

(See rule 114.)

OA/TA/RA/CP/MA/PT 428/88.....of 20..... OA 42/88

J. P. Shannon

Applicant(S)

Versus

COL Carl

Respondent(S)

Serial No.	DESCRIPTION OF DOCUMENTS	PAGE
1 -	Order Meebs Cat in order dt. 8-4-95	A1 to A9
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Certified that the file is complete in all respects.

B/C weeded out / destroyed

Signature of S.O

Signature of Deal. Hand

24/8/12

24/1/95 Hon.Mr.Justice B.C.Saksena, V.C.
Hon.Mr. V.K.Seth, A.M.

By an order dated 5/10/94 the O.A. was directed to be listed along with O.A.No.44/88 & 45/88 (L). The other two cases have not been listed to-day. List all the 3 O.As on 21-2-95 for hearing.

A.M.

V.C.

21/2/95

Hon'ble Mr. V. K. Seth, A.M.

Hon'ble Mr. D. C. Verma J.M.

Shri. A. K. Jain, Learned Counsel for the respondents pointed out that vide order dated 24/1/95 it was ordered that this O.A. be listed with O.A. 44/88 & 45/88.

It is further noticed that the Cause list does not show other 2 O.As. D.R.G. to enquire as to how this mistake has occurred & report to submit separately. As far as this O.A. is concerned the same be listed along with the other two aforesaid O.As on 29/3/95 for hearing. The Cause list also to show the Counsels name so that they are present on the next date.

J.M.

A.M.

29-3-95

No. 2111 of D.M. 11/4/95
G. 4.95

or
O.A. 44/88 & 45/88
connected with
the as per C.A.
order dt 21/2/95
S.P.H.
28/3/95

CA 429 884
J. P. Sharma vs U. O. S. D.
ORDER SHEET

6.6.88

Hon. D. S. Mishra

Admit Issue notice.

One month time for CA. 10 days thereafter for RA.
Issue notice fixing 20.6.88 for Interim Relief

S.D.
AM Ans
13/6

19.6.88

Office Report

Notice has been issued to the respondent no. 1
under registered cover on 13.6.88.

Notice on respondent no. 2 has been served
through ^{his} office personally.

No reply has so far been filed by the
respondent on the question of Interim Relief.

Submitted for orders on the prayer for
Interim Relief.

Ans
19.6.88

20.6.88

Hon. G. S. Sharma, J.M.

Shri P. K. Khare Counsel for applicant and
Shri G. K. Sharma Counsel for respondents
are present.

A request for one month's
time has been made on behalf of
the respondent to filing reply. Let
the reply be filed by 18th July
1988.

In the meantime, if the
election is held, its result shall
not be declared till further order
of this Tribunal.

20.6.88

Ans

J.M.

19.9.08

Counter affidavit has been filed today
Rejoinder affidavit if any may be
file within three weeks.
If he fails to file rejoinder
affidavit in time the case be listed
before court on 25.10.08 for
final hearing.

lee

DR

14.8.08

OR:
No Rejoinder affidavit has been filed
So far. 25.10.08 fixed for final hearing.

DR
14.8.08

25.8.08

On the request of counsel for
the applicant, the case is adjourned
to 28.12.08 for hearing.

h

14/12

OR
No Rejoinder filed.

23/12 No sitting, Adjourned to 23-2-09
for hearing.

DR
23/12

16/4/09

OR
No rejoinder filed so far.

h
16/2

CM App. No 31/89 (Restoration)

In
OP 42 of 1989

Office Report

13.3.89

This case was dismissed in default of the applicant on 23.2.89 by the Bench consisting of Hon' D. S. Mishra & Hon' G. S. Sharma. Hon' N. P. Srivastava, Advocate, files his power and application for restoration of the case today.

Restoration Application is submitted for orders.

Adj
13/3/89

Hon' D. S. Mishra, AM

14.3.89

Hon' D. K. Agarwal, JM

~~Application for restoration~~ has been filed by Hon' N. P. Srivastava, counsel for applicant, in person. He is directed to take steps for the service of Restoration ^{App.} within one week on the respondents. Put up on 20.3.89 for orders.

Adj

JM

AM

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

42 of 88 (L)

REGISTRATION No. _____ of 198 .

