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5. ORDER DATED 10.5.2001.

In this Original Application, the four applicants have prayed for quashing the impugned sanction of higher scale of pay to private Respondents 4 to 6. They have also prayed for a direction that the applicants are entitled to get higher scales of pay retrospectively w.e.f. the ~~dates of acquiring~~ qualification for Group II.

Departmental Respondents have filed counter opposing the prayers of applicants. Private Respondents 4 to 6 have also filed separate counters. Applicants have filed rejoinder to the counter filed by the Departmental Respondents. We have perused the pleadings of the parties. On 10.4.2001 we had heard Shri G.B. Dash, learned counsel for the applicants, Mr. U.B. Mohapatra, learned Additional standing Counsel and Shri N.K. Mishra, learned counsel for the private Respondents in part. Today when the matter was called, learned counsel for the applicant and private Respondents were absent. There was also no request from their side for any adjournment. We have therefore, heard Shri U.B. Mohapatra, learned Additional Standing Counsel for the Departmental Respondents.

For the purpose of considering this Original Application it is not necessary to go into too many facts of this case. Four applicants are working in Regional Research Laboratory, Bhubaneswar. They have stated that the Technical staffs have been classified into two grades i.e. Gr. I and Gr. II. In each grade there are categories of 1, 2, 3 and

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4 Carrying different scales of pay. The lowest category in Gr.I(1) in the scale of pay of Rs.750-940/- is meant for Recruitment/regularisation of temporary/identified workers. The other three categories in Gr.I i.e. Level 2, 3 and 4 are to be filled up through promotion by assessment. In Gr.II(1) carrying scale of Rs.950-1400/-, posts are to be filled up by direct recruitment and higher level of Gr.2, 3 and 4 are to be filled up promotion through merit assessment. Applicants have stated that they were appointed as Helper A in 1983 in Gr.I(1) category, vide appointment orders at Annexure-2 series in which their scale of pay has been shown as Rs.196-232/-. They have further stated that the private Respondents 4 to 6 were working as daily wage workers on casual basis and in order dated 30.4.1990 (Annexure-4), the private Respondents were identified as three of the 19 workers working on daily rated basis. Applicants have further stated that the Departmental Authorities promoted ^{the applicants} ~~them~~ from Gr.I(1) to Gr.I(2) from the pay of Rs.750-940 to the scale of 800-1150/- in order dt. 28.2.1991 at Annexure-5. They have filed representation for placing them in Gr.II(1) category but without any favourable order. It is stated that the Departmental Authorities in their order dated 20.4.1994 at Annexure-6 permitted three private Respondents to get the minimum of the scale of Rs.950-1400/- plus DA. They have stated that these private Respondents have been absorbed in service and have been sanctioned ~~the~~ higher scale of pay and this is the first grievance of the applicants. They have further stated that they have the qualifications for being appointed to Gr.II(1) category but their

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cases have been ignored. In consideration of the above, they have come up in this petition with the prayers referred to earlier.

Departmental Respondents in their counter have pointed out that applicants can not compare their cases with the private Respondents because the applicants are regular employees of the RRL whereas the private Respondents 4 to 6 are casual workers who have been conferred temporary status or in other words declared as identified employees. As per the order at Annexure-4 they are entitled according to the Govt. of India circular dated 7.6.1988 to 1/30th of basic pay of the minimum of the relevant pay scale for eight hours working ^{VW} a day. It is further stated that the CSIR circular dated 30.3.1990 at Annexure-R/2 provides that all daily wage/casual workers who are doing the same type of job as performed by the regular employees would be paid remuneration as has been laid down by the Govt. of India in their order dated 7.6.1988 w.e.f. 1.4.1990. Three private Respondents have passed HSC, B.A. and I.T.I. qualifications respectively and that is why they have been allowed the minimum of Rs. 950/- in the scale of Rs. 950-1400 plus DA. This is as a consequence of granting of temporary status to them. On the above grounds as also other grounds which would be referred to while considering the prayers of the applicants, these Respondents have opposed the prayers of the applicants.

From the above recital of pleadings of the parties it is clear that the applicants are regular employees of the RRL whereas private Respondents 4 to 6 are only casual workers with temporary status.

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Therefore, applicants can not compare their cases with the private Respondents 4 to 6. The averments of the applicants that the private Respondents have been allowed the scale of Rs. 950-1400/- is also incorrect because they have only been allowed the minimum of the scale of pay of the post held by regular employees who are doing the same work as is being done by them. Their daily wage will work out to 1/30th of the above minimum pay of Rs. 950/- plus DA. Respondents have stated that it is not known when private Respondents 4 to 6 will be regularised in service in RRL and at that time they have to be regularised on the basis of the vacancies available for them. In consideration of the above we hold that as the private respondents have not been given the scale of Rs. 950-1400/-, the prayer of the applicants to quash the order giving the private Respondents the above scale is without any merit and this prayer is accordingly rejected. It is also to be noted in this connection that giving of 1/30th of the minimum scale of pay as daily wage is strictly in accordance with the circular dated 7.6.1988 adopted by the CSIR in their Circular dated 30.3.1990. The third aspect of the prayer of the applicants is that they should be inducted as Gr. II(1) category in the scale of Rs. 950-1400/- as they have acquired the qualifications for the same. Departmental Respondents have pointed out that prior to their regular absorption on 10.3.1983, the applicants were also working on daily wage basis and they were regularised in Gr. D category in the scale of Rs. 196-230/- which was revised from 1.1.1986 to Rs. 750-940/- as per the 4th Pay Commission Report. For their next assessment

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promotion they were governed by the instructions contained in para 1.11.1 of the scheme which came into force w.e.f. 1.2.1981 extract of this is at Annexure-R/3. As the applicants were not on regular employment as on 1.2.1981 and as they were not in possession of the qualifications prescribed for Gr.II(1) category at that time this they could not be inducted as Gr.II(1) from 1.4.1988. A new scheme called merit and normal assessment scheme (MANAS) came into force and under this scheme employees who are in position as on 1.2.1981 and acquired the qualification for promotion to next higher grade ^{after 31.12.1981} were to be considered along with others who apply against the advertised posts. Respondents have mentioned in page 3 of their counter the qualifications of the applicants and the year in which the qualification was acquired by them. Accordingly they rightly ^{stated} ~~asked~~ ^{that} ~~they~~ ^{applicants} ~~stated~~ ^{that} they could not have been inducted in Gr.II(1) category. After putting in 7 years of service, they were promoted to Gr.I(2) category in the scale of Rs.800-1150/- w.e.f. 10.3.1990. They have further stated that the applicants will be assessed for the next promotion to Gr.I(3) category in the scale of Rs.950-1400/- w.e.f. 10.3.1997 after seven years in the lower scale.

In consideration of the above, we hold that the applicants are not entitled to be given the scale of Gr.II(1) category from the date of acquiring the qualification because they were not on the pay roll of the RRL as regular employees as on 1.2.1981. In consideration of the above,

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dt 10.5.01
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both counsel.

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we hold that the applicants are not entitled ~~to the~~
to the reliefs claimed by them in this Original
Application which is accordingly rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN

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