

**CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW**

**Original Application No.266/2010**

**Reserved on 15.07.2014.**

**Pronounced on 09.09.2014..**

**HON'BLE MR. NAVNEET KUMAR, MEMBER (J)**

**HON'BLE MS. JAYATI CHANDRA, MEMBER (A)**

Dr. Narendra Nath Mehrotra, aged about 60 years, son of Late Shri S.R. Mehrotra, resident of 474A/60, Brahma Nagar, Sitapur Road, Lucknow, [working as Scientist E-II, {Group IV (4)} in the central Drug Research Institute, Lucknow].

**...Applicant.**

**By Advocate: Applicant is present in person.**

**Versus.**

1. Council of Scientific and Industrial Research, Anusandhan Bhavan, 2, Rafi Marg, New Delhi-110001 through its President.
2. Vice President, Council of Scientific and Industrial Research, Anusandhan Bhavan, 2, Rafi Marg, New Delhi-110001.
3. Director General, Council of Scientific and Industrial Research, Anusandhan Bhavan, 2, Rafi Marg, New Delhi-110001.
4. Central Drug Research Institute, Chhattar Manzil Palace, M.G. Marg, Lucknow-226001, through its Director.
5. Director, Central Drug Research Institute, Chhattar Manzil Palace, M.G. Marg, Lucknow.
6. Dr. R.A. Mashelkar, former Director General, Council of Scientific and Industrial Research, Anusandhan Bhavan, 2, Rafi Marg, New Delhi {now residing at Raghunath, D-4, Varsha Park, Baner, Pune-411045}.
7. Dr. V.P. Kamboj, former Director, Central Drug Research Institute, Chhattar Manzil Palace, M.G.

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Marg, Lucknow { now residing at C-1111, Indira Nagar, Opposite Church, Lucknow-226016}.

8. Dr. C.M. Gupta, former Director, Central Drug Research Institute, Chhattar Manzil Palace, M.G. Marg, Lucknow { now residing at C-97, Sector E, Aliganj, Lucknow-226020}.
9. Dr. K.B. Mathur, former Head of Deptt., Documentation & Library Services, Central Drug Research Institute, Chhattar Manzil Palace, M.G. Marg, Lucknow { now residing at C-4, 4068, Vasant Kunj, Near Vasant DPS, New Delhi.
10. Dr. O.N. Tripathi, Former Head of Deptt., Documentation & Library Services, Central Drug Research Institute, Chhattar Manzil Palace, M.G. Marg, Lucknow [now residing at 103, Usman Enclave, Sector 'O', Aliganj, Lucknow-226024].
11. Dr. P.K. Roy, Former Head of Deptt., Documentation & Library Services, Central Drug Research Institute, Chhattar Manzil Palace, M.G. Marg, Lucknow [now residing at MMB-1/58, Sector B, SBI Colony, Sitapur Road Yojna (LDA), Near Ram Ram Bank Chauraha, Lucknow-226021].
12. Dr. B.S. Srivastava, Inquiry Officer & Former Head of Deptt., Microbiology Div., Central Drug Research Institute, Chhattar Manzil Palace, M.G. Marg, Lucknow [now residing at 2/79, Vijay Khand, Gomti Magar, Lucknow-226010].

**...Respondents.**

**By Advocate: Sri Pankaj Kumar Awasthi for Sri Asit Kumar Chaturvedi.**

### **ORDER**

**Per Ms. Jayati Chandra, Member (A).**

The present Original Application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 with the following relief(s):-

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“(a). issuing/passing of an order or direction setting aside the impugned order dated 12.08.1997, issued/passed by the respondent no.5 by means of which, inflicting the penalty of CENSURE upon the applicant with break in service for certain purpose (as contained in Annexure No.A-1 to this Original Application), after summoning the original records.

(b). issuing/passing of an order or direction to the Respondents to consider the case of the applicant for merit assessment promotion as Scientist E II {Group IV (\$) } with effect from 03.05.1991 withheld unnecessarily because of not forwarding the APARs from 1988-1989 to 1991-92 and not forwarding the promotion papers to NISTADS in the year 1996 illegally and thereafter not considering the request of the applicant because of pendency of disciplinary proceedings resulting in award of the minor penalty of “CENSURE” vide impugned order dated 12.08.1997 and to consider his case for subsequent promotions from the due dates and to appropriate orders within a specified period of two months.

(c). issuing/passing of any other order of direction as this Hon’ble Tribunal may deem fit in the circumstances of the case.

