Central Administrative Tribunal
Principal Bench

(24)

New Delhi, dated this the 26th October, 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

O.A. No.926 of 1998
C.P. No. 59 of 1998

Dr. Ramchandra
S/o Shri D.N. Chaudhry,
R/o Kapoori Mahammadpur,
Belaparsa, P.O.
Dist. Ambedkar Nagar,
U.P.

... Applicant

(By Advocate: Dr. Sumant Bhardwaj
with Shri H.P.Gupta)

Versus

1. Union of India through
Secretary,
Dept. of Science & Technology,
New Delhi.

2. Council of Scientific & Industrial
Research, Rafi Marg, New Delhi
through its Director General.

3. Director General, CSIR, New Delhi.

4. Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi through its Secretary.

5. Shri R.A. Maselkar, Director General,
CSIR, Rafi Marg,
New Delhi (On C.P. No.59/98) .... Respondents

(By Advocate: Shri A.K. Sikri &
Shri Manoj Chatterjee)

O.A. No. 1646 of 1997

Dr. Deo Brat Pathak .... Applicant
(By Advocate: Dr. Sumant Bhardwaj)
with Shri H.P.Gupta)

Versus

Union of India & Others .... Respondents

(By Advocates: Shri A.K.Sikri
and Shri Manoj Chatterjee)

O.A. No. 1934 of 1997
C.P. No. 135 of 1998

Dr. R.N. Pandey .... Applicant

(By Advocate: Dr. Sumant Bhardwaj
with Shri H.P.Gupta)

Versus

1. Union of India through
   Secretary, Dept. of Sc. & Tech.
   Shastri Bhawan, New Delhi.

2. CSIR, Rafi Marg, New Delhi.

3. D.G., CSIR, New Delhi.

4. UPSC, New Delhi

5. Shri R.A. Maselkar, D.G., CSIR
   New Delhi (On C.P. No.135/98) .... Respondents

(By Advocates: Shri A.K. Sikri
and Shri Manoj Chatterjee)

O.A. No. 1938 of 1997

Dr. Nirmala Kishore ... Applicant

(By Advocate: Dr. Sumant Bhardwaj
with Shri H.P.Gupta)

Versus

Union of India & Others ... Respondents

(By Advocate: Shri A.K.Sikri
and Shri Manoj Chatterjee)

O.A. No. 2789 of 1997

Dr. A.K. Panda & Others .... Applicants
(By Advocate: Dr. Sumant Bhardwaj
with Shri H.P. Gupta)

Versus

Union of India & Others .... Respondents
(By Advocate: Shri A.K.Sikri
and Shri Manoj Chatterjee

O.A. No. 437 of 1998

Dr. S.B. Aggarwal ... Applicant
(By Advocate: Dr. Sumant Bhardwaj
with Shri H.P. Gupta)

Versus

Union of India & Others ... Respondents
(By Advocate: Shri A.K. Sikri
and Shri Manoj Chatterjee)

O.A. No. 438 of 1998

Dr. A.K. Tiwari .... Applicant

(By Advocate : Dr. Sumant Bhardwaj
with Shri H.P. Gupta)

Versus

Union of India & Others .... Respondents

(By Advocate: Shri A.K. Sikri
and Shri Manoj Chatterjee

O.A. No. 1583 of 1998

Dr. K. Umakantham .... Applicant

(By Advocate: Dr. Sumant Bhardwaj
with Shri H.P.Gupta)

Versus

Union of India & Others ... Respondents

(By Advocate: Shri A.K. Sikri
and Shri Manoj Chatterjee)

O.A. No. 1598 of 1998

Dr. Anita Pande ... Applicant

(By Advocate: Dr. Sumant Bhardwaj
with Shri H.P. Gupta)

Versus

Union of India & Others .... Respondents
(By Advocate: Shri A.K. Sikri
and Shri Manoj Chatterjee)

O.A. No. 1599 of 1998

Dr. Bina Singh ... Applicnat
(By Advocate: Dr. Sumant Bhardwaj
with Shri H.P.Gupta)

Versus

Union of India & Others .... Respondents
(By Advocate: Shri A.K. Sikri
with Shri Manoj Chatterjee)

O.A. No. 439 of 1998

Dr. D.S. Tripathi .... Applicant
(By Advocate: Dr. Sumant Bhardwaj
with Shri H.P.Gupta)

Versus

Union of India & Others .... Respondents

(By Advocate: Shri A.K. Sikri
and Shri Manoj Chatterjee)

ORDER

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

These 11 O.As involve common questions of law and fact and are being disposed of by this common order.

2. There are 11 applicants in all, one in each of the 11 O.As. Six of them were working in Banaras Hindu University; two in Gorakhpur University; one in Kumaon University, Nainital; one in IARI, New Delhi; and one in Andhra University, Visakhapatnam. Each of them impugns respondents' orders informing them that consequent to their completion of tenure in the Scientists Pool they stand relieved from their duties. They further seek a direction to respondents to absorb/regularise them taking into account their full length of service from the date of their initial engagement, with continuity of service and other benefits.