APPELLANT
APPLICANT

J.P. Sharma,

VERSUS

DEFENDANT
RESPONDENT

Union of India & ors

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
11/5/89	<p><u>Hon' Mr. K.J. Raman, A.M.</u></p> <p>The learned counsel for both the parties are present. This is a restoration application. This case be listed for hearing before a Division Bench on <u>29-5-89.</u></p> <p><i>WDR</i> A.M.</p> <p>(sns)</p>	<p>OR</p> <p>Case was adjourned to 29.5.89 for hearing on Restoration application Submitted for hearing</p>
29-5-89	<p>No sitting. Adjourned to 25-7-89 for hearing.</p>	
25-7-89	<p>No sitting. Adj. to 19.9.89</p> <p><i>SPD</i> B.O.C.</p> <p><i>h</i> 25/7</p>	<p>OR</p> <p>Case was adj. to 19.9.89 for hearing on restoration application</p>
19.9.89	<p>No sitting of D/B. Counsel for applicant is present. Adj. to 20-12-89.</p> <p><i>h</i> B.O.C.</p>	<p>OR</p> <p>Case was adjourned to 20/12/89 for hearing on restoration application</p> <p><i>h</i> 19/12/89</p>

u. 2 /
u. 12 / 91

26.7.91

D.R.

Both the parties are
absent today. Respondent
to file counter by 26/9/91.
✓

26.9.91

D.R.

Both the parties are
absent today. Respondent
to file counter by
4/12/91. Visit it, on
the date fixed i.e.
4.12.91 before me.
✓

4.12.91

D.R.

Counsel for Respondent
is present. No appears
for the applicant.
Respondent to file
counter by 28/2/92.
✓

O.A. 42/88
C.W.

X O.A. 44/88 and
O.A. 45/88 (4)

28-2-92
D.R.

Both the parties are
absent. Respondent
did not file counter
so far. He is ordered
to file it, by 30/4/92.

30-4-92
D.R.

Counter has not
been filed so far.
Respondent to file
it, by 14/7/92.

Both the parties are
absent.

14-7-92
D.R.

Applicant's side is
present. No appears
for O.P. Counter to be
filed on 11/9/92.

not by 27/10/92
then however filed
O.P. 19 before
RA to 25/11/92 has
been filed. Care case is continuing
on 01/12/92. 21/12/92

OL
CARRA/KS
SM
20/12/92

22-9-93

Case not received only to
26.11.93

26.11.93

Case not received only to 14.12.93

~~CA 42/88C~~
~~22/11/93~~

14/12/93

Hon. Mr. S.N. Prasad, J-M.
Hon. Mr. V.K. Seth, A-M.

~~CA 42/88C~~
~~22/11/93~~

None responds on
behalf of either of the
parties. List this case
on 20/1/94 for hearing
and disposal.

(TGM)

h k
A-M.

J M.

~~CA 42/88C~~
~~22/11/93~~

20/1/94

Hon. Mr. S.N. Prasad, J.M.
Hon. Mr. V.K. Seth, A.M.

None for the Parties.
List this case on 8/3/94
for hearing & disposal.

h k
A.M.

h k
A.M.

J.M.

of
CA 42/88C
name already
been changed
22/11/93

O.A.No.42/88

5/10/94

Hon. Mr. Justice B.C. Saxena, V.C.
Hon. Mr. V.K. Seth, A.M.

This O.A. was directed to be listed
along with O.A.No.44/88 and O.A.No.45/88(L).
The last two O.As have not been listed
to-day. List all the aforesaid 3 O.As
on 7-11-1994 for hearing.

(nair)

W.K.
A.M.

Boh
V.C.

7/11/94

Hon. Mr. V.K. Seth, A.M.
Hon. Mr. D.C. Verma, J.M.

Note for the applicant Shri
A.K. Jain, counsel for the respondents.
A perusal of the record of the
case shows that Shri N.P. Sirovatar
has been appearing as counsel
for the applicant in the past but
the cause list today does not
mention his name. The Registry
~~expected~~ ^{is} directed to mention
all the names appearing on behalf
of applicant as well as respondents
in future.

Wt on 20/12/94.

SFH

23/1/95

le

J.M.

W.K.
A.M.

20.12.94 - No sitting of P.B. cell to
24.1.95

P.
Boh

2/10

Petition

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH SITTING AT LUCKNOW.

Claim Petition No. 42 of 1988 (4)

J. P. Sharma

Petitioner

Versus

Scientific &
Director General/Industrial
Research New Delhi and another

Respondents

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
ALLAHABAD BENCH SITTING AT LUCKNOW.

Claim Petition No. 42 of 1988 (C)

Filed on

J. P. Sharma

Petitioner

Versus

The Secretary of Union of India cum-
Director General Scientific and Industrial
Research Deptt. and another,

Respondents

I N D E X

Sl.No.	Particulars	pages
	Application for stay/Interim Relief	As shown in column-8
1.	Memo of petition	1 to 18
2.	Annexure-1 True copy of the letter inviting the recommendations of the respondent No.2.	19 & 20
3.	Annexure-2, True copy of the order communicated to the petitioner refusing the promotion.	21 to 24
4.	Annexure-3, True copy of the order rejecting the appeal.	25
5.	Annexure-4, True copy of the order dated 24th of May 1988 whereby the petitioner has been asked to be re-tested/interviewed to furnish Profonus No. II for 1st Subsequent assessment fall due on Aug 31, 1987	26
6.	Other documents relied upon	

Doneⁱ⁾

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNAL ACT 1985

For use in Tribunals Office

Date of filing: :

Or

Date of receipt by
post :

Registration No. :

(Registrar)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH AT LUCKNOW (ADDITIONAL BENCH
AT ALLAHABAD).