(d). allowing this Original Application with cost.”

**2.** The applicant in para-3 of the OA has conceded that the application is beyond the limitation period as prescribed under Section-21 of the Administrative Tribunals Act, 1985 but has averred that in view of the facts that the matter had been taken up by the applicant up to the highest level in the CSIR, the delay in filing the OA is liable to be condoned.

**3.** The facts relevant to this case as averred by the applicant are that he was initially appointed as Scientist ‘C’ (Group-IV) (2) and joined at National Institute of Science Technology and Development Studies (hereinafter referred to as the NISTADS), New Delhi on 03.05.1983. He joined CDRI on temporary transfer basis

from NISTADS with effect from 19.12.1988 for a period of two years. He continued working at CDRI on temporary transfer basis till he was finally absorbed w.e.f. 22.04.1992 (Annexure-A-3). During the period (19.12.1988 to 22.04.1992) he was borne on the strength of NISTADS but worked in CDRI. He was promoted to Scientist Group-IV (3) w.e.f. 03.05.1988 vide Notification dated 16.1.1992 (Annexure-2) issued by CDRI in continuation of NISTADS O.M. No.17(9) /91-DDMN dated 11.10.1991. He was due for merit based promotion to Scientist Group IV (4) w.e.f. 03.05.1991 but the other scientists, who are eligible for merit promotion were recommended by CDRI and his name was not included in the letter dated 17.08.1993. The respondents kept on asking the applicant repeatedly to appear in 2<sup>nd</sup> and 3<sup>rd</sup> chances of normal assessment, while his case for merit promotion was still under consideration. Finally, the respondents have rejected the request of the applicant to forward his name to NISTADS by letter dated 28.11.1996 (Annexure-A-9). He again reiterated his prayer for forwarding his application to NISTADS for assessment and interview for the merit based promotion to CSIR by an application dated 10.12.1996. Again his request was denied and he was not even informed that his chance of merit promotion has been forfeited. His normal promotion to Scientist EII Grade (IV) (4) also became due on 03.05.1993. Once again by letter dated 07.08.1996 the CDRI asked the applicants to submit work report for consideration of his case for promotion as Scientist EII (Group IV (4)). The applicant has submitted his work and worth report to the Director, CDRI vide his application dated 20.08.1996 and requested to forward the same to

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Director, NISTADS for consideration since the relevant assessment period was either spent at NISTADS or on temporary transfer at CDRI, to work on the projects of NISTADS, approved by its RC. It is further stated that he has submitted sufficient proofs to show that he was being harassed and victimized at CDRI and hence did not expect justice from CDRI in the matter of promotion vide his application dated 20.08.1996 (Annexure-A-5). But, the CDRI turned down his request on the ground that major portion of the period in question was spent by the applicant at CDRI, Lucknow.

4. Meanwhile, the applicant had received an invitation on 07.09.1993 from Federation of American Scientists (FAS) to attend an International Conference jointly sponsored by the FAS with the World Health Organization (WHO) on global monitoring and response for emerging infectious diseases to be held on 11.09.1993 and 12.09.1993 (Annexure A-12). The Director, CDRI had recommended the applicant for participation in the same. vide his letter dated 09.09.1993 (Annexure-A-13) Despite several representations no decision was taken by the CSIR. Hence as per prevalent practice, he left for Geneva presuming that post facto sanction will be accorded to him. During this period the Disciplinary action under Rule 14 of CCS (CCA) Rules, 1965 was initiated against him vide letter dated 18.03.1994 on the sole charge that he had participated in an International Conference at Geneva on 10.09.1993 without prior approval of the competent authority and remained absent from 10.09.1993 to 15.09.1993. The applicant was very confident that in his case post facto approval would be

