

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA-1829/2001

New Delhi this the 13<sup>th</sup> day of March, 2003.

Hon'ble Dr. A. Vedavalli, Member(J)

S.N. Rai,  
S/o late Babu G. Rai,  
R/o B-303, Paarijat,  
Sector-4/28, Dwarka,  
New Delhi-45.

.... Applicant

(through Sh. B.B. Raval, Advocate)

Versus

Council of Scientific and Industrial  
Research through the Director  
General, Rafi Marg,  
New Delhi-1.

.... Respondents

(through Sh. Manoj Chatterjee with Ms. K. Iyer,  
Advocate)

O R D E R

Hon'ble Dr. A. Vedavalli, Member(J)

S.N. Rai the applicant, a retired pensioner, is aggrieved by the rejection of his request for counting of his past service rendered in two Public Sector Undertakings. He has impugned the letter dated 1/5.9.2000 (Annexure-A) and letter dated 28.2.2001 (Annexure-B) issued by the respondents in this regard.

2. Heard the learned counsel for both the parties. Pleadings and the material papers and documents placed on record including the written submissions filed by the applicant and also the respondents have been perused.

*[Signature]*

## 3. Facts of this case briefly are as under:-

The applicant joined the service of National Coal Development Corporation (NCDC, in short, which is now Coal India Ltd.) on 2.3.1963. Later he joined the Fertilizer Corporation of India (FCI, in short) as Accounts Assistant with effect from 7.10.1966 vide Office Order No.219 dated 15.10.1966 (Annexure A-1). Thereafter, the NCDC issued a letter dated 3/4.4.1967 indicating the service rendered in the said Corporation by the applicant as from 2.3.1963 to 3.10.1966 and transferred his GPF amount of Rs.407.53 to FCI (Annexure A-2). The applicant was promoted as Assistant Accountant in July 1972 and was confirmed on that post in FCI by OO dated 24/29.1.1973 (Annexure A-3). Subsequently he was promoted as Junior Accounts Officer (Selection Grade) vide OM dated 24.6.1983 with effect from 25.1.1983 and was confirmed in the said post (copies not filed). On 18.9.1982 the respondents' Council of Scientific and Industrial Research, (CSIR in short), issued a letter to the Chairman and Managing Director, FCI requesting him to send suitable nominations for filling up some posts of Under Secretaries/Administrative Officers (Grade-I) on deputation basis (Annexure A-4 Colly.). The applicant applied for the said post and was appointed as Under Secretary on deputation on foreign service in CSIR for a period of two years with effect from 16.8.1983 vide CSIR OO dated 23.8.1983 (Annexure A-4 Colly.). On expiry of the period of deputation the applicant was absorbed as Under Secretary on regular basis in CSIR with effect from 15.5.1987 (A.N.) (Annexure A-5).

AN

4. FCI vide its letter dated 30-3/16-4-1988 (Annexure A-9 Colly.) to CSIR stated, inter alia, that in terms of their rules, the terminal benefits of S.N. Rai (the applicant) who was initially on deputation and was subsequently absorbed in CSIR on regular basis with effect from 15.5.1987(AN) can be transferred on pro rata basis to CSIR for the period he served under FCI subject to the agreement of CSIR for such transfer. FCI requested ~~to~~ CSIR to inform them as to whether the amount of pro rata gratuity and leave salary of S.N. Rai for the period he served under FCI is acceptable to them or not to take further necessary action at their end.

5. CSIR in their letter dated 8.7.1988 (Annexure A-9 Colly.) in reply to the FCI's letter noted supra stated that they have no objection for accepting the pensionary liability for giving pension to the applicant on the basis of continued service. CSIR by their letter dated 21.4.1989 (Annexure A-9 Colly.) requested FCI, inter alia, to transfer/forward the applicant's Service Book, Leave Account etc. and to discharge to them the pro-rata gratuity payable to the applicant for facilitating the counting of his previous service rendered in FCI. Subsequently also, correspondence between the respondent CSIR and FCI went on regarding transfer of pro-rata gratuity and leave salary etc. and an amount of Rs. 31,770/- was sent by FCI to CSIR towards pro-rata gratuity and leave salary by letter dated 25.9.1989 (Annexure A-9 Colly.).