3. We have heard Dr. Bhardwaj and shri H.P.Gupta for the 11 applicants. Shri Sikri and Shri Manoj Chatterjee appeared for the respondents and were also heard. Parties were allowed to file written submissions which have been taken on record. We have perused the materials on record and given the matter our careful consideration.

28

4. By Home Ministry (Dte. of Man Power) Resolution dated 14.10.58 (Ann. P-1 to rejoinder of applicant Dr. Ramchander) the Govt. of India resolved to constitute a pool for the temporary (emphasis supplied) placement of well qualified Indian Scientists and technologists returning from abroad until they were absorbed in suitable posts on a more or less permanent basis. Persons with Indian qualifications who had outstanding academic records could also be considered for appointment. Persons appointed to the pool would be attached to a Govt. Dept. or a State Industrial Enterprise, national laboratory, university, or scientific institution, or given some other work depending upon the requirement and their qualifications and experience. The CSIR was to be the controlling authority of the pool and in its administrative control it was to be advised by a Committee headed by the D.G., CSIR, and representative of various Ministries as also a UGC representative, and two non-officials from private industry. The emoluments of a pool officer were determined, the authorised strength of the pool was likewise determined and selections were to be made in consultation with UPSC for which a special Recruitment Board was set up headed by the Chairman/Member, UPSC. Vacancies in the pool were to be notified from time to time and a standing committee headed by DG, CSIR and representative of various Ministries was constituted for allocation

of duties to pool officers after their selection, and also for their placement on a permanent basis. The CSIR was to furnish a 6 monthly report on the working of the Pool to MHA (Dte. of Manpower) and also to frame regulations for regulating the conditions of service of pool officers. Until such regulations were framed, pool officers were to be governed by the existing regulations which applied to temporary Class I officers of CSIR.

5. A copy of the terms and conditions of appointment and guidelines to institutions in regard to the Scientists' Pool Scheme effective from 1.1.991 prepared by CSIR is placed at Pages 126-133 of the O.A. Item 7 of the general terms and conditions of appointment states categorically that the tenure in the Pool is fixed and no extension is permitted beyond the period of appointment specified initially. Continuance in the pool <u>within</u> the tenure fixed at the time of appointment would depend on the performance of officers to be judged by their yearly progress and confidential reports. Item 2 of the guidelines to the institution states categorically that the tenure of a pool officer is three years only in total subject to the prescribed conditions, or till he/she gets an regular appointment whichever is earlier. The tenure is fixed at the time of selection. It never exceeds three years.

6. Each of the 11 applicants before us were appointed under the Pool Scheme for a period of three years. Thus applicant Dr. Ramchandra's appointment letter dated 6.8.93 (Page 122 of O.A. No.926/97) specifically states that he has been permitted to join as Sr. Research Associate (Pool Officer) at the Dept. of Geology, BHU, Banaras w.e.f. 30.6.93. During the tenure of his appointment as SRA (Pool Officer) he will work under the administrative control of Registrar, BHU. He will draw a salary of Rs.2425/- p.m. plus allowances. His tenure as a SRA (Pool Officer) shall be for three years, or till he obtains an appointment either temporary or permanent in India, whichever is earlier, and the letter further goes on to state that applicant Dr.Ramchandra had accepted these terms and conditions vide his letter dated 30.6.93 (Page 121 of O.A. No.926/97). This is further confirmed from respondents' letter dated 21.8.95 (Page 124 of O.A. No.926/97) informing applicant Dr. Ramchandra that on the basis of his Annual Progress Report and ACR for the period July, 1994 to June, 1995 he was permitted to continue for one year w.e.f. 1.7.95 and he would be completing the next tenure of three years in the Pool on 30.6.96 beyond which there was no extension of tenure. Applicant Dr. Ramchandra was himself fully aware that his tenure in the Pool expired on 30.6.96 as is clear from his letter dated 2/11.7.96 (Page 111 of OA-926/97).

7. It is therefore clear that the Scientists' Pool Scheme provided a tenure for a maximum period of three years and at the conclusion of the tenure period, applicants automatically ceased to be members of the Scientists' Pool. There is no obligation on respondents express or implied to absorb/regularise applicants who were members of the Pool against regular vacancies on completion of their tenure. The Allahabad High Court in CWP No. 30584/91 Dr. Shail Jeet Singh Vs. UOI & Ors. decided on 26.7.96 has dismissed the challenge to Scientists Pool Scheme 1991, holding inter alia that the Scheme is only a facility and that too temporary and not a regular appointment, and the Scheme is not arbitrary when it imposes a restriction of three years on the tenure period.