....

BETWEEN

*Jagdish Prasad Sharma, S/o late Sri
R. P. Sharma, aged about 54 yrs R/o
119/76 Khandari Bazar, Lucknow*

And

Union of India through Secretary cum-
1. Director General, Department of Scientific
and Industrial Research, Rabi Marg, New
Delhi.

Application under Section 19 of
Central Administrative Tribunal
Act 1985

...

Details of the Application

1. particulars of applicant:

- i) Name of the Applicant - *Jagdish Prasad Sharma*
Late Sri R. P. Sharma
- ii) Name of father
- iii) Designation and Office in which employed. *Industrial Liaison Officer
Industrial Toxicology Research
Centre*
- iv) Office Address *Mahatma Gaudhi Marg
P.O. Box 80, Lucknow, U.P.*
- v) Address for service of all notices. *No. 119/76 Khandari Bazar
Lucknow, U.P.*

2. Particulars of respondents:

- i) Name and address of respondent No. 1 *Director - General,
Scientific and Industrial
Research, Rabi Marg, New
Delhi*
- ii) Office address of respondent No. 1 *Rabi Marg
New Delhi*

Edward,

- iii) Address for service for all notices. *Anusandhan Bhawan
Rabi Marg
New Delhi*
- i) Name and address of respondent No.2 *Director
Industrial Toxicology
Research Centre -
Mahatma Gandhi Marg
Lucknow, UP.*
- ii) Office address of respondent No.2. *Mahatma Gandhi Marg
Lucknow, UP.*
- iii) Address for service of all notices. *Mahatma Gandhi Marg
Lucknow, UP.*

B- Particulars of the order against which application is made.

- CSIR No 9(2)-AO(BC)/87-L*
- i) Order No. ~~120/87-CGC dt. March 22, 1988~~ *Oct. 29, 1987* *Annexure II*
- ii) Date ~~March 22, 1988~~ *Oct. 29, 1987* *1, TRC, Lucknow*
- iii) Director (Staff) on behalf of D.G. CSIR New Delhi.
- iv) Subject in brief: Promotion on assessment basis

4. Jurisdiction of the Tribunal

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

5- Limitation

The applicant further declares that the application is within the limitation prescribed in Section 21(3) of the Administrative Tribunal Act, 1985 for the following sufficient reasons:

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- 6- 1- That pursuant to the provisions of Societies Registration Act, 1860, the Council of Scientific and Industrial Research appears to have been constituted. This society, therefore, used to be called as Council of Scientific and Industrial Research. The Head Office used to be controlled and managed by the Director General, Council of Scientific and Industrial Research (hereinafter referred to as the CSIR), who is also Secretary of the Department of Scientific and Industrial Research, Government of India who used to maintain its office at CSIR HQ. at Delhi.
- 6- 2- That the Council of Scientific and Industrial Research Society maintains its Scientific institutions and its units at Lucknow by appointing its Directors, who used to be the Head of the various branches of the aforesaid institutions at Lucknow. It needs further clarifications that the society used to have Research institutions in different scientific fields and as such the institutions used to be maintained under the control of the relevant Director who are subordinate to the respondent No.1.
- 6- 3- That the Council of Scientific and Industrial Research Society, in fact, used to be controlled and managed by the Union of India and financial investments and expenditures used to be maintained by the Union of India itself. The CSIR, therefore, shall be

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deemed to be the State within the meaning of Article 12 of the Constitution.

- 6- 4. That in relation to the procedure of appointment at different places of CSIR, the appointment of Directors and other officers of the ^Society used to be made by the Governing Body but the approval in respect thereto is obtained by the Government of India. The governing body, however, confer power on the Executive Council of its Units for appointment of Scientific and Technical Officers. In the instant case this discription has only been provided with the object to show ~~to~~ as to how the appointments of the petitioner has been made and to whgt extent they vest the authority with the respondents to control over the promotion and reversion in relation to the petitioner.
- 6- 5- ~~That~~ it further needs to mention that the governing body has power with sanction of the Government of India to frame rules and bye-laws but if the rules require any amendment it may be in consistent with the original rules framed by the administration and the management of the society, then in such an event the approval is to be obtained by the Government of India.
- 6- 6- That the governing body, therefore, is in fact, a head body of the society and as such it must have such power pursuant to which the functions of the society may be properly regulated but it should always be kept in mind that the said society should be deemed equivalent to the State within the meaning of Article

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12 of the Constitution of India. This respectful submissions have only been made with the objectives to say before the Hon'ble Tribunal that the CSIR may adopt the rules which may be constitutional and it may not have authority that any of the officer to enact with their jurisdiction to put any person indiscrimination to the different employees at their discretion. The petitioner, therefore, submits that having regard to the nature of the CSIR it is believed that fundamental rights assured to the citizens is available and applicable to the employees of the CSIR.