Av

6. On 22.3.1990 CSIR issued a Memorandum (Annexure A-10 Colly.) to the applicant with reference to his request dated 12.11.1987 for counting his past service rendered in NCDC and FCI. In the said Memo it was stated by CSIR, inter alia, that the applicant's case was referred to the Finance Section of CSIR and as per their opinion there are no Government of India orders under which the service rendered by the employees in Public Sector Undertakings on their absorption in Government/CSIR can be counted towards their pensionary benefits and that since both NCDC and FCI are presumably Public Sector Undertakings the applicant's case is not covered by any Government of India orders. Applicant however was given a chance to produce order, if any, whereby his past service in the above Public Sector Undertaking could be counted for pensionary benefits for further consideration.

7. In reply to the aforesaid Memo dated 22.3.1990 the applicant submitted a representation dated 25.5.1990 (Annexure A-10 Colly.) regarding the counting of his past service in NCDC (2.3.1963 to 3.10.1966) and in FCI (7.10.1966 to 15.5.1987) to the respondents. The applicant in the said representation, inter alia, referred to CSIR's own Circular No.17(92)/72.EII dated 18.1.1983 stated to have been enclosed with the said representation regarding the counting of past service rendered in the PSU for pensionary benefits under CSIR and submitted that he had fulfilled all the conditions

*IN*

mentioned in the said circular except the date of entry in CSIR and that it does not stand to reason as to why those who entered CSIR service before 21.4.1972 will get the pensionary benefits for the service rendered in PSUs and those who entered later will not. He requested CSIR to accord the approval for counting of his past service in the aforesaid PSUs for pensionary benefits in CSIR.

8. CSIR thereafter issued another OM dated 25.7.1991 (Annexure-A10 Colly.) stating, inter alia, that his applications dated 15.5.1990 and note dated 8.4.1991 regarding his request for counting of past service in the PSUs afore mentioned had been considered in consultation in the Department of Pension and Pensioners' Welfare, Government of India and regretted that his request is not covered under the rules.

9. The applicant submitted further representation to the Joint Secretary (Admn.) CSIR dated 29.8.2000 (Annexure-A11) regarding his request for counting of his past service.

10. CSIR by their letter dated 1/5-9-2000 (Annexure-A) informed the applicant that his request to count past service rendered in FCI/NCDC had been reconsidered and it is recorded that the said service cannot be counted for pensionary benefits in CSIR as there is no provision in the rules/instructions issued by Government of India for counting of past service rendered in PSUs.



11. The applicant submitted one more representation dated 28.9.2000 (Annexure-A12) to the Director General, CSIR. The said representation was rejected by a letter dated 28.2.2001 (Annexure-B) stating that the same was re-examined in consultation with Audit, CSIR and cannot be acceded to because under the existing rules as mentioned in earlier communications, service rendered in PSUs will not count for pensionary benefits in CSIR. Decision communicated by their letter dated 1/5.9.2000 (Annexure-A) was reiterated.

12. The applicant has impugned the aforesaid letter dated 1/5-9-2000 (Annexure-A) and the letter dated 28-2-2001 (Annexure-B) in the present OA filed on 23.7.2001.

The applicant claims the following reliefs in this OA:-

"(I) To quash the impugned Annexures "A" and "B" as being illegal, arbitrary, ultravires the Fundamental Rights of the applicant guaranteed under Article 14 of the Constitution and contrary to the Rules and CSIR's own commitment to FCI and also being in violation of the Rules framed by the CSIR themselves.

(ii) Consequent to relief at (I) being granted, direct the Respondent to count his entire 37 1/2 years of service as pensionable by allowing the applicant to refund the CPF and gratuity contribution which he has received under protest after retirement, and by revising the PPO, the pensionary amount, the

Adv

gratuity and all other consequential benefits that may accrue to him.

(iii) AWARD exemplary cost for this application with a further request to pass any other order/orders or direction/directions or grant any other relief/reliefs as deemed fit and proper in the light of the facts and circumstances of the case."

13. When the matter was taken up for hearing, learned counsel for the respondents raised a preliminary objection that the OA is barred by limitation. It was contended that though the applicant was informed by the respondents that his past service cannot be counted for pensionary benefits as way back as in March/May, 1990 and thereafter in July and August 1991, he had not approached this Tribunal if he was aggrieved and that the impugned orders against which the OA was filed is nothing but reiteration of the respondents decision which already stood communicated to the applicant earlier.

