

(7)

Central Administrative Tribunal, Principal Bench

O.As. Nos.64,164,831,832,922 & 1009 of 2000

New Delhi, this the 18th day of July,2000

Hon'ble Mr.Justice Ashok Agarwal Chairman  
Hon'ble Mr.V.K.Majotra, Member (Admnv)

(1)Original Application No.64 of 2000

Dr.V.K.Singh, Son of Dr.D.N.Singh, aged about 33 years, resident of Village-Sihorwa, P.O. Jakhini, District-Varansi. - Applicant

Versus

Council of Scientific & Industrial Research (Extramural Research Division), C.S.I.R. Complex, PUSA, New Delhi-110012 through its Director General - Respondent

(2)Original Application No.164 of 2000

Dr.Satya Prakash Shukla, son of R.S.Sharma, aged about 34 years, R/o C/o Prof. R.S.Sharma, Plot No.36, Mahamana Puri, I.T.I.Karondli, Varansi-221005 -Applicant

Versus

Council of Scientific & Industrial Research (Extramural Research Division), C.S.I.R. Complex, PUSA, New Delhi-110012 through its Director General - Respondent

(3)Original Application No.831 of 2000

Dr.Anand Shastry, son of Shri Gopal Krishna Shastry, aged about 36 years, R/o Department of Geology, Banaras Hindu University, Varansi-221005 - Applicant

Versus

Council of Scientific & Industrial Research (Human Resource Development Group, Division for Scientific and Technical Personnel), C.S.I.R. Complex, PUSA, New Delhi-110012 through its Director General - Respondent

(4)Original Application No.832 of 2000

Dr.Ajai Srivastava, son of Onkar Narain Srivastava, aged about 38 years, R/o Department of Geology, Banaras Hindu University, Varansi-221005 - Applicant

Versus

Council of Scientific & Industrial Research (Human Resource Development Group, Division for Scientific and Technical Personnel), C.S.I.R. Complex, PUSA, New Delhi-110012 through its Director General - Respondent

(5) Original Application No.922 of 2000

Dr.(Mrs) Bhuvaneshwari Singh nee  
K.Bhuvaneshwari aged about 36 years,  
Research Associate, Deptt.of Botany, Banaras  
Hindu university, R/o House No.D-59/19,  
Mahmoorganj, Varansi-221010 - Applicant

Versus

Council of Scientific & Industrial Research  
(Extramural Research Division), C.S.I.R.  
Complex, PUSA, New Delhi-110012 through its  
Director General - Respondent

(6) Original Application No.1009 of 2000

Dr.Kiran Bargali nee Bisht, Wife of  
Dr.S.S.Bargali, aged about 34 years,  
resident of 223, Naya Bazar, Tallital,  
Nainital-263002. Posted as Senior Research  
Associate/ Pool Officer at Department of  
Forestry Kumaun University, Nainital. - Applicant

Versus

Council of Scientific & Industrial Research  
(Extramural Research Division), C.S.I.R.  
Complex, PUSA, New Delhi-110012 through its  
Director General - Respondent

Counsel:

Shri Y.S.Lohit, Dr.Sumant Bhardwaj, Shri Anil Sinha and  
Shri Praveen Chaturvedi, learned counsel of the  
applicants in all the cases.

S/Shri Krishnamani, Manoj Chatterjee, Praveen Swarup and  
Ms.K.Iyer, learned counsel of the respondents in all the  
cases.

Common Order (Oral)

By V.K.Majotra, Member(Admnv) -

The six Original Applications involve common  
question of facts and law and are being disposed of by  
this common order. There are six applicants in all, one  
in each of the OA. All excepting Dr.Kiran Bargali, who  
was a Senior Research Associate at Kumaun University,  
Nainital, remaining have been working at Banaras Hindu  
University ('BHU' for short). Each of them has impugned  
respondent's order informing him/her that he/she has  
completed/ he/she is going to complete the maximum

tenure of three/five years in the Pool and as there is no provision to extend the tenure beyond three/five years, they will be allowed to continue in the organisation as Research Associates('RA' for short)/ Senior Research Associates ('SRA' for short) up to the expiry of their term. They further seek a direction to the 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.