6- 7- That it needs a clarification that the Director General is deemed to be the highest officer and as such he is deemed to be the principal Executive Officer of the Society and other officers of the society including the Directors who are posted at different places including the National Laboratories and other officers who have been appointed in accordance with the rules and law.

6- 8- That the Society, i.e. CSIR is maintaining its branches at Lucknow. These parts are only Industrial Toxicology Research Center, National Botanical Research Institute and other National Laboratories. The petitioner also with all respect submits that the appointments to the various posts are made by the Director of the specified laboratories referred to above. This authority, however, is conferred on the respondent No.2 upto the extent of Scientist Head 'E-2'. This fact is apparent on reading the Rules, Regulations and Bye-laws adopted by the CSIR.

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6-10 That as indicated above the petitioner stood appointed prior to the year 1981 in accordance with the then existing rules, regulations and bye-laws. But with effect from 1.2.1981 the CSIR introduced a *Promotion Scheme to earstwhile* new recruitment and ~~technical staff~~. This ~~rule~~ *Bye-law* of course, was prospectively applicable amongst those persons who were to be appointed subsequently with effect from 1.2.1981 but the liberty was also extended to the then existing employees either to opt for newly constituted rules or to clarify themselves to be applicable pursuant to the rules existing prior to the commencement of the new rules. The petitioner, however, opted to be governed by the old assessment promotional rules, and as such they clarified that *Bye-law* their promotions shall be governed by the then ~~Rule~~ 71(b) of ~~earstwhile Bye-laws~~. It needs mention that on reading the aforesaid Rule it is apparent that for the purposes of promotion the assessment is to be made having regard to the functionings of last five years and not otherwise. The petitioner for the satisfaction of this Hon'ble Tribunal quotes hereunder the aforesaid relevant provisions and the *Bye-law* ~~rule~~ applicable to the petitioner:-

" 71(b)..Notwithstanding anything contained in these Bye-laws:

- (i) the cases of Senior Scientific Assistants and Senior Technical Assistants who complete five years of their service in these grades may be assessed for promotion to the next higher grade by a Committee consisting of the Director-General, Director and two experts for each Laboratory;

{ix}

Edmund

(ii) the merit of officers of the rank of a Junior Scientific Officer/Junior Technical Officer and Senior Scientific Officer Grade II/Senior Technical Officer Grade II engaged in scientific work may be assessed for promotion to the next higher grade, after every five years of the appointment of the officer concerned against that post. Such assessment will also be made after completing one year's service at the maximum of the scale of pay of his grade;

(iii) the merit of officers of the rank of Senior Scientific Officer Grade I/Senior Technical Officer Grade I engaged in scientific work may be assessed for promotion to the next higher grade after every five years of the appointment of the officer concerned against that post provided the said officer is at the maximum of the scale of pay of his grade for at least one year;

(iv) the assessment of the merit of officers arising under clauses (ii) & (iii) above shall be made by an expert Committee appointed, with the approval of the Vice-President, from amongst the members of the Executive Council and shall include three outside experts. The Committee may make recommendations for their promotion to the next higher grade for the approval of the competent authority;

(v) in the Central Secretariat of the Society, the assessment of officers arising under clause (i), (ii) and (iii) above shall be made by an expert Committee constituted by the Vice-President;

(vi) the pay of the officers in the higher grades shall be fixed according to rules; and

(vii) the promotion to the next higher grade will be by conversion of the post in the lower grade held by the officer."

6 1D. That the aforesaid provision, therefore, clarifies

Edmund

that the assessment of the merit should be in accordance with the provisions contained in the above Bye-law 71(b) and the recommendations ^{to be} ~~and~~ the next higher grade officer ^{is} also to be deemed to be a relevant consideration for the purposes of promotion. In the instant case the petitioner with all respect submits that in regard to his functioning the respondent No.2 is deemed to be the highest officer who controls the discharge of duties by the petitioner. The petitioner is confident that not only of the last five years but for more than that period his functionings have been found to be meritorious and as such the respondent No.2 always recommended the promotions of the petitioner to the higher grade, ^{but} ~~inferior to the respondent~~ ^{to be} ~~No.2~~. In short it would be very appropriate to say so that the functioning of the petitioner is firstly looked after by such officer to whom he is subordinate and lastly the functioning is controlled by the Director, i.e. respondent No.2. The whole functioning therefore, remains at Lucknow under the control of the respondent ^{to be} ~~No.2~~. The petitioner has been really fortunate to all praises in regard to his functionings and always believed that he will be entitled for promotions. But having regard to the applicability of the said Rules the matter was expected to be looked into by the promotional authority but in fact, no such examination is made to this effect and by maintaining the silence the petitioner is deemed unfit for promotion. But terms of the opinion is also not shown to the petitioner. The petitioner will also show that he preferred an appeal and also put in challenge the view taken by the said authority having right to make