14. In reply, learned counsel for the applicant submitted that as stated in the rejoinder, communication alleged to have been sent to him in May 1990 by the respondents was never received by him and even otherwise the matter was under reconsideration as is seen from the correspondence between the applicant and the respondents which is filed by the applicant with the OA. It was contended that claim of the applicant for counting of his past service in PSUs for calculating his pensionary benefits was rejected by the respondents finally only in

*[Handwritten signature]*

September 2000 and February 2001 by the impugned orders at Annexures A & B. He further contended that as the OA was filed on 27.3.2001 well within the time of limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985, the plea of the respondents regarding limitation is devoid of any merit.

15. It is seen that the respondents have not filed any documents with their counter in support of their plea regarding limitation. Even otherwise, the first impugned order dated 1/5.9.2000 (Annexure-A) and the second impugned order dated 28.2.2001 (Annexure-B) themselves indicate prima facie clearly that the applicant's request for counting of his past service in FCI/NCDC was under reconsideration/re-examination by the respondents and was rejected finally only by the aforesaid impugned orders. OA was filed by the applicant on 23.7.2001 i.e. well within the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985.

16. In view of the above, I find that the plea of the respondents regarding limitation is devoid of any merit and is unsustainable under the law. The said plea is, therefore, rejected. I now proceed to consider the matter and dispose of the same on merits.

17. Learned counsel for the applicant submits that as per Government of India OMs filed with the written submissions of the applicant (Annexure W-1)





there is no provision for counting of past service by a Central Government employee in a Public Sector Undertaking earlier for purposes of his pension under the Central Government. He further submits that the case of the applicant is entirely different. The respondent CSIR is not a government department. It is a society registered under the Societies Registration Act 1860. As per rule 29 and 43 of CSIR of Rules and Regulations, the accounts and funds of Society are administered and controlled by its governing body subject to the rules, regulations and bye-laws of the said society and the said body has authority to exercise all the powers of the society. According to bye-law 15 of the CSIR Bye-laws regarding all matters concerning the service conditions of the employees of the Society, the FRs and SRs and such rules and orders issued by Government of India from time to time shall apply only to the extent applicable to the employees of the Society. It is also submitted by the learned counsel that notwithstanding anything contained in this Bye-law, the Governing Body has the power to relax the requirement of any rule as mentioned in the said Bye-law 15 itself.

18. Learned counsel for the applicant contends that the pension rules and orders issued by the Government of India are not automatically applicable to CSIR employees unless and until the said rules and orders are first adopted by CSIR with modifications wherever considered necessary and then made applicable to the CSIR employees. The Pension Rules of Government of India were



adopted by Governing body of CSIR for its employees only in March 1961 vide CSIR OO No.291 dated 24.3.1961 (Annexure W-3).

19. It was submitted further by the learned counsel for the applicant that the Governing body of CSIR in its 73rd meeting held on 22.12.1976 relaxed the pension rules of Government of India and decided that the past service rendered in other organisations including PSU service be counted for pensionary benefits in CSIR (Annexure A-6). The concerned proposal subject to the fulfilment of the conditions mentioned therein was approved by the Governing body with the condition that the past cases should not be reopened. In the two circulars dated 9.2.1977 and 18.1.1983 (Annexure A-7) a cut off date, namely, 21.4.1972 has been mentioned stating that the decision as to the benefit of counting of past service for pensionary benefits is applicable to those employees who had joined CSIR service before the said date and that the past cases shall not be reopened. It was contended by the learned counsel for the applicant that the said cut off date is highly unfair, unreasonable and arbitrary and deserves to be struck down. It was further contended that even otherwise there is no bar against the said two circulars being made applicable to future cases also including the applicant's case since the pending cases were being considered and only the past cases which attained finality should not be reopened. The aforesaid two circulars he submits have not been withdrawn by the CSIR even till date. It was

*AV*

also argued that the respondents have accepted the applicant's request for grant of benefit of counting of his past service in PSUs after a considered and conscious decision in this regard was taken by them as is clear, inter alia, from their letter dated 8.7.1988 (Annexre A-9). It is a firm decision and commitment on behalf of the respondents and cannot be retracted by them by the issue of the impugned orders. Even otherwise, it was argued, that the respondents have the powers to relax any of the rules and such power should be exercised in favour of the applicant whose case is a just and fair one.