2. We have heard S/Shri Y.S.Lonit and Dr.Sumant Bhardwaj, learned counsel on behalf of the applicants and S/Shri Krishnamani and Manoj Chatterjee, learned counsel on behalf of the respondents. We have also perused the material on record and have given our careful consideration.

3. For the sake of convenience the facts have been taken out from OA 832/2000 filed by Dr.Ajai Srivastava,SRA. He is going to complete the maximum tenure of three years in the pool on 6.7.2000 and as there is no provision to extend the tenure beyond three years he will be allowed to continue in the organisation as SRA up to 6.7.2000.

4. Vide resolution of 14.10.1958 the Ministry of Home Affairs resolved to constitute a pool for temporary placement of well qualified Indian scientists and technologists returning from abroad until they are absorbed in suitable posts on a more or less, permanent basis. Persons with Indian qualifications who have

*bb*

outstanding academic records could also be considered for appointment. Persons appointed to the Pool were to be attached to a Government department or a State Industrial enterprise, national laboratory, university or scientific institution or assigned some other work depending on the requirement and their qualifications and experience. The CSIR was to function as the controlling authority of the Pool and in matters relating to administration of the Pool, the CSIR was to be advised by a Committee headed by the Director General, CSIR and representatives of connected Ministries as also UGC representative and two non-officials from private sectors. The emoluments of a Pool officer were determined, the authorised strength of the Pool was also determined and selections were to be made in consultation with the UPSC for which a special Recruitment Board was set up headed by the Chairman/Member UPSC. (UPSC is no more associated with selection of Pool officers). Vacancies in the Pool were to be notified from time to time and a Standing Committee headed by the DG, CSIR and representatives of various Ministries was constituted for allocation of duties to Pool officers after their selections and also for their placement on permanent basis. Among others, some important terms and conditions of appointment of the scientists in the Pool were that the tenure in the Pool is fixed and no extension is permitted beyond the period of appointment specified initially. Continuance in the Pool within the tenure fixed at the time of appointment would depend on the performance of the officer to be judged by their yearly performance and confidential reports. The tenure of a Pool officer is three/five

years in total subject to the prescribed conditions or till he/she gets a regular appointment whichever is earlier. The tenure is fixed at the time of selection and never exceeds three/five years.

5. On 3.7.1998 the CSIR framed a scheme for absorption of Researchers who had been working continuously for 15 years in CSIR Labs/ Institutes as on 2.5.1997 (excluding its Researchers at Universities). Applicant Dr. Ajai Srivastava has alleged that CSIR has absorbed Mrs. Nandita Singh on 25.8.1999 (who worked as a Researcher at BHU), in spite of the gap of six years two months in her research period in the said 15 years tenure as laid down by the CSIR itself. Of course, she worked for 8 years only in N.B.R.I., Lucknow Lab of CSIR (from 20.2.1985 to 28.2.1990 as Research Associate and after a gap of approximately 2 months from 19.4.90 to 18.4.93 as a Pool Officer) in preference to the applicant among other eligible candidates. It has also been alleged that CSIR undertook absorption of Dr. Kumkum Srivastava, Dr. P.K.S. Visen, Dr. (Mrs) Anju Puri who had never been Pool Officer of CSIR. The CSIR is alleged to have absorbed four more ineligible candidates, namely, Mrs. Farhat Nagar Jaffarey, Ms. Tripti De, Dr. G.K. Padam and Dr. Pratibha Mishra after rejecting the candidatures of several candidates. He has contended that the Research Associates directly appointed by the Directors of the Labs/Institutes of CSIR usually get absorbed as per the discretion of the Director concerned, but the Senior Research Associates (Pool Officers) of CSIR after successful completion of their tenure are left out as unemployed scientists, he <sup>h</sup>

(72)

being one of them. He has relied on the case of Dr. Pratibha Mishra, a similarly placed person, who had filed OA No.83 of 1996. The Lucknow Bench of the Tribunal allowed her OA on 25.9.1996 and directed the CSIR to continue to pay Pratibha Mishra at the existing rate till she is absorbed in one of the scientific post. The CAT further directed to consider her case for appointment as Scientist in an existing or future vacancy. The Hon'ble Supreme Court confirmed aforesaid decision of the Lucknow Bench of the Tribunal on 2.5.1997 and also directed the respondent to absorb the Researchers working on contract basis after formulating a scheme.