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appropriate orders for promotions. But it is really unfortunate that the appeal too used to be dismissed without assigning any reason. It is, therefore, really unfortunate for the petitioner to submit before this Hon'ble Tribunal that the concerned authority had never examined the petitioner for the purposes of promotion. But on the assumption that such authority has independent jurisdiction to make a silent order, passes an order against the petitioner who is deemed unfit and the terms are checked without reasons.

6- 12- That, in fact, when the petitioner became eligible for promotion to the next higher grade of the post of Technical Officer then the Respondent No.1 through his letter dated 6th June, 1987 directed the respondent No.2 to intimate their eligible staff about the proposed assessment for the purposes of promotions in July, 1987. The said letter of respondent No.1 specifically provided that the assessment will be on the basis of opinion furnished in proforma II of the report and work as contained in his annual confidential report for each year. The letter further provided that in case the concerned employee is not recommended for promotion from the date of his eligibility then in that event he will be considered for subsequent changes. It is, therefore, clarified that if there exists an adverse entry and no recommendation is made then the person shall only call the authority when this term is withdrawn or cancelled and the right is left open to such person for the purposes of promotion on the basis of next existing adverse entry. The copy of

Edward

the aforesaid letter which invited the recommendations by the respondent No.2 is being annexed herewith as Annexure-1 to this petition.

6- 12- That as indicated earlier the petitioner had already completed his functioning as the employee for five years then in that event the recommendations were expected to be made by the respondent No.2. ^{to respondent No.1} The petitioner, therefore, is confident that the recommendations made by the respondent No.2 and as such the petitioner was invited for an interview before the said committee, and there can be no presumption that there existed any adverse entry.

6- 13- That the petitioner, thus, put in appearance before the assessment committee on 28.7.87 ~~and 28.7.87~~ but it needs clarification and respectful submissions that there existed no written or oral examination pursuant to the Scientific and Technical Work etc. But the committee only examined the papers appears to have been sent by the respondent No.2. The petitioner with all respect submits, of course, these papers contained recommendations made by the respondent No.2 and the praises appear to have been afforded by the respondent No.2. But for no reasons disclosed till to-day the petitioner has been found to be unfit for promotion. As such the promotion of the petitioner has been refused. The communication thus was conveyed to the petitioner through the respondent No.2. The copy of the aforesaid order is being annexed herewith as

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Annexure-2 to this petition.

6- 14- That the petitioner feeling aggrieved preferred an appeal and put in challenge the view taken by the said assessment committee. The petitioner, therefore, respectfully submitted that there existed no material before the said committee which may take an opinion from those officers who have regularly examined and checked the functioning of the petitioner for a period of five years as prescribed under the rules and with all responsibility made the recommendations in favour of the petitioner. This appeal was also kept pending and no date was fixed or provided pursuant to which the hearing could be provided to the petitioner. It, however, needs mention that the appeal has been dismissed with a small order which does not contain any positive reason. The copy of the said order is also annexed herewith as Annexure-3 to this petition.

6- 15- That on reading the aforesaid order, it is therefore, apparent that the functioning of the assessment committee has not been properly tested by the appellate authority. It further needs mention that no opportunity was extended by which the petitioner may put his reason to show that the view taken by the assessment committee was not based on any material. It is, therefore, really unfortunate that though the negative orders have been passed but no opportunity has been extended by providing the rule of natural justice.

17- That apart from respectful submissions as

Eding

above, the petitioner also submits before this Hon'ble Tribunal that the functioning of the assessment committee shall be deemed to be void and unconstitutional in the event the limit of the assessment committee cannot be proscribed or controlled within the rules. The petitioner, in fact submits that in the event the assessment authority has a power to make an order relating to the terms and then the principle is to be adopted pursuant to which the result can be tested in the event the petitioner is ultimately found fit for promotion. The petitioner, therefore, in short submits that if the view of the assessment committee is deemed to be uncontrolled or regulated to any limit or to any certain extent, then in that event the assessment authority shall always have a privilege to make the promotion of any one and to ~~xxxx~~ refuse the promotion of any other. The petitioner has already submitted that the rules nowhere prescribe the proper method of functioning of such body, therefore, the functioning of this assessment committee, to that extent will be deemed to be unconstitutional and no right had been conferred to the petitioner though he is entitled to constitutional right enshrined under Article 14 and 16 of the Constitution. It is really unfortunate that though the petitioner's services have always been found to be fit and the recommendations too have ~~xxxx~~ been made by the respondent No.2 but the negative view has been taken by the assessment committee without any positive reasonings. The petitioner also submits that when the question arises as to what extent the petitioner is found to be unfit then the material is deemed

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absent. The view therefore, taken by the assessment committee is not only in violation of the fundamental rights but also in violation of the principles of natural justice.