20. It was also submitted by the learned counsel that in an identical case, Dr. V.B. Reddy an Assistant of CSIR had gone on deputation to a State PSU and was absorbed there. He came back to CSIR after resigning from the State PSU on a fresh appointment. When he was denied pension on combined service of CSIR and State PSU, he challenged the said action of CSIR in OA-117/1999 before this Tribunal (PB) and that CSIR was directed by the Tribunal to consider all the service rendered by the applicant for pension and the said order was implemented by CSIR. In the case of one Dr. N.K. Jain, another employee of CSIR, he was given the benefit of his past service in Tea Research Association which was neither a PSU nor a part of CSIR on a direction by the Tribunal in OA-734/1998.

21. It was contended by the learned counsel that there is no reason as to why a similar benefit

*[Signature]*

should be denied to the applicant and that too after a conscious decision was taken by CSIR to grant him the same, as submitted already. He argued that denial of a similar benefit would be highly arbitrary, unjust and unfair and cannot be sustained under the law.

22. In reply, learned counsel for the respondents has drawn my attention to Para-5 of the counter and submitted that so far as the acceptance of the request of the applicant to count his service rendered at FCI/NCDC for pensionary benefits by the respondents is concerned the said acceptance was given due to inadvertence and wrong interpretation of rules and the same was rectified as soon as the mistake came to light after obtaining the opinion of Government of India and the applicant was informed vide OMs dated 22.3.1990 and 25.7.1991. He contended that such administrative errors can be rectified at any time in order not perpetuate any mistake further.

23. Re the question of counting of past service of an employee of CSIR in a Public Sector Undertaking it was contended by the learned counsel for the respondents while referring to Paras 4.7 and 4.8 of the counter that no doubt a decision was taken by the Governing Body of CSIR in its 73rd meeting (Agenda Item No.4) to count the services rendered in Central/State Government Departments/Universities/Autonomous Bodies or sponsored projects (Scheme) etc. However, the decision did not relate to services which were rendered in PSU.



The circulars dated 9.2.1977 and 18.2.1983 issued by CSIR also do not mention anything concerning counting of service in a PSU. It was argued further that those circulars are applicable to only those who joined CSIR before 21.4.1972.

24. It was further contended by the learned counsel for the respondents that the respondents have acted in accordance with rules and that the cases of Dr. V.B. Reddy and Dr. N.K. Jain relied upon by the applicant are in no way related to the facts and circumstances of the present case. The facts of those cases are not identical he argued. Learned counsel for the respondents prayed that the OA may be dismissed as the same is devoid of any merit.

25. The crucial question which arises for consideration is whether the claim of the applicant that he is entitled for counting of his past service rendered in two Public Sector Undertakings for computation of his pensionary benefits under the respondents CSIR is tenable or not.

26. CSIR is a registered society under the Societies Registration Act, 1860 having its own governing body to manage its affairs as per the relevant rules/regulations and bye-laws. The said body as per rule 45 of its rules and regulation as amended upto the year 1999 (submitted by the respondents) has the powers with the sanction of the Government of India, to frame,



amend or repeal its bye-laws not inconsistent with rules for administration and management of the affairs of the society. The Rules and Regulations of the Society except Rule 71 can be altered at any time with the sanction of the Government of India as per the procedure prescribed under Rule 72.

27. Re the conditions of service of the employees of the Society, Bye Law 15 provides thus:-

"In regard to all matters concerning service conditions of employees of the Society, the Fundamental and Supplementary Rules framed by the Govt. of India and such other rules and orders issued by the Govt. of India from time to time shall apply to the extent applicable to the employees of the Society.

Notwithstanding anything contained in this Bye-law, the Governing Body shall have the power to relax the requirement of any rule to such extent and subject to such conditions as it may consider necessary."

28. It appears on a perusal of the aforesaid provisions that FRs etc. framed by the Government of India from time to time are applicable to the employees of the CSIR to the extent applicable to them and not in toto or mutatis mutandis automatically. Moreover, the Governing body is vested with the power to relax the requirement of any rule to such extent and subject to such conditions as it may consider necessary.

