

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No.1385/2000  
MA No.1730/2000

New Delhi, this the 5th day of November, 2001

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN  
HON'BLE MR. S.A.T.RIZVI, MEMBER (A)

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1. Shri Sanjay Malhotra  
S/o Shri O.P.Malhotra  
R/o 125, Chaw Mandi  
Roorkee (UP).

2. Shri Sri Pal Sharma  
S/o Shri J.P.Sharma  
R/o B-38, CBRI Colony  
Shanti Nagar  
Roorkee (UP).

... Applicants

(By Advocate Shri K.C.Dubey )

V E R S U S

1. Council for Scientific & Industrial Research  
Rafi Marg, New Delhi  
through its Director General

2. Central Building Research Institute  
Roorkee  
(through its Director)

... Respondents

(By Shri Manoj Chaterjee, Advocate  
with Ms.K.Iyer, Advocate)

ORDER (ORAL)

S.A.T.Rizvi, Member(A):-

MA No.1730/2000

MA No.1730/2000 for joining together in a single OA  
is granted.

2. On the basis of service rendered as an  
apprentice trainee and later as Project Assistant in the  
case of applicant No.1 and as Technical Assistant in the  
case of applicant No.2, applicants have prayed for a  
direction to the respondents to provide employment to

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them on completion of apprentice trainee and further to appoint them in preference over those junior to them. The respondents dispute their claim for employment or for appointment against regular posts in the Central Building Research Institute (CBRI).

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3. We have heard the learned counsel of either side and also perused the relevant record.

4. The applicant No.1, we find, was taken as an apprentice trainee in the CBRI in March 1988 and continued to function as such in broken spells till March 1990. After a gap of nearly 7 years thereafter, he was taken in employment as Project Assistant from 1.7.1997 and was allowed to continue to work in that capacity till June 1998 again with breaks. Thereafter again he was employed as Project Assistant and continued to work with artificial breaks till May 1999. He has not been engaged thereafter. Applicant No.2 was taken as an apprentice trainee in 1988 and continued in that capacity till March 1990. Thereafter according to the applicants, he was appointed as Technical Assistant in July 1991 in which capacity he continued to work till May 1993. The applicant No.2 has not been employed ever thereafter.

5. The contentions raised on behalf of the applicants are that having been trained in the CBRI, the applicants should have been preferred over others in making appointments to regular posts, for the purpose of appointment as such, the age bar should not have been.

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applied, the need for sponsorship from the Employment Exchange should not have been insisted upon and in any case their claim should have been considered in preference over juniors. In support of his contention, the learned counsel appearing on behalf of the applicants has placed reliance on U.P.State Road Transport Corporation and another v. U.P. Parivahan Nigam Shishukhs Berozgar Sangh & others decided by the Hon'ble Supreme Court on 12.1.1995 and reported in AIR 1995 SC 1115. We have perused the aforesaid judgement and find that it is distinguished from the present case inasmuch as the absorption of trainees by the U.P.State Road Transport Corporation was to be considered on the basis of a certain circular issued by that corporation as well as on the basis of a certain memorandum issued by the Directorate of Training. Moreover, in accordance with the aforesaid judgement, apprentice trainees were to be provided employment which, according to us, is not the same thing as appointment against regular posts. The learned counsel appearing on behalf of the applicants has not been able to place before us any instructions issued by the CBRI which would create an obligation in favour of applicants' absorption or their appointment in regular posts on the basis of service rendered by them as apprentice trainees and/or as Project Assistant or as Technical Assistant. The aforesaid judgement cannot, therefore, assist the applicants' case.

6. The learned counsel appearing on behalf of the respondents, on the other hand, placed reliance on the

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terms and conditions, <sup>+ incorporated +</sup> ~~written~~ in the offer for engagement issued to the applicants. The following provisions have, inter alia, been made therein:-

"It is not an offer of appointment in CSIR temporary or otherwise. It is a contractual engagement on purely temporary basis for the Project/Scheme funded by the above sponsor. It would, therefore, not confer any right/claim implicit or explicit for your consideration for regularisation/absorption against any CSIR post.

Your engagement on contract is for a specific period of 3 MONTHS from the date of joining, which may be extended or curtailed depending upon the status of the sponsored Project/Scheme on the same terms and conditions.

In any case your engagement in the above sponsored Project/Scheme shall be co-terminus with the Project/Scheme."

7. We have considered the aforesaid provisions and find that none of the applicants can prefer a valid claim for continued appointment on projects and also cannot prefer any claim for regular appointment in the CBRI.

8. In-so-far as regularisation of similar situated persons is concerned, the learned counsel appearing on behalf of the respondents tells us that a scheme was indeed framed for the purpose known as "CBRI Casual Contractual Workers Absorption Scheme". One of the basic condition provided in the aforesaid scheme required completion of 240 days' work in a year as on 22.11.1991. Neither the applicant No.1 nor the applicant No.2 has admittedly completed the period of 240 days in a year and, therefore, they are not entitled to be considered for regularisation.

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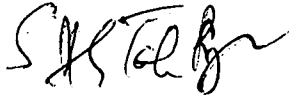
9. The learned counsel appearing on behalf of the applicants has raised the issue of juniors having been regularised. In the Sur-rejoinder filed by the respondents they have given details of all the 13 persons named by the applicants. According to the respondents, 10 out of the 13 (aforesaid) persons have not been employed at all anywhere in the CBRI. In relation to the remaining 3, the position has been adequately explained so as to bring out the fact that their case by no means is comparable with the case of the applicants.

10. The learned counsel appearing on behalf of the respondents also raised the issue of limitation. The applicant No.2 was as we have already noted last employed in 1993. He has come before us through the present OA in July 2000. He may have made any number of representations in the meantime but the legal position is clear. Repeated representations cannot be invoked to revive limitation. His prayer is, therefore, hopelessly time barred. The prayer made by the other applicant namely the applicant No.1 though not time barred has been found by us in the preceding paragraphs to ~~be~~ lack in merit. The case of the applicant No. 1 <sup>is</sup> ~~also~~ for that <sup>very</sup> ~~same~~ reasons <sup>is</sup> rejected. Applicant no. 2's prayer is rejected additionally <sup>on the ground of limitation.</sup>

11. For the reasons mentioned in the preceding paragraphs, the OA is found to be devoid of merit. The

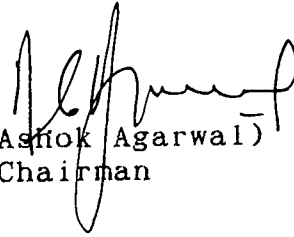
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same is dismissed with no order as to costs.



(S.A.T. Rizvi)  
Member (A)

/sns/



(Ashok Agarwal)  
Chairman

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