



Central Administrative Tribunal Principal Bench: New Delhi

O.A. No. 1731/2021

M.A. No. 2196/2021

M.A. No. 2197/2021

This the 19th day of August, 2021

Through Video Conferencing

**Hon'ble Ms. Manjula Das, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. Akshay Kumar,
Age 31 years, Indian Inhabitant,
Assistant Controller of Patents and Designs,
Residing at First Floor, WZ 11 B/1,
Lajwanti Garden, New Delhi – 110046.
2. Neeraj Kumar Meena,
Age 33 years, Indian Inhabitant,
Assistant Controller of Patents and Designs,
Residing at Flat 84, Kautilya Apartment,
Pocket – B, Sector – 14, Dwarka,
New Delhi 110078
3. Pratap Chandra Barad,
Age 33 years, Indian Inhabitant,
Assistant Controller of Patents and Designs,
Residing at Flat No – 548, Sarvahit Apartment,
Sector – 17, Pocket – A, Dwarka,
New Delhi – 110075
4. Anjali,
Age 32 years, Indian Inhabitant,
Assistant Controller of Patents and Designs,
Residing at F-310, MIG, Kautilya Apartment,
Pocket – B, Sector – 14, Dwarka – 110078.
5. Dr. Suman Verma,
Age 35 years, Indian Inhabitant,
Assistant Controller of Patents and Designs,
Residing at Flat No. 901, F2A Block,
Golf Link Residency,
Dwarka Sector 18B, Delhi – 110075.
6. Hariom Singh,
Age 30 years, Indian Inhabitant,



Assistant Controller of Patents and Designs,
Residing at 442, Sarvahit Apartment,
PKT-A, Sector – 17, Dwarka, Delhi – 110075.

7. Dilip Dandotiya,
Age 32 years, Indian Inhabitant,
Assistant Controller of Patents and Designs,
Residing at C-1103, ROF AALAYAS,
Sector 102, Gurugram, Haryana – 122505.
8. Rakesh Kumar Kushwaha,
Age 32 years, Indian Inhabitant,
Assistant Controller of Patents and Designs,
Residing at Flat No. 56, Peepal Apartment,
Sector – 17, Pocket E, Dwarka,
New Delhi – 110075
9. Raj Kumar,
Age 33 years, Indian Inhabitant,
Assistant Controller of Patents & Designs,
Residing at Flat No. 708, Radhika Apartment,
Sector – 14, Dwarka, Delhi – 110075.
10. Gopal Kumar,
Age 35 years, Indian Inhabitant,
Assistant Controller of Patents and Designs,
Residing at D-4F, D Block, Vatika Apartments,
Mayapuri, New Delhi -110064.
11. Santosh Kumar Gupta,
Age 36 years, Indian Inhabitant,
Assistant Controller of Patents and Designs,
Residing at D-13D, MIG Flats,
Vatika Apartments,
Mayapuri, New Delhi – 110064.
12. Vinay Shankar Rai,
Age 37 years, Indian Inhabitant,
Assistant Controller of Patents and Designs,
Residing at J/20/304 Sapoorti Action Area 3,
Newtown Kolkata 700135.
13. Sreekanth K.S.,
Age 32 years, Indian Inhabitant,
Assistant Controller of Patents and Designs,
Residing at Flat No 196, C-Block, CGS Colony,
Wadala (West), Mumbai 400031.



