



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A No. 389/2019

Reserved on : 21.10.2020

Pronounced on : 02.12.2020

Through Video Conferencing

**Hon'ble Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

1. Vishnu Prasad Kaushal, Scientist 'B', Group 'A',
Aged About 28 Years,
S/o Madan Prasad Kaushal
R/o H. No. 323, Bartan Gali, Jugauli-2,
Sonauli, Distt. Maharajganj,
U.P-273164
2. Abhishek Bansal, Scientist 'B', Group 'A',
Aged About 26 Years,
S/o Purushottam Das Bansal
R/o 109 A, 2nd Floor, Prakash Mohalla,
East of Kailash, New Delhi-110065
3. Munish Kumar, Scientist 'B', Group 'A',
Aged About 28 Years,
S/o VPO Sagoor, Tehsil Baijnath,
Distt. Kangra,
Himachal Pradesh,
4. Dharmendra Kumar, Scientist 'B', Group 'A',
Aged about 25 years,
S/o Bhavani Singh
R/o 402, Mahendra Market,
Dauki Agra, U.P.
5. Abhishek Solanki, Scientist 'B', Group 'A',
Aged About 26 Years,
S/o Jagdish Kumar Solanki



R/o M-702, Ajnara Landmark Sector-4 Vaishali,
Ghaziabad, U.P. 201010.

6. Ravi Kumar, Scientist 'B', Group 'A'
Aged About 30 Years,
S/o Prakash Chandra Sharma
R/o Second Floor, B-120, D-Park Road,
Pandav Nagar, New Delhi, Delhi-110092
7. Navdeep Kumar, Scientist 'B', Group 'A'
Aged about 25 Years
S/o Late Sh. Prushottam
R/o Type 4/1, IIPR Colony, Kalyanpur,
Kanpur, U.P.
8. Gyan Prakash Singh, Scientist 'B', Group 'A'
Aged about 27 Years,
S/o Jagdish Singh
R/o New Railway Colony,
Behind Manoranjan Kendra,
Anand Nagar, Tundla-283204, U.P.
9. Rakesh Kumar Singh, Scientist 'B', Group 'A'
Aged about 27 Years,
S/o Sanjay Singh
R/o Biramapatti, P.O.-Bhingari,
Distt. Deoria, U.P.-274702
10. Ankit Gupta, Scientist 'B', Group 'A'
Aged about 27 Years,
S/o Ramesh Kumar Gupta
R/o 118/6, Vikas Nagar
Near Govt. College Gohana,
Sonapat, Haryana,
11. Yash Dhingra, Scientist 'B', Group 'A',
Aged about 28 years,
S/o Tilak Dhingra
R/o 4/64, Malviya Nagar,
New Delhi—110017



12. Arun Kumar Sahani, Scientist 'B',
Group 'A'
Aged about 27 Years,
S/o Amulya Mohan Sahani
r/o At-Bhaliadihi, P.O. Madanpur,
Distt. Nayagarh-752090, Odisha,
13. Ramesh Naik Vankdoth, Scientist 'B',
Group 'A'
Aged about 27 Years,
S/o Jaamia Vankdoth
R/o B-176, Sector-26, Noida, U.P.-201301
14. Hemant Kumar Garg, Scientist 'B',
Group 'A'
Aged about 27 Years,
S/o Vimlesh Kumar Garg
R/o VP-Chhan, Tehsil Khandar,
Sawai Madhopur-322001
15. Aritro Sengupta, Scientist 'B',
Group 'A'
Aged about 27 Years,
S/o Amal Sengupta
R/o 21A, Raja Bagan Lane, Kolkata-700030
16. Pankaj Kumar, Scientist 'B',
Group 'A'
Aged about 27 Years,
S/o Tarak Nath Sah
R/o Geeta Bhawan, Near Gayatri mandir,
Nazirpur, Muzaffarpur, Bihar-842002
17. Shubham Prajapati, Scientist 'B',
Group 'A'
Aged about 27 Years,
S/o Ram Kishan Singh Prajapati
R/o Type-2/5, New Tehsil Campur,
Moh. Mughlushah, Najibabad,
U.P.-246763



18. Amit Singh, Scientist 'B',
Group 'A'
Aged about 27 Years,
S/o Vishwapal Singh
R/o F-131, Barra 8,
Kanpur Nagar-208027

...Applicants

(By Advocate : Shri M. K. Bhardwaj)

Versus

1. Union of India & Ors.
through its Secretary,
Ministry of Electronics & Information Technology,
Electronics Niketan, CGO Complex
New Delhi

2. The Director General
Standardisation Testing and Quality Certification
(STQC) Directorate
(an Attached Office of the
Ministry of Electronics & IT)
Electronics Niketan, CGO Complex
New Delhi

3. Indian Computer Emergency Response Team,
Through its Director General,
Ministry of Electronics & Information Technology,
Electronics Niketan, CGO Complex
New Delhi

...Respondents

(By Advocate : Shri Rajeev Kumar)

O R D E R

Hon'ble Ms. Aradhana Johri, Member (A)

The applicants who are 18 in number applied for the post of Scientist 'B' in response to vacancy advertisement No. 05/09/2016/NDL/SER and were



selected for the same. An offer of appointment was made to applicant no. 1 vide letter dated 12.06.2017 and accepted by him on 10.07.2017. Similar offers and acceptances were made regarding the other applicants. The recruitment rules were notified on 20.11.2017 though they were in the offing for a considerable period before that.

2. The matter under dispute is that the applicants claim they are Group 'A' gazetted whereas as per the respondents they are only equivalent to Group 'A'.