6. Details of research experience of all the applicants are as follows :-

Sl.	Name of Applicant	Award	Fellow-ship	Duration	At
1.	Dr. Ajai Srivastava (OA 832/2000)	DOE	JRF	13.8.85-12.8.87	
			SRF	13.8.87-31.8.88	
			RA	1.7.91-30.6.96	
		CSIR	SRA	7.7.97-6.7.2000	BHU
2.	Dr. Anand Shastry (OA 831/2000)	BHU	RF	1.9.91-31.7.92	BHU
		CSIR	JRF	1.8.92-31.7.94	BHU
			SRF	1.8.94-6.7.97	BHU
			SRA	7.7.97-6.7.2000	BHU

*[Handwritten signature]*

3. Dr. Kiran Bargali Kum UV	SJF	1.10.87-30.9.89	Kum UV
(OA 1009/2000)	DOE	JRF	12.12.89-31.3.91 Kum UV
	CSIR	RA	1.10.92-31.7.97 Kum UV
		SRA	1.8.97-31.7.2000 Kum UV
4. Dr. Bhuvaneshwari BHU	RF	3/88-	BHU
(OA 922/2000)	CSIR	SRF	1.1.92-31.12.94 BHU
		RA	21.7.95-20.7.2000 BHU
5. Dr. SP Shukla	DOD	JRF	
(OA 164/2000)	CSIR	SRF	1992-1994 BHU
		RA	7.2.95-6.2.2000 BHU
6. Dr. Virendra Singh BHU	RF	1987-1.10.92	BHU
(OA 64/2000)	CSIR	RA	1.2.95-31.1.2000 BHU

7. According to the respondents the scheme of SRAs/RAs was floated at the instance of the Govt. of India only to facilitate persons/ scientists to do research/ training in India while looking for a suitable job. According to the respondents SRAs/ship has a fixed tenure for three years. Year to year continuance within the tenure is accorded on the basis of assessment of work and satisfactory confidential progress report of the SRA. There is no guarantee of any employment after the expiry of the tenure from the side of the respondents. The scheme which had been formulated by the respondents pursuant to the directions of the Hon'ble Supreme Court has been implemented with effect from 2.5.1997 i.e. the date of the order of the Supreme Court in Dr. Pratibha Mishra's case. The applicants have to fall within the parameters of the said scheme to be

*H*

considered for absorption in the CSIR. According to the respondents the applicants do not fall within the parameters of the said scheme and, therefore, cannot be absorbed under the scheme.

8. As regards the case of Ms. Nandita Singh, respondents have submitted that she worked as CSIR JRF/SRF from 28.11.77 to 30.11.82 at BHU, RA/SRA at NBRI, Lucknow from 20.2.1985 to 12.2.1996 and RA of UP, DOI from 13.2.1996 i.e. more than 15 years as on 2.5.1997. A total break between various spells is about 3 years and one month. Relaxation had been accorded by the DG, CSIR under Para 9 of the Scheme for Absorption of Researchers and the Central Selection Committee also recommended her case for absorption. Under the Absorption Scheme, Researchers who have completed 15 years continuous service or more as on 2.5.1997 can be absorbed. According to the respondents whereas Dr. Kunkum Rani, Dr. P.K.S. Visen, Dr. (Mrs) Anju Puri are eligible for absorption under the Absorption Scheme the applicants do not fulfil the eligibility conditions.