14. Niranjan Kumar,
Age 32 years, Indian Inhabitant,
Assistant Controller of Patents and Designs,
Residing at Flat 3B, Pearl Exotica,
K.G. Bose Sarani, Phool Bagan,
Kolkata – 700085.
15. Sudipta Dey,
Age 37 years, Indian Inhabitant,
Assistant Controller of Patents and Designs,
Residing at residing at Vill-Mashila
Paschim Para,
PO: Mashila, PS: Sankrail,
Dist:- Howrah, PIN – 711302
16. Ankush Arun Wankhede,
Age 37 years, Indian Inhabitant,
Examiner of Patents and Designs,
Residing at 603, Payal Riddhi CGS,
Plot No 51, Sector 27,
Kharghar, Navi Mumbai 410210

...Applicants
(Ms. Swathi Sukumar and Mr. Naveen Nagarjuna,
Advocates)

Versus

1. Union of India,
Through the Finance Secretary,
Having office at Room No. 128-A,
North Block, Cabinet Secretariat,
Raisina Hill, New Delhi – 110001.
2. The Director,
Department of Expenditure,
Ministry of Finance,
Government of India,
Having office at Room No. 76,
North Block, Cabinet Secretariat,
Raisina Hill, New Delhi – 110001.
3. The Secretary (Personnel),
Department of Personnel and Training,
Ministry of Personnel,
Public Grievances and Pensions,
Government of India,
Having office at North Block,
Cabinet Secretariat,
Raisina Hill, New Delhi – 110001.



4. The Secretary,
Department of Science and Technology,
Ministry of Science and Technology,
Government of India,
Having office at Technology Bhavan,
New Mehrauli Road, New Delhi – 110016.
5. The Secretary,
Department for Promotion of Industry
and Internal Trade,
(Formerly Department of Industrial
Policy and Promotion “DIPP”),
Ministry of Commerce and Industry,
Government of India,
Having office at
Udyog Bhavan, New Delhi 110011.
6. The Controller General of Patents, Designs and
Trade Marks, Having office at
Boudhik Sampada Bhavan,
S.M. Road, Antop Hill, Mumbai – 400037.

...Respondents
(Mr. Hanu Bhaskar and Mr. Anil Kumar Singh,
Advocates)

ORDER (ORAL)

Hon'ble Ms. Manjula Das:

M.A. No.2197/2021

This M.A. filed by the applicants under Rule 4 (5) of CAT (Procedure) Rules, 1987 for joining together in a single petition is allowed.

M.A. No.2196/2021

This M.A. filed by the applicants seeking exemption from filing legible/typed/clear copies of the documents is allowed.



O.A. No.1731/2021

The applicants have filed the instant O.A. seeking, *inter alia*, for issuance of directions to the respondents to implement the Modified Flexible Complementing Scheme (MFCS) dated 10.09.2010 in respect of Controllers/Examiners (Group 'A') working in the Patent Office, which has been recognized as Scientific & Technological Organization since 1987. Further, on 21.04.2014, the Department of Science & Technology, following the procedure laid down in the MFCS, 2010, through a Committee, unanimously decided that the Patent Office be declared as a scientific organization for the purpose of implementation of the MFCS and this decision has been accepted by the Central Government.

2. According to the applicants, on 23.10.2017, the Department of Expenditure informed the Department for Promotion of Industry & Internal Trade (DPIIT) that the Appointments Committee of the Cabinet (ACC) has set up a Committee of Secretaries (CoS) to frame comprehensive uniform guidelines in regard to Scientists and one of the terms of reference of the CoS includes examination of MFCS. It is stated that in



some of the Departments, MFCS, 2010 has been implemented.

3. Learned counsel for applicants referred to an Office Memorandum dated 16.04.2020 issued by the Department of Personnel & Training, whereby it has been informed that the proposal based on the recommendations of the Committee under the Chairmanship of Department of Biotechnology, which reviewed the MFCS, was considered by the CoS, with respect to framing a comprehensive and uniform guidelines relating to promotion of Scientists in Scientific Ministries and Departments in its meeting held on 20.02.2010. However, on a representation made by All India Patent Officers Welfare Association on 08.06.2020, the DPIIT, through its reply dated 22.07.2020, informed that the proposal for declaring Indian Patent Office as a scientific organization for the purpose of implementation of MFCS is under process and is pending with Department of Biotechnology (DBT). Since no action has been taken by the respondents thereafter, the applicants approached the Hon'ble High Court of Delhi by filing W.P. (C) No.8316/2020. The said writ petition was dismissed being not maintainable and liberty was, however,



accorded to the applicants to approach this Tribunal.