*AV*

33

29. In the present case, the applicant who was on deputation earlier from FCI admittedly was absorbed as Under Secretary in CSIR w.e.f. 15.5.1987. Even earlier, a decision was taken by the Governing body of CSIR regarding counting of their employees' past service in its meeting held on 22.12.1976 (Annexure A-6). Pursuant to the said decision two circulars dated 9.2.1977 and 18.1.1983 (Annexure A-7 Colly.) regarding the counting of past service were issued by CSIR.

30. The first main ground pressed by the applicant in support of his claim for counting of past service as noted supra is that as per the aforesaid decision of the Governing Body and the acceptance of pensionary liability by CSIR, his past service in the two Public Sector Undertakings should be taken into consideration for computation of his pensionary benefits and that the CSIR is bound by its own commitment in this regard and cannot recile from the same. Learned counsel for the applicant has also contended as noted even earlier that the said circulars are in contravention or violation of the aforesaid decision of the Governing Body and that even otherwise the cut off date, namely, for entry into CSIR for availing the benefit of past service is arbitrary and unjust. The above ground was opposed by the respondents for the reasons stated by them as noted supra.

31. The relevant decision taken by the Governing Body of CSIR in its 73rd meeting held on 22.12.1976



34

(Annexure A-6) with reference to Item No.4 of the agenda as to the "counting of service rendered in other organisations for pensionary benefits under the CSIR" is as under:-

"Chief (Administration) explained in detail the proposal. After discussion, the Governing Body approved the proposal. The Governing Body further decided that the past cases should not be reopened and pending cases be considered.

32. Pursuant to the said decision the CSIR issued a circular dated 9.2.1977(Annexure A-7 Colly.), which is as follows:-

"COUNCIL OF SCIENTIFIC & INDUSTRIAL RESEARCH

Rafi Marg,  
New Delhi-1.

F.No. 17/92/75-E.II. Dated the 9th Feb., 1977.

From :

The Chief (Administration),  
Council of Scientific &  
Industrial Research.

To:

The Directors/Heads of all  
National Labs/Instts.

Sub: Counting of service rendered in  
other organisations for  
pensionary benefits in the  
C.S.I.R.

Sir,

The question of counting of past service of employees who had joined the CSIR after resigning their previous service or on transfer or on foreign service from Central/State Govt. departments/universities/autonomous bodies or sponsored projects/schemes etc., before 21.4.1972 (the date from which the Govt. of India liberalised

A/



the pension rules) towards pensionary benefits under the CSIR was considered by the Governing Body of the CSIR at its meeting held on 22.12.1976. The Governing Body approved that pending cases in respect of such employees for counting their past service towards pension under the CSIR may be decided in consultation with Finance on the following conditions and that the past cases should not be reopened:-

- (1) Payment of pensionary liability by the concerned individuals in terms of Govt. of India O.M.No. 2(33)/EVA/60 dated 10-11-1960. In continuation of the aforesaid circular one more circular dated 18.1.1983 was also issued by CSIR which is as under:-
- (2) Service rendered by individuals in Research Schemes/Projects sponsored in CSIR followed by permanent absorption in CSIR against regular posts without break in service or by condonation of break in accordance with Govt. rules/instructions.
- (3) Refund of employer's share of GPF contributions, if any, received by an individual from Central State Govt./University/Autonomous Organisation etc., together with interest thereon to CSIR.
- (4) Production of satisfactory evidence of service by the individuals and also a certificate from employer to the effect that in case the individuals would have continued in their service they would have been eligible for pension under Central/State Govt. or benefits of GPF on completion of 5 years service.
- (5) The above benefits will be admissible only on permanent absorption in CSIR.

The above decision may be brought to the notice of all officers and staff for their information. Pending cases, if any, may be referred to the CSIR for consideration.

*[Handwritten signature]*

The receipt of the letter may please be acknowledged.

Yours faithfully,

(O.P. Khanna)  
Deputy Secretary

Copy to all Sections/  
Divisions in CSIR Headquarters." (emphasis added)

33. In continuation of the aforesaid circular one more circular dated 18.1.1983 (Annexure A-7 Colly.) was also issued by CSIR which is as under:-

COUNCIL OF SCIENTIFIC & INDUSTRIAL RESEARCH,

RAFI MARG,  
No.17(92)72-E.II NEW DELHI-1, the 18th Jan., 1983.