17. That it needs mention that with regard to the petitioners the appearance before the assessment committee was required at Delhi but the rest of the persons who were have B.Sc./B.E. qualifications were not provided to be examined by such committee and the same is only to be tested at lab level. This is only being put up before this Hon'ble Tribunal to say so that if in respect of such persons the recommendations ordinarily are accepted then the said assessment body is to sit at Lucknow but when the assessment body sits at Delhi or other places in respect of the employees who are lessor than the qualification of B.Sc. then in that event maximum percentage of employees are declared to be unfit for promotion including the petitioner but the method of testing is neither provided nor the same is at all put in practice in any method. This type of method has only been adopted with effect from 1986 and prior to that the assessment used to be made at Lab level in respect of persons equivalent to the petitioner. This assessment always resulted in favour of the employees who were properly functioning and in respect of whom the recommendations were also made by the respondent No.2. In short, therefore, the submission is that the recommendations of the respondent No.2 used to be submitted in relation to the alleged assessment prior to 1986 but when the assessment ~~XXXXXX~~ appears to have been amended then to the extent of the petitioner the change has resulted in such a situation that the recommendation of the respondent No.2 were deemed of no value.

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A/26
6- 18.

That the petitioner has already specified that for the purposes of promotion he was allegedly interviewed and tested in the month of July 1987 and the decision in respect thereto was conveyed to the petitioner in November 1987.

The representation or the appeal was not forthwith disposed off rather the same was kept pending and disposed off recently by way of affirming the earlier view. The petitioner thus was compelled to get himself prepared for beinging this matter before this Hon'ble ~~Quark~~ Tribunal then in that event the opposite parties on getting this information immediately passed an order dated 24th of May 1988 whereby again the petitioner is to be tested for the purposes of promotion. This order was conveyed to the petitioner on 27th of May 1988.

The petitioner with all respects submits that even the period of one year has not lapsed to the alleged prior consideration but without having any reason the petitioner is to be allegedly tested again without any reason. The petitioner therefore, is not satisfied with the view which is being taken by the opposite parties only in order to spent time without any reasonable consideration. The petitioner thus annexes herewith the copy of the said letter dated 24th May 1988 as ANNEXURE-4 to this petition.

The petitioner has already challenged that the process of testing is not in accordance with law and as such the petitioner submits that there is no justification to interview the petitioner again and the operation of the said order be stayed and further pursuant to the said alleged interview no promotion be afforded rather the rights of the petitioner should be afforded to him from the date from which the petitioner has become entitled i.e. August 31, 1984

6- 19
28.

That the petitioner, therefore, submits with respect that since he has been refused to avail of the promotion though he is entitled for such promotion and he in fact,

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15

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1/27

has at all not been examined in respect thereto, therefore, the petitioner has no other alternative remedy except to file this petition whereby this Hon'ble Tribunal may summon the relevant papers which may show to what extent they have been met by the said assessment body and to what extent the negative view was expressed. The petitioner also submits that in the event the assessment says is ~~xxxx~~ that the petitioner could not discharge anything to the question alleged to have been asked by the said body (though not asked) then to what extent the percentage of marks or otherwise provided to prove that type of testing was before the said committee. These submissions have only been made with the only objective to show that as a matter of fact, the terms of the rule referred to above are not practically followed and the order used to be made at the direction and this is the only reason on account of which the petitioner has been found to be unfit for promotion negative to the view expressed by the respondent No.2. The extent of failure has also not been specified and clarified for the purposes of justifying that the committee discharged its duties more properly. The petitioner, thus, submits that the view taken by the respondent No.1 is not in accordance with law and rules.

7- Relief Sought

In view of the facts mentioned in para 6 above, the applicant prays for the following reliefs:

RELIEF

i) Wherefore, it is most respectfully prayed that by an appropriate order the Hon'ble Tribunal be pleased to quash the order dated 29.10.87 and as contained in Annexures 2,3 and 4 to this petition;

Signature

~~xxxx~~

18
and

by an appropriate order the respondents be commanded to deem the petitioner to be on promotion with effect from the date on which the petitioner had become entitled to be promoted and award the costs of the petition.

