Supreme Court had restricted the benefits to only 15 scientists who were before the CAT, Ranchi Circuit Bench as applicants and as respondents in SLP No.11219/2012, therefore, the present applicants are not entitled to such benefits. The respondents further contended that applicants were fence sitters and have approached this Tribunal after a lapse of nearly 9 years after the FCS benefits were made applicable in 2006, therefore, their claim is barred by limitation.

4. We have heard Sri H Rahman, learned counsel for the applicants and Mr B Pathak, learned counsel for the Central Silk Board, perused the materials and also the decisions relied upon. Learned counsel for the applicants

specifically submitted that CAT Ranchi Circuit Bench vide order dated 13.01.2009 in OA.75/2008 had directed the CSB to grant benefit of FCS to the scientists working in CSB and its research institutes from 30.7.2001 with all consequential benefits with 4 months. Said decision had been upheld by the Hon'ble Jharkhand High Court and Hon'ble Supreme Court. Similar views have been taken by the Cuttack and Bangalore Benches of this Tribunal. Learned counsel therefore, prayed for similar benefits.



5. Learned counsel for the respondents submitted that the department had already considered their cases pursuant to the earlier order of this Tribunal. Learned counsel submitted that though the issue is similar to the issue decided by the Ranchi Circuit Bench, the Hon'ble Supreme Court had restricted the benefits to the applicants before the Ranchi Circuit Bench only and the said benefits cannot be extended to the present applicants. According to the learned counsel, present applicants are fence sitters all along and were watching the result of the OA before the CAT Ranchi Circuit Bench and only after the Hon'ble Supreme Court's orders, as mentioned above, they have approached this Tribunal

after a lapse of nearly 9 years from the date extending the benefits of FCS w.e.f. 30.08.2006. Learned counsel further submits that order passed by the Cuttack Bench was assailed before the Hon'ble High Court of Orissa which is still pending.



6. We have found that the applicants have not challenged the rejection order dated 24.04.2015 passed by the respondents in terms of the directions of this Tribunal in the earlier OA.167/2014 in this proceeding. Though the respondents have rejected the prayer of the applicants vide order dated 24.04.2015, subsequently the Bangalore Bench vide order dated 04.07.2017 in OA.742-808/2013 and series and Cuttack Bench vide order dated 06.08.2015 in OA.959/2013 have allowed similar prayer of the applicants therein. Therefore, the matter needs reconsideration by the respondents. During the course of hearing learned counsel for the parties have agreed that let the respondents be directed to verify their case with the applicants of above referred OAs. Accordingly, respondent no.2 is once again directed to verify the case of the present applicants with the applicants of OA.75/2008 before the CAT Ranchi Circuit Bench, as

upheld by Hon'ble High Court and Hon'ble Supreme Court; applicants of OA.959/2013 decided by Cuttack Bench on 06.08.2015; and the applicants of OA. Nos.742-808/2013 and series decided by Bangalore Bench on 04.07.2017. If on such verification, the applicants are found to be similarly situated with the applicants of those cases, similar benefits shall be granted to the present applicants also. The entire exercise shall be completed with utmost expedition but not later than four months from the date of receipt of this order.



7. The OA is disposed of accordingly. There shall be no order as to costs.

(N. NEIHSIAL)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICIAL MEMBER

/bb/