Hence, the present O.A. seeking the following reliefs:

- “a. Appropriate Order or direction to the Respondents to give immediate effect to the O.M. dated 16.04.2020 (Annexure A-50) issued by the Department of Personnel & Training and take all necessary actions to implement the Modified Flexible Complementing Scheme dated 10.09.2010 (Annexure A-19) to the Indian Patent Office with retrospective effect, without any further delay.
- b. Appropriate order or direction to hold and declare that the Department of Expenditure, Ministry of Finance does not have the power and jurisdiction under OMs dated 9.11.1998 (Annexure A-9) and 10.9.2010 (Annexure A-19) and Business Rules, 1971 (Annexure A-1) to reject the recommendation of Department of Science and Technology, Ministry of Science and Technology declaring the Indian Patent Office as a “Scientific and Technical Organisation” for the purpose of implementation of the Modified Flexible Complementing Scheme dated 10.09.2010.
- c. Appropriate order or direction quashing the impugned decisions of the Department of Expenditure, Ministry of Finance dated 18.02.2016 and 16.12.2016 (Annexure A-37 and A-40) are per se illegal, without jurisdiction and null and void ab initio and liable to be quashed and set aside.
- d. Appropriate order or direction calling for the records and proceedings of the recommendations made by the Respondent Nos. 3 to 5 in their letters/reports dated 14.08.2014, 21.04.2014, 29.05.2014, 04.04.2014 and 06.04.2014 (Annexure A-33, A-28, A-31 & A-32) regarding recognition of the Patent Office as a scientific and technical institution and for extension/ implementation of the Modified Flexible Complementing Scheme contained in the Office Memorandum No. No. AB-14017/37/2008-Estt (RR) dated 10.9.2010 (Annexure A-19) and impugned decisions dated



18.2.2016 and 16.12.2016 of the Respondent Nos. 1 and 2 (Annexure A-37 & A-40).

e. Any other order that this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the present case be also granted in favour of the Applicants against the Respondents.”

4. The main grievance of the applicants is that the representation dated 08.06.2020 preferred by the All India Patent Officers Welfare Association was replied by the respondents by issuing a letter dated 22.06.2020, wherein it is stated that the matter is under process and is pending with the DBT. It is stated that since then, no decision has been taken by the respondents.

5. We heard Ms. Swathi Sukumar & Mr. Naveen Nagarjuna, learned counsel for applicants and Mr. Hanu Bhaskar & Mr. Anil Kumar Singh, learned counsel for respondents.

6. After perusing the records, we find that the respondents have not taken any action after the letter dated 22.06.2020. In this regard, the said letter is reproduced as under:



“I am directed to refer to your letter dated 8th June, 2020 regarding a proposal for declaring Indian Patent Office as a Scientific Organization for the purpose of implementation of Modified Flexible Complementing Scheme (MFCS) and to convey that the matter is under process and is pending with the Department of Biotechnology (DBT) and a final reply will be furnished as soon as the same is received from the DBT.”

7. In the facts and circumstances of the case, we deem it appropriate to accord liberty to the applicants to prefer a comprehensive representation to the respondents, who, in turn, shall pass reasoned order thereon within a timeframe.

8. Accordingly, the O.A. is disposed of at the admission stage itself, with liberty to the applicants to prefer a comprehensive representation to the respondents, raising all the points, within one month from the date of receipt of a copy of this order. On receipt of such a representation, the respondents shall consider the same and pass a reasoned and speaking order, within two months thereafter, under intimation to the applicants. If the grievance of the applicants still subsists, they are at liberty to approach this Tribunal in accordance with law. We, however, make it clear



that we have not expressed any opinion on the merits of the matter.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Manjula Das)
Chairman

August 19, 2021
/sunil/mbt/vb/dd/