To

The Director/Heads of all  
National Laboratories/  
Institutes.

Subject: Counting of past service rendered in other Departments/  
Organisations for pensionary benefits in CSIR.

Sir,

In continuation of this office letter of even number dated 9.2.1977 on the subject mentioned above, I am directed to inform that the DGSIR in consultation with the I.F.A., CSIR, has been pleased to approve that the services rendered in the following Organisations shall also count for pensionary benefits in CSIR, subject, however, to fulfilment of conditions laid down in this office circular letter of even number dated 9.2.1977.

Central/State/Autonomous Bodies/  
Public Sector Undertakings/Municipal  
Bodies/Universities. The term 'Public  
Undertaking' shall include a Public  
Undertaking coming under the purview of  
BB.P.E. or a similar body of the State  
Government where the system of  
retirement benefits like pension or

*[Signature]*

37

C.P.F. exist. The term 'Municipal Body' shall include the Municipalities registered under the relevant Act and where the system of retirement benefits like Pension or C.P.F. exist.

It has further been decided that the service rendered in more than one organisation (as stated above and as mentioned in this office circular letter of even number dated 8th February, 1977) before joining CSIR, may also count for pensionary benefits in CSIR and the resignation, if any, submitted in one department/organisation to join another department/organisation with proper permission is only a technical formality provided of course the other conditions laid down in the said circular letter dated 9.2.1977 are fulfilled.

The above decision will apply to these employees only who had joined the CSIR before 21.4.1972.

The above decision may be brought to the notice of all officers and staff for their information. Pending cases, if any, may be forwarded to the C.S.I.R., for consideration.

Receipt of this letter may kindly be acknowledged.

Yours faithfully,

(S.P. Kaushika)  
Deputy Secretary"

34. On a reading of the above two circulars it is apparent, inter alia, that the past service rendered by the employees of CSIR in Public Sector Undertakings also has to be counted for pensionary benefits in CSIR subject to fulfilment of conditions laid down in the said circulars.

35. CSIR no doubt has stipulated in the aforesaid circulars that the decision as contained in them are applicable to those employees who had joined CSIR before 21.4.1972 and that pending cases of such



employees may be decided in consultation with finance but there is absolutely no bar as such against considering the case of any employee who joined CSIR after the above cut off date also on its merits subject to the fulfilment of conditions stipulated in the aforesaid circulars. In fact, the present applicant's case is that though he was absorbed in CSIR with effect from 15.5.1987 (AN) (Annexure A-5) after the aforesaid date, he was considered by the respondents and his request has been acceded to as is seen, in particular, from their letter dated 8.7.1988 to FCI (Annexure A-9 Colly.) and another letter dated 21.4.1989 to FCI (Annexure A-9 Colly.). Other correspondence between FCI and CSIR filed by the applicant with the OA and noted supra also makes it very clear that CSIR had accepted the request of the applicant for counting of his past service in the two Public Sector Undertakings. Re the averment of the applicant in Para 4.11 of the OA that the Finance has also given their concurrence to the proposal of CSIR to pensionary benefits to the applicant on the basis of combined service in PSU, the respondents reply in the corresponding para in their counter is very sketchy and vague. Moreover, the respondents have taken the plea in the said para of their reply that due to certain inadvertence in interpretation of Government instructions with regard to past service rendered by an employee for pensionary benefits, a reference was made to FCI and that as per the opinion of Government of India on a reference being made to them the applicant was informed vide OMs dated 22.3.1990, 25.5.1990 and 25.7.1991 that his past

AN

service in PSU cannot be counted for pensionary benefit. The respondents have also stated that the commitment made by them to count the applicant's past service is an erroneous one and hence they had rectified the administrative error as soon as it was detected.