GROUND OF RELIEF

- i) Because the assessment of the petitioner was not made in accordance with the procedure laid down under ~~consideration~~ ^{earstwhile} bye-laws 71(b) of CSIR for which the petitioner gave his consent in writing at the time of introduction of the New Recruitment and promotion scheme.
- ii) Because the procedure of assessment for promotion did not specify the bifurcation of marks between the assessment based on record and assessment based on the interview, thus facilitated total arbitrariness in the assessment for promotion.
- iii) Because the assessment was conducted by the committee which had no idea about working of the applicants as no member of the committee was from the Laboratory in which the petitioner is working.
- iv) Because the assessment of employees ~~xxxxxx~~ under the same bye-laws 71(b) having B.Sc/B.E. qualification by the respondent No.2 at the Laboratory level and non B.Sc. by the respondent No.1 at central level was discriminatory.
- v) Because the proforma II and the annual confidential reports which were stated to be basis of assessment for promotion did not contain anything warranting the rejection of the petitioner.

Edwards

- 171
- vi) Because the rejection of the petitioner for all subsequent years from the date of eligibility by one assessment committee is wholly arbitrary, capricious and smacks of non-application of mind by the committee.
- vii) Because the action of the respondent No.1 is violative of article 14 and 16 of the Constitution.
- viii) Because the action of the respondent No.1 is otherwise bad, unconstitutional and without jurisdiction denying the promotion to the petitioner.

8- Interim order if prayed for:

During the pendency of the Petition the promotion and the interview in respect of the post of technical officers concerned may be stayed and in such other orders may also be made as this Hon'ble Court may deem fit and proper in the circumstances of the case.

9. Details of remedies exhausted:

The applicant declares that he has availed of all the remedies available to him under the relevant rules

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10. Matter not pending with any other court etc.

11. Particulars of Bank Draft/Postal order
in respect of the application fee:-

- i) No. of Indian Postal Order $\frac{68}{4}$ 227174
- ii) Name of issuing post office Head Post office Allahabad
- iii) Date of issue of postal order 2nd June 1988
- iv) Post office at which
payable.

12. Details of Index

An Index containing the details of the
documents to be relied upon is enclosed:-on front page

13. List of Enclosures: As shown in the
index

In Verification:-

I, the above named applicant do hereby
verify that the contents of paras / to / 3
are true to the best of my personal knowledge and belief
and that I have not suppressed any material fact.

Dated: Lucknow the

3rd day of June 1988

Edwina
Applicant

Edwina
Documents to be relied upon is enclosed:-on front page

PROFORMA II

Name of the Laboratory

Industrial Toxicology Research Centre, Lucknow

1. Biodata of Candidate

Name

J.P. SHARMA

Designation & Trade/
DisciplineIndustrial Liaison Officer, Sectional Head
Liaison

Qualification (higher)(Please
also indicate complete details
of Tech./Professional Courses
attended/passed and certi-
ficates obtained technical training
received and specialised
skills acquired)

B.A. (Lucknow University)

Diploma in Journalism - Rajendra Prasad Institute
of communication Studies, BombayAttended short course on "Information Handling
in Organisation" at SIET Institute, Hyderabad.Deputed to U.K. and West Germany for advanced
studies and training under WHO Programme.

Date of birth

5th December, 1933

Date of last promotion
and scale

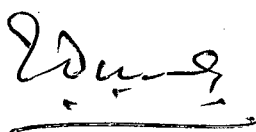
August 1979; Scale Rs. 700-1300

2. Job assigned during period under review

1. To maintain liaison with research Institutions, Private and Public Sector undertakings.
2. Sponsored projects and consultancy services referred to the Centre.
3. Short term training programmes in the area of environmental and industrial toxicology
4. Organising meetings of the Research Advisory Council, Executive Committee and Sub Committees.
5. Preparation of agenda and proceedings of Research Advisory Council and Executive Committee meetings.
6. Deputation of scientists abroad for advanced training/studies under bilateral exchange programmes and WHO programmes.
7. Arranging visits of foreign scientists and other distinguished visitors to the Centre.

3. Self assessment (one paragraph)

Liaison were maintained with various organisations, public and private sector undertakings and their enquiries on various toxicological problems were attended during the period 1979-84. Sponsored schemes referred to the Centre were also processed in consultation with the Scientists. Short term training programme on Environmental and Occupational Health Problems was organised for medical doctors. An International Training Course on Chemical Safety in Industries sponsored by WHO was also organised. Assisted in organising ITRC-Industry Get-Together and International Conference on Pesticides: Toxicity, Safety and Risk Assessment. Organised meetings of the Research Advisory council and Executive Committee and also prepared agenda and proceedings of these meetings. Seventy six scientists were deputed abroad during the period and their cases of deputation for advanced training/study and also for their participation in the meetings



8/32

symposium/conference/workshop etc were processed. Besides, the visit of foreign scientists and other VIPs to the Institute were also organised.