given in his case as it was the prevalent practice of the CDRI. He has referred to the case of Dr. S.K. Tandon in his case such post facto sanction had been given after filing of O.A.No.612/1992 by this Tribunal vide judgment and order dated 05.05.1994. Moreover, the applicant by his application dated 25.03.1994 (Annexure-A-17) had tendered unconditional apology for the procedural lapse and assured not to repeat it in future and the Director, CDRI verbally accepted the explanation and the apology and he assured of no further action in the matter. However, because of the involvement of the applicant in the revival and activities of the CSIR Scientific Workers Association since March, 1994, the authorities became annoyed due to which malafidely motivated inquiry was initiated against him. The Inquiry Officer had fixed the date of preliminary hearing seven months after his appointment. The applicant submitted his reply dated 12.06.1995 in which he brought out the fact of harassment and victimization before the Inquiry Officer. He has also requested for the copies of additional documents but the Inquiry Officer without consideration his request, submitted the Inquiry report dated 11.10.1996 to the Disciplinary Authority, who forwarded a copy of the inquiry report to the applicant by his letter dated 05.11.1996. He was asked to submit his representation, if any, within 15 days (Annexure -A-21). The applicant submitted his reply on 08.1.1.1996 (Annexure-A-22). By an order dated 12.08.1997 passed by Director, CDRI, minor punishment of CENSURE was awarded to the applicant. It was also ordered that the period from 10.09.1993 to 15.09.1993 during which

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the applicant remained absent un-authorisedly from duty, shall be treated un-authorized absence under FR-17-A for the service matter.

5. Since, the interviews for Normal Assessment Promotions were held in March, 1996, the applicant agreed to appear for the interview under protest while his Merit Promotion case was already pending. The result of this interview was kept in sealed cover and was finally granted to him in August, 1997 after a delay of about 4 ½ years. The CDRI issued a Circular in May, 1998 directed that 'In case disciplinary proceedings result in imposition of the penalty of "CENSURE" the case would be placed before the same Assessment Committee(s) for the relevant year(s), as far as possible, which will review it with reference to the original recommendations kept in the seal cover(s) and give due recommendations for promotion or otherwise from the due date(s).' However, the CDRI authorities did not consider this rule in the case of the applicant.

6. Thereafter, the applicant had also submitted representations to the Director General as well as Vice President, CSIR, which were rejected and as such the applicant submitted a representation dated 23.08.2006 to the President CSIR for his intervention in the matter (Annexure-A-24). Thereafter, the applicant received an intimation vide letter dated 04.09.2006 from the office of President, CSIR, through which his representation was forwarded to the Director General and Vice President, CSIR for further action (Annexure-A-25). Meanwhile, the subsequent chances for further Assessment Promotions

as late as in 2007 and 2008 were forfeited by CDRI, despite requests made by the applicant that his representations were pending at higher levels. It is further state that applicant was on deputation to the Government of Madhya Pradesh during the year 2007-2009. When no action has been taken on his representation dated 23.08.2006 by the Director General/Vice President, CSIR, the applicant again wrote a letter dated 18.05.2009 (Annexure-A-26) to the Director, CSIR requesting therein to expedite his case of delayed promotions as the applicant was due to retire in June, 2010. In response to the above letter a reply on behalf of Director General, CSIR dated 23.12.2009 (Annexure -A-27) was received by the applicant in which he was informed about non consideration of the Rule of 1998 and the other points were not replied by the authority therefore, the applicant again requested to the Director General seeking personal appointment to explain the case. Thereafter, applicant was granted a meeting with Director General, CSIR on 22.04.2010 but he did not offer any relief on the pending issues of the applicant. Hence this OA.

**7.** The respondents have filed their reply raising the initial objection on the ground of delay. In this OA the respondents have distinguished between the two reliefs, one with regard to the relief sought against the pending punishment of 'Censure' and the other the case of promotion w.e.f. 03.05.1991. In the matter of disciplinary action, the respondents have stated that the applicant was issued a major penalty charge sheet under Rule 14 of CCS (CC&A) Rules, 1965 as made applicable to the



employees of CSIR After holding an inquiry he was awarded a punishment vide order dated 12.08.1997. The applicant preferred a representation dated 12.09.1997 to the Respondent No.5, who modified the punishment order to the extent that the period from 10.09.1993 to 15.09.1993 during which the applicant remained absent unauthorisedly from duty shall be treated as unauthorized absence constituting break in service under F.R. 17-A for all service matters except for the purpose of pension only. However, the 'Censure' entry awarded to the applicant has been left out in this order dated 03.07.1998 (Annexure-A-23). The applicant has preferred an appeal dated 31.07.1998, which was dismissed by the Appellate Authority vide its order dated 5.5.2000 (Annexure-C-3). Thereafter, the applicant preferred a Revision Petition dated 28.06.2000 to the Respondent No.2 and the same was rejected through an order dated 25.01.2002. The applicant thereafter kept mum for three years and finally preferred a representation dated 19.05.2005 to the Respondent No.2 once again (Annexure-C-6). He also preferred a representation to the President, CSIR on 24.08.2006. In this OA the applicant has sought quashing of the initial punishment order dated 12.08.1997 without assailing the subsequent orders of Appellate Authority and Revisional Authority therefore, this OA is liable to be dismissed on this ground alone.