3. It is the contention of the applicants that as per the advertisement, the post of Scientist-B was classified as Group 'A' Gazetted and the pay matrix was also given. They have also stated that letter dated 03.08.2017 by which they were called for medical examination also lists the post as Scientist-B Group 'A' Gazetted. They have claimed that the recruitment rules under which they have been made equivalent to Group 'A' gazetted in Central Government, came much later, and as such, they are entitled to be given the designation of Group 'A' gazetted.



4. The respondents have denied the claim of the applicants and stated that on behalf of the Ministry of Electronics and Information Technology (MEITY), Advertisement No 05/09/2016/NDL/SER was issued by National Institute of Electronics and Information Technology (NIELIT) for filling up Scientist 'B' in the Ministry of Electronics and Information Technology, its attached offices and statutory organisations i.e. Standardisation, Testing and Quality Certificate (STQC) and Directorate of Indian Computer Emergency Response Team (ICERT). ICERT is a statutory body of the Ministry and its posts of Scientist 'B' are equivalent to Group 'A'. They have further stated that it has been clearly laid down in the recruitment rules as well, and was made amply clear in the offer of appointment which has the following clause:-

“Your appointment is in Indian Computer Emergency Response Team (ICERT), a Statutory Organisation under MeitY therefore, you would be governed by the rules as applicable for employees of ICERT as per rules/regulations to be framed for them from time to time and on the basis of any such decisions/orders/notifications of the Central Govt./MeitY issued from time to time governing service conditions of the employees of Statutory Bodies/ICERT and you will not claim for any parity with Central Govt. Employees.”



5. As per the respondents, vide this clause not only were the applicants to be governed by the rules as applicable to employees to be framed from time to time and on the basis of any decisions/orders/notifications of the Central Government / MEITY issued from time to time, but they would also not claim any parity with Central Government employees. This offer of appointment was accepted by the applicants, therefore now they cannot turn around and claim equivalence. Additionally, it has also been stated, since DoP&T in its letter dated 10.12.2018, has clearly said that these posts are not under Union of India and the RRs/SRs framed under Article 309 of the Constitution, therefore, they cannot be classified as gazetted Central Civil posts / General Central Service. Further, the classification of non-gazetted is not applicable to posts of autonomous/statutory bodies.

6. The respondents have further contended that since there were no recruitment rules, the advertisements were issued on the basis of Standard Operating Procedures (SOPs) which have been modified



from time to time and enable such sort of recruitments to be undertaken.

7. Respondents have clarified that Central Government employees get the benefit of CGHS as well as Government accommodation under GPRA. As per the existing instructions of the Ministry of Health and Family Welfare – the nodal Ministry dealing with CGHS, the employees of statutory bodies are not entitled to avail CGHS facilities. However, as per the respondents, they had made efforts with the nodal ministry for extension of CGHS facilities to ICERT employees, and on its own a medical scheme has also been approved by MEITY which is under vetting at the moment, for grant of basic medical facilities on the lines of UIDAI. The other benefit which would accrue to the applicants if they were given the status of Group 'A', would be eligibility for Government accommodation under GPRA for which they will have to be included in the list of eligible offices by the Cabinet Committee of Accommodation. A proposal sent for this purpose was not approved by the Cabinet Committee of Accommodation. Ministry of Housing and



Urban Development has requested for a consolidated proposal from all the Ministries/departments, and a proposal has accordingly been sent to the said Ministry by the respondents.

8. The respondents have further stated that the matter of classification of posts is under consideration of DoP&T, which decision would be taken with wider policy considerations in mind and the respondents could take a decision only thereafter.

9. Heard Shri M. K. Bhardwaj, learned counsel for applicants and Shri Rajeev Kumar, learned counsel for respondents.

10. It is clear from the offer of appointment that the applicants were not being treated equivalent to Central Government employees. The said offer nowhere contains the mention of "Group-A" but simply designates them as Scientist-B. This offer has also been duly accepted by the applicants. Therefore, there is no question of going back on the terms. Furthermore, as clarified by the respondents, the matter of classification of posts of all



autonomous organisations is under consideration of DoP&T which is a major policy issue and can only be decided by the respondent-organisation after DoP&T takes a view on it.

11. The recruitment rules which were notified on 20.11.2017 and must have been in the offing for quite some time clearly specify that Scientist B is equivalent to the Group 'A' gazetted post in the Central Government. This, read with the offer of appointment, which states that the appointee would be governed by the rules as applicable for employees of ICERT as per rules/regulations to be framed for them from time to time, and on the basis of any such decisions/orders/notification of the Central Government/MIETY issued from time to time governing service conditions of the employees of statutory bodies/ICERT, will not support the claim for parity with (201) central government employees. Therefore, the position is abundantly clear that the applicants went into the appointment with their eyes open and it was quite fairly specified upfront by the respondents that the applicants



were not to claim any parity with Central Government employees and no mention of Group 'A' gazetted was made in the offer of appointment or in the recruitment rules.

12. Additionally, the respondents have taken steps to give other facilities related to medical benefits and GPRA accommodation both of which are ongoing and involve policy issues.

13. Learned counsel for the applicants has filed two judgments i.e., Hon'ble Supreme Court of India in **Shri Krishan Vs. The Kurukshetra University** Civil Appeal No. 947/1975 and Judgment of Hon'ble High Court in **Sangeeta Shrivastava Vs. U. N. Singh And Ors.**

These rulings pertain to candidates who did not fulfil eligibility conditions for admission to a higher academic programme but had been admitted at the initial stage and were subsequently disqualified, which situation is totally different to the present case. Therefore the rulings do not help the applicants' case at all.



14. In the light of the above, this O.A has no merit and is dismissed. No order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narsimha Reddy)
Chairman

/Mbt/