

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

DA NO. 4/90

DATE OF DECISION: 9.7.90

SHRI YOGESH KUMAR &amp; OTHERS

APPLICANTS

VERSUS

UNION OF INDIA &amp; OTHERS

RESPONDENTS

SHRI B.S. CHARYA

ADVOCATE FOR THE APPLICANTS

MRS. RAJ KUMARI CHOPRA

ADVOCATE FOR THE RESPONDENTS

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

J U D G E M E N T

(Delivered by the Hon'ble Mr. I.K. Rasgotra, Member(A))

*h* This application <sup>has been</sup> filed by S/Shri Yogesh Kumar, Madan Lal, Davender Kuamar Sharma and Dinesh Kumar Sharma, all employees of the Central Indian Pharmacopoeia Laboratory, Ghaziabad, under Section 19 of the Administrative Tribunals Act, 1985. *h* <sup>it</sup> Shorn of verbiage, <sup>it</sup> challenges the constitutional validity of Central Indian Pharmacopoeia Laboratory, Ghaziabad (Technical Assistant) Recruitment Rules, 1987, framed in supersession of the Central Indian Pharmacopoeia Laboratory, Ghaziabad (Class III & Class IV posts) Recruitment Rules, 1969 and amended thereafter

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vide notification dated 1/5.4.1975.

2. Shri Madan Lal, applicant No.2 in the present OA had earlier challenged the validity of the Recruitment Rules, 1987 in OA-1232/88 which was decided by the Tribunal on 8.8.1988. The Tribunal had considered all the issues raised in this regard by the applicant and had declined to direct "the respondents to ignore the statutory rules and make appointments in derogation thereof. This application, therefore, fails and is accordingly dismissed."

The issues of law and fact raised in the present application are the same as were disposed of on merits and the petition dismissed by a speaking order by the Tribunal vide judgement dated 8.8.1988. Section 11 of the Code of Civil Procedure provides that:

"No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised and has been heard and finally decided by such Court."

Commenting on Section 11 of the Code of Civil Procedure, the Hon'ble Supreme Court in Daryao Vs. State of U.P. & Others (AIR-1981 SC-1457) observed that:

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"The rule of res judicata as indicated in S.11 of the Code of Civil Procedure has no doubt some technical

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aspects, for instance the rule of constructive res judicata may be said to be technical; but the basis on which the said rule rests is founded on considerations of public policy. It is in the interest of the public at large that a finality should attach to the binding decisions pronounced by Courts of competent jurisdiction, and it is also in the public interest that individuals should not be vexed twice over with the same kind of litigation."

The fundamental consideration in applying the rule of res judicata is that it is in the interest of public to contain unnecessary litigation by making the decision of the competent courts binding and to avoid multiplicity of litigation on the same issues between the same parties. The rule of res judicata has been further elaborately dealt with by the Hon'ble Supreme Court in the Workmen of Cochin Port Trust Vs. the Board of Trustees of the Cochin Port Trust and another (AIR 1978 SC 1283).

4. In the facts and circumstances of the material before us we are of the view that the rule of res judicata bars the trial of the issues involved in this case as they stand already decided in OA-1232/88 vide judgement of the Tribunal dated 8.8.1988.

5. Accordingly, the application is dismissed without any order as to the costs.

*S. K. Raghoebari*  
(S. K. RAGHOEBARI)  
MEMBER (A) 9/12/90

*T. S. Oberoi*  
(T. S. OBEROI)  
MEMBER (J) 9.7.90