8. Our attention has been drawn in annexures to the rejoinder in O.A. No. 926/97, to O.A. No. 83/96 Dr. Pratibha Mishra Vs. UOI & Ors. disposed of by CAT, Lucknow Bench with certain directions on 25.9.96 including one for formulation of a Scheme for absorption of Research Scientists at suitable levels. Against that order dated 25.9.96 the CSIR filed SLP No. 1680/97 in the Hon'ble Supreme Court which was disposed of by order dated 2.5.97 whereby the Hon'ble Supreme Court held that in the facts and circumstances of the case the directions issued by CAT, Lucknow Bench in respect of Dr. P. Mishra did not require to be disturbed but so far as the

formulation of the Scheme was concerned, CSIR was directed to consider the question of formulating a Scheme for people who were working on contract basis. It is in this background that in O.A. No. 151/95 RSC&I Association Vs. UOI & Ors. filed before CAT, Lucknow Bench that on 12.8.97 the Bench was informed that the CSIR had almost processed the Scheme which was again reiterated by CSIR on 26.8.97 on the basis of which in respect of those whose tenure was continuing and which was to expire on 30.6.97, the status quo was ordered to be maintained. Again in Civil Appeal No: 6809/95 CSIR & Ors. Vs. Ajay Kumar Jain which came up before Hon'ble Supreme Court on 25.11.97 the CSIR informed the Court that they were in the process of formulating a Scheme for absorption of the Scientific Staff and the case was ordered to be adjourned for four weeks. Further more Dr. Pratibha Mishra's case (Supra) is of no help to the applicant because Dr. Mishra was a person who had worked in CSIR laboratory for nearly 15 years almost continuously except for short breaks and it was in that context that the Tribunal held that she should be paid at the existing rates until she was absorbed in one of the posts under CSIR. In the present OAs none of the applicants have worked as pool officers anywhere near the length of time put in by Dr. P. Mishra as a pool officer, and except for one applicant who is in IARI, all the others are in

different universities and not under CSIR.

9. We have not been made aware of the final outcome of OA-151/95 or CA-6809/95, but none of what has been stated in Para 8 above gives applicants an enforceable legal right to continue as members of the Scientists Pool Scheme, 1991 beyond expiry of their tenure period, or compels respondents to absorb/regularise applicants against vacancies in their organisation dehors the rules/instructions covering the recruitment to these vacancies.

10. Applicants' counsel also stated that the Scientists Pool Scheme had been challenged by him separately in the Hon'ble Supreme Court, but in the absence of any orders staying, modifying or setting aside the Scheme, the same would be deemed to be operative, in which one of the important features which we have seen is a maximum tenure period of three years.

11. The Tribunal's deicision in the case of Dr. M.G. Anantha Padmanabha Shetty relied upon by Shri Bhardwaj also does not help the applicant, because that was a case when the applicant was praying that his tenure period as a pool officer in C.S.I.R. before his regular absorption in that very organisation be counted a qualifying period for pensionary benefits. That prayer was allowed, but that is not the same thing as saying that a person such as applicant Dr. Ramchandra

who completed his tenure period of three years in BHU on 30.6.96 has an enforceable legal right to compel CSIR to absorb him in their organisation. CSIR has it own Recruitment Rules for its posts and it is open to applicants to apply when the vacancies are advertised. At the most they have a right to be considered for such posts subject to their eligibility and suitability but have no enforceable legal right to compel respondents to appoint them.

12. - Applicant Dr. Ramchandra has filed C.P. No. 59/98 in OA No. 926/97 and similarly applicant Dr. Ram Nagina Pandey has filed C.P. No. 135/1998 in O.A. No.1934/97. Both assert that respondents had deliberately misled the Tribunal and flouted its orders dated 19.8.97, 1.10.97; 5.11.97; 19.12.97 and 2.2.98 in not maintaining the status quo and in failing to release applicants' salary after April, 1997. We have considered these C.Ps in the light of Hon'ble Supreme Court's order dated 12.10.98 in SLP No. 6356-6357/98 staying the operation of the A.P. High Court's orders dated 17.8.98 in W.P. No. 34841/97. In so far as applicant Dr. Ramchandra is concerned his tenure period expired on 30.6.96, and O.A. No. 926/97 itself was filed well after the expiry of his tenure and no salary was due to him as an erstwhile pool officer in April, 1997. Hence C.P. No. 59/98 has no merit and is rejected. As regards applicant Dr. R.N. Pandey, his three years tenure period expired on 5.10.97.

Respondents have placed on record a copy of letter dated 5/6.7.98 certifying that Bank draft No. 627249 dated 1.5.98 for Rs.49,035.00 has been released in favour of applicant Dr. Pandey. Under the circumstances, while no doubt payment has been made with some delay, this by itself is not sufficient to warrant initiation of contempt action against respondents, nor indeed can the fact that respondents have not yet accommodated the applicants in the Scheme evolved as per suggestion of the Hon'ble Supreme Court alluded to by applicants' counsel before the Bench on 19.12.97 be construed as deliberate defiance of the Tribunal's orders. Under the circumstances, C.P. No. 135/98 also has no merit and is dismissed.

13. In the result these 11 O.As and the two C.Ps warrant no interference. They are dismissed. Interim orderss are vacated. No costs.

14. Let a copy of this order be placed in each of the O.A. and C.P. case records.

(Mrs. Lakshmi Swaminathan)
Member (J)

(S.R. Adige)
Vice Chairman (J)

/GK/

Court Officer
Central Administrative Tribunal
Principal Bench, New Delhi
Faridkot House,
Copernicus Marg,
New Delhi 110001