8. Coming to the question of promotion, the applicant was due for consideration for promotion from Scientist Group IV (3) to Scientist Group IV (4), w.e.f. 03.05.1991 under paragraph 3.2.4 of the Merit and Normal

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Assessment Scheme (MANAS) (pre-revised), in NISTADS. However, the applicant was initially appointed as Scientist 'C' Group IV (2) w.e.f. 03.05.1983 in NISTADS and was promoted as Scientist Group IV (3) w.e.f. 03.05.1988 in NISTADS and has joined CDRI, Lucknow w.e.f. 19.12.1988 on his request for transfer from NISTADS, New Delhi to CDRI, Lucknow alongwith the post as mutually agreed to between NISTADS, New Delhi and CDRI, Lucknow for a period of two years in connection with the work related to the applicant's project for the areas of Policies for Drugs and Pharmaceutical Industry and Medicinal Plants and Medical Health Traditions. He was ultimately absorbed in CDRI, Lucknow through OM dated 22.04.1992. The CDRI requested the applicant through the Office Memorandum dated 07.08.1996 (Annexure-A-4) to furnish 15 copies of work report in the prescribed proforma latest by 20.08.1996 and the names of three 'Referees' from the approved list of panel of experts. The applicant instead of submitting the above work reports etc. had submitted a representation dated 20.08.1996, which was rejected through OM dated 09.09.1996. The applicant again submitted a representation dated 01.11.1996 (Annexure-A-7), who too was rejected through OM dated 28.11.1996 (Annexure-A-9). Thereafter, the applicant had again submitted a representation dated 10.12.1996 (Annexure-A-10) and the same was also rejected through OM dated 27.12.1996 (Annexure -A-11). He was called to attend the personal discussions with the Assessment Committee for merit promotion w.e.f. 03.05.1991 under the Merit and Normal Assessment Scheme (pre-revised), through OM dated 20.11.1996, on 11.12.1996 but the applicant did

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not complied with the directives. The applicant has not challenged the OM dated 09.09.1996, 28.11.1996 and 27.12.1996 by which his representations were rejected hence now no relief can be claimed against those rejection orders.

**9.** The applicant became eligible for consideration for normal promotion w.e.f. 03.05.1993 under the revised MANAS Scheme. The applicant was called for interview before the Assessment Committee on 25.03.1996. The recommendations of Assessment Committee was kept in sealed cover as he had been charge sheeted by OM dated 18.03.1994. After the punishment order dated 12.08.1997, the sealed cover was opened and the applicant was promoted to the post of Scientist IV (4) through OM dated 19.9.1997 (Annexure-C-10). He was promoted as Scientist IV (4) w.e.f. 13.08.1997 instead of 03.05.1993.

**10.** The applicant has filed a Rejoinder reply more or less reiterating his contentions as raised in the OA.

**11.** We have heard the learned counsel for both the parties and perused the entire material available on record.

**12.** The applicant in this case has sought two clear and distinct reliefs. The first relief is with regard to setting aside the impugned order dated 12.08.1997 by which penalty of censure was awarded to him. As he himself stated in the OA, which has been filed after a lapse of 13

years. Section-21 of the Administrative Tribunals Act, 1985 provides limitation, which is as follows:-

“21. Limitation.—

(1) A Tribunal shall not admit an application,—

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where—

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court, the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.”]

**13.** The applicant has advanced his arguments that he had been consistently moving to the various authorities for the redressal of his grievances without any relief. While his intention to avoid litigation may be lauded (LAUDED) repeated representations do not serve to wave the limitation clause. The Hon'ble Supreme Court in the case ***Administrator of Union Territory of Daman and Diu***

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**and others vs. R.D. Valand 1995 (Supp) (4) SCC-593**

held as under:-

“.....The Tribunal fell into patent error in brushing aside the question of limitation by observing that the respondents has been making representations from time to time and as such the limitation would not come in his way.”

**14. In Union of India & Others Vs. A. Durairaj –JT 2011 (3) SC-254** the Hon’ble Supreme Court has held as follows:-

“It is well settled that anyone who feels aggrieved by non-promotion or non-selection should approach the Court/Tribunal as early as possible. If a person having a justifiable grievance allows the matter to become stale and approaches the Court/Tribunal belatedly, grant of any relief on the basis of such belated application would lead to serious administrative complications to the employer and difficulties to the other employees as it will upset the settled position regarding seniority and promotions which has been granted to others over the years.....”  
.....Therefore, even if no period of limitation is prescribed, any belated challenge would ground of delay and laches.”