9. The learned counsel of the respondents disputed the claim of the applicants that even though the facts of the case of the applicants are similar to those of Dr. Saman Habib, Dr. P.R. Maulik, Dr. A.K. Giri, Dr. H.S. Subramanya, Dr. Adhar C. Manna, Dr. Shekhar Nautiyal and Dr. Neeraj Agarwal, ~~whereas~~ <sup>but</sup> the afore-mentioned persons have been absorbed in the CSIR, <sup>but</sup> the applicants have been denied the opportunity. According to the respondents whereas these persons are direct recruits, the applicants are not. We are in agreement with the

//b

respondents that no comparison can be made between these persons and the applicants as they belong to different categories of personnel.

16. As regards the second set of five candidates according to the applicants they are all eligible for absorption as they had completed 15 years of continuous research as Fellow/ Associate/ Project Associate on 2.5.1997. The learned counsel of the respondents contended that barring the case of Ms Nandita Singh everyone else had completed the requisite 15 years experience. Therefore, there has been no deviation in the implementation of the Absorption Scheme. In the case of Ms.Nandita Singh, there was a little short fall in the term for which relaxation was accorded due to her special qualifications abroad. According to the learned counsel of the applicants Ms.Nandita Singh had proceeded abroad in October, 1997 for doing her M.Sc. which was no special qualification as such. On return, she was taken as Research Associate again. Dr.Sumant Bhardwaj, learned counsel of the applicants, pointed out that Ms. Nandita Singh was accorded unwarranted special dispensation and as a matter of fact even Dr. Ajai Srivastava had put in longer period in continuous research with CSIR as compared to Ms.Nandita Singh. Dr.Bhardwaj further mentioned a particular case of Dr.Kiran Bargali, applicant in OA 1009/2000, stating that he too had put in a longer period of continuous research as required under the Absorption Scheme as compared to Ms.Nandita Singh.

W

11. All that has been pleaded on behalf of the applicants is that the provisions of the Absorption Scheme should be implemented in its true spirit. The applicants have alleged that the respondents have adopted a policy of pick and choose and in their discretion absorbed certain undeserving cases and rejected the cases of the applicants who were deserving and were not worse of than the persons so absorbed.

12. On examination of the details of the research experience of the applicants as on 2.5.1997, we find that none of the applicants had acquired the requisite research experience under the Absorption Scheme. The claim of the applicants Dr. Ajai Srivastava and Dr. Kiran Bargali that their research experience in CSIR is greater than that of Ms. Nandita Singh is also not borne out from the facts. The research experience of Ms. Nandita Singh is much greater than that of these applicants. Further more, Ms. Nandita Singh had been accorded relaxation under the Absorption Scheme.

13. In our view the sole exception was pointed out by the applicants is in respect of Ms. Nandita Singh. Basically the deficiency in the quantum of her research experience was not very alarming and she had been given the requisite relaxation under the rules. Even if it is conceded for the sake of argument that the respondents had deviated in the implementation of the provisions of the Absorption Scheme in the case of Ms. Nandita Singh, the action of the respondents is not ~~an~~ unpardonable and it cannot be universalised. The case of the applicants that wrong committed by the respondents in absorbing

Ms.Nandita Singh should be perpetuated and the applicants should also be given a similar relief of absorption even though they had not completed 15 years of requisite continuous research experience under the Absorption Scheme, cannot be accepted in any case.

4. The applicants have also sought quashing of the CSIR Scheme of Absorption from 2.5.1997 as being arbitrary and unlawful. The Scheme of Absorption of Researchers in CSIR Labs./Institute, 1997 has been formulated under the directions of the Hon'ble Supreme Court. Whereas several Researchers have been benefited in their absorption in CSIR Labs./Institutes, no good grounds have been presented before us for quashing the Scheme.

15. In the result, the six OAs having no merit are dismissed. Interim orders earlier passed stand vacated.  
No costs.

---

(Ashok Agarwal)  
Chairman

(V.K.Majotra)  
Member (Admnv)