36. As noted supra the respondent CSIR is an Autonomous Body having its own powers under the relevant Rules. The instructions and rules of the Government of India are not applicable to it automatically in toto mutatis mutandis until and unless the same have been adopted by the competent authority. As is seen from the proceedings of the 73rd meeting of the Governing Body of CSIR (Annexure A-6), a proposal regarding the counting of past service rendered by the employees of CSIR in other organisations for pensionary benefits in CSIR was considered and the said Body approved the concerned proposal and further decided that the past cases should not be reopened and pending cases can be considered. There is nothing in the said proceedings or in the concerned proposal which indicates that the Government of India's prior approval is required for such proposal to be submitted to the Governing Body or their concurrence is required after the said Body had given its decision, before the same becomes binding and is circulated to all concerned for compliance. The two circulars noted earlier also do not state that the Government of India's approval/concurrence was obtained at any stage. In the circumstances, the cut off date i.e. 21.4.1972 (which is stated by the respondents to be the date from which the

AP

Government of India liberalised the Pension Rules), I find is itself highly arbitrary, unjust, unfair and discriminatory as the respondents have failed to establish with supporting material any nexus or rational relation of that date with the object sought to be achieved by the decision of the Governing Body viz, giving of benefit of past service to encourage qualified persons from Central/State Government/other organisations including Public Sector Undertakings who resign their earlier post or come on transfer on deputation to join CSIR and also on equitable grounds to form strong and efficient cadres in CSIR, as is seen from the proposal to the Governing Body (Item No.4 PP 34-36 of the paperbook) supra.

37. In view of the above, I am of the opinion that the plea and stand taken by the respondents regarding the first ground pressed by the applicant is totally devoid of any merit and is, therefore, unsustainable under the law.

38. The second ground pressed by the learned counsel for the applicant (ground "L" Para-5 of the OA) as noted supra is that the benefit of counting of past service for pensionary benefits was given to two other employees of CSIR, namely, Dr. V.B. Reddy and Dr. N.K. Jain pursuant to the orders of this Tribunal in the OAs filed by them which have become final and were also implemented by CSIR and hence a similar benefit should

not be denied to the applicant, as such a denial would be highly arbitrary, unfair and unjust.

39. In reply to the above ground the respondents in their reply have given a very bald and routine statement that the aforesaid cases are in no way related to the facts and circumstances of the present case and are not identical. However, no details regarding those cases have been given and there is not even an attempt on the respondents part to establish on a comparison as to how those two cases are not similar or identical to the present case. In the circumstances, their stand as to the aforesaid ground also is not capable of being accepted or sustained under the law.

Moreover, there is nothing on record to show that the respondents have ever made even an attempt to treat the applicant's case atleast as a special case in view of their own earlier acceptance of the applicant's request for counting of his past service and obtain the concurrence of the Governing Body of CSIR on a ground of equity as seen from the cases cited in the proposal of CSIR to the Governing Body (agenda Item No.4 at pages 34 to 36 of the paperbook). Instead, the respondents have reciled from their earlier acceptance of applicant's request for counting of his past service in PSUs and at one stroke by issuing the impugned orders have destroyed his right to have his past service of more than two decades counted for pensionary benefits in CSIR which had

AN

accrued to him on the acceptance of his request in this regard by the respondents as is apparent from the foregoing discussion. It is well settled that any interpretation of Law or Rules should be liberal and not narrow, rigid or pedantic. Interpretation should not be too technical and inequitable as was held by the Delhi High Court in a case of CSIR itself, viz Director General, Council of Scientific and Industrial Research and Ors. Vs. Dr. (Prof.) N.K. Jain (SLJ 2002(1) 194) relating to the counting of past service of an employee of CSIR in an organisation which was held to be a "Central autonomous body". Entire past service of the present applicant in the two PSUs for more than 24 years cannot be wished away or washed away by respondents by the issue of the impugned orders and by taking refuge under the cover of a "cut off date" which is void and an "administrative error" which is unsustainable as already found supra. This action on the part of the respondent CSIR in my view has violated all norms of justice, equity, fairness and reasonableness and hence cannot be sustained under the law.

41. In the facts and circumstances of this case and in view of the foregoing discussion I am of the opinion that the impugned orders dated 1/5.9.2000(Annexure-A) and 28.2.2001 (Annexure-B) cannot be sustained under the law. In the result, the aforesaid orders are quashed and set aside. The respondents are directed to pass appropriate fresh

A



orders in the light of the above order in accordance with law regarding the applicant's pension and other retiral benefits taking his past service rendered in the two PSUs also into account as pensionable service and after making due adjustments/refund of the amounts, if any, already paid to him/due from him within three months from the date of receipt of a copy of this order. The OA is disposed of as above. No costs.

*A. Vedavalli*  
*13/3/2003*

(Dr. A. Vedavalli)  
Member(J)

/vv/