**15. Coming to the merit of this case the Hon’ble Supreme Court a catena of decision viz. B.C. Chaturvedi vs. Union of India & Others reported in 1996 AIR 484 1995 SCC (6) 749** has held judicial intervention could be confined preliminary to procedural lapse etc. In this particular case the applicant has not raised any ground pointing out any procedural irregularity in giving him charge-sheet dated 18.03.1994. He has not demonstrated that he was denied an opportunity of hearing or that the decision arrived at was based on any extraneous consideration. The orders passed by the Appellate Authority as well as Revisional Authority have not been assailed by the applicant as

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such, there is no ground for interference in the orders passed by the respondents.

**16.** Coming to the second relief on merits based promotion w.e.f. 03.05.1991. Once again the same relief has been sought after passing of 22 years. From the reasons already stated above the same relief is liable to be dismissed on the ground of delay and latches. ***The Hon'ble Supreme Court in the case of Bharat Sanchar Nigam Limited vs. Ghanshyam Dass and Others, a three Judges Bench reported in (2011) 4 SCC 374*** has reiterated the principle sated in ***Jagdish Lal Vs. State of Haryana and Others reported in (1977) 6 SCC 538*** proceeded to observe that the respondents therein preferred to sleep over their rights and approached the Tribunal in 1997, they would not get the benefit of the order.

**17.** The entire chronology of the intention between the parties shows that the applicant was asked to submit necessary dossiers for placing the same before the Assessment Committee and that he was asked to appear before the Assessment Committee by various letters. However, he chosen to give representations dated 20.08.1996, 07.11.1996, 18.11.1996, 10.12.1996, 25.03.1994, 12.06.1995 and 09.08.1996 etc. requesting for forwarding of his name for promotion to NISTADS. His ground is that he was an employee of NISTADS for majority of period to be taken into account in the merit based promotion on 03.05.1991 and that his promotion to Scientist Grade IV (3) was allowed by NISTADS by its O.M. dated 11.10.1991. The respondents have justified their

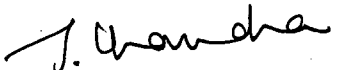
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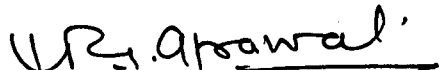
action on the ground that the applicant was working under CDRI w.e.f. December 1988. His earlier promotion although sanctioned in 1991 was made effective from 03.05.1988 when he was actually an employee of NISTADS. However, by an order of 1992, he ceased to be an employee of NISTADS and become a permanent employee of CDRI. Moreover, for the merit based promotion w.e.f. 03.05.1991, he was actually on the pay role of C.D.R.I. The service profile of the applicant shows that from December, 1988 to the date of absorption he was working at CDRI on transfer basis from NISTADS. The applicant has not provided any service rules to show, who is the competent authority to assess his work and worth for promotion to Scientist Group IV (4) under the MANAS Scheme the authority with whom he held lien (NISTAD) or authority under whom he was working (CDRI). In fact the actual transfer order dated 16.12.1988 has been made under the following terms:-

- “(i). His appointment on transfer is the same capacity as Scientist ‘C’ the scale of Rs.3000-5400.**
- (ii). He will reckon his seniority as Scientist ‘C’ in C.D.R.I. from the date he resume duty in C.D.R.I.**
- (iii). He will not be entitled to any transfer T.A. and joining time etc. as the transfer is at his own request.”**

**18.** It is seen from the above condition that he will be Scientist ‘C’ in the same capacity in CDRI and his seniority as Scientist ‘C’ will be in CDRI. The applicant has not demonstrated how, when he is a part of the cadre of Scientist ‘C’ in CDRI (as per the seniority condition) he could still claim promotion by & alongwith the similar cadre in NISTADS. At the time of the earlier promotion the effective date was 03.05.1988, thus there is no ambiguity as to the competency of NISTADS.

**19.** In view of what has been stated above, we do not find any merit in the O.A. and the same is accordingly dismissed. Parties to bear their own costs.

  
**(Ms. Jayati Chandra)**  
**Member (A)**

  
**(Navneet Kumar)**  
**Member (J)**

**Amit/-**