Signature of Candidate

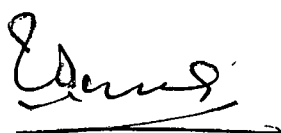
4. Group leader's assessment (job performance and personality)

Signature of Group Leader

5. Director's assessment



Signature of Director



Annexure II
REGISTERED/CONFIDENTIAL

COUNCIL OF SCIENTIFIC & INDUSTRIAL RESEARCH

NO. 9(2)-AO(BC)/87-PL.

Rafi Marg,
New Delhi-1, the 29th Oct. 1987

From

Joint Secretary(Admn.)
Council of Scientific and Industrial Research,

To,

The Director,
Industrial Toxicology Research Centre,
Mahatma Gandhi Marg,
Post Box No. 80,
Lucknow-226 001.

Subject :- Assessment of Scientific/Technical staff under
erstwhile Bye-law 71(b).
.....

Sir,

I am directed to state that the undermentioned staff
assessed upto date indicated against by the expert Committee
in July, 1987. has not been recommended for assessment
promotion :-

1. Shri J.P. Sharma, Tech. Officer B 31.8.1986

The above member of staff may be suitably informed.

Yours faithfully,

Sd/-
(K.S.R. RAO)
UNDER SECRETARY

INDUSTRIAL TOXICOLOGY RESEARCH CENTRE, LUCKNOW
(Council of Scientific & Industrial Research)

NO. Assmt./71(6)/87

Date: 18.11.1987

Copy endorsed to Shri J.P. Sharma, Tech. Officer B
for information.

[Signature]
(J.S. MEENA)
SECTION OFFICER
admn.

[Signature]
Shri J.P. Sharma,
Tech. Officer 'B'
ITRC, Lucknow

[Signature]
Recd
19/11/87

Annexure III

CONFIDENTIAL/REGISTERED

18
12
24
P/24

COUNCIL OF SCIENTIFIC AND INDUSTRIAL RESEARCH
Anusandhan Bhawan,

No.1/20/87-CGC

Rafi Marg, New Delhi-110001 March 22, 1988

From

Joint Secretary (Admn.)
Council of Scientific & Industrial Research,

To,

The Director,
Industrial Toxicology Research Centre,
Mahatma Gandhi Marg, P.B. No. 80,
Lucknow-226001.

Sub:- Grievances of S/Shri P.N. Mahendra, STA, J.P. Sharma,
Industrial Liaison Officer, Lalji Shukla, STA and Mulk
Raj, Tech. Officer-A of ITRC- Lucknow. Assessment under
Bye-law 71(b).

Sir,

I am directed to state that the representations of the
above officers were considered by the Central Grievance
Committee in its meeting held on 2nd March 1988. The Committee
has observed as under :-

"The committee noted that the Assessment Committees
in all these cases were constituted as approved by
the Governing Body and the assessment was done
properly. Hence, the above officers should have
no cause for grievance."

It is requested that the officers concerned may kindly
be informed suitably in the matter.

Yours faithfully,

Sd/

(O.P. Saxena)
Senior Deputy Secretary

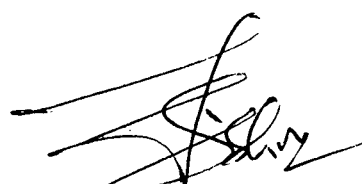
INDUSTRIAL TOXICOLOGY RESEARCH CENTRE, LUCKNOW.

No. ITRC/VCA/II/88-EI(12)

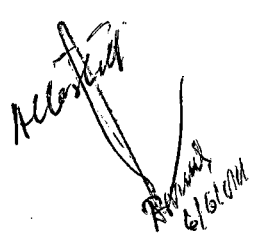
Dated; 14-4-1988

Copy to the following persons for information.

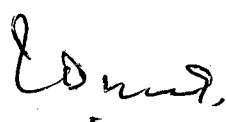
1. Shri J.P. Sharma, I.L.O. ITRC
2. Shri Mulk Raj, T.O. 'A' ITRC
3. Shri Lalji Shukla, S.T.A., ITRC
4. Shri P.N. Mahendra, STA, ITRC,


(J.S. Meena)

SECTION OFFICER


6/6/88

14/4



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT ALLAHABAD SITTING AT LUCKNOW.

Claim Petition No. of 1988

Petitioner

Versus

Director General Scientific
and Industrial Research New
Delhi and another.

Respondents

ANNEXURE-4

INDUSTRIAL TOXICOLOGY RESEARCH CENTRE LUCKNOW
(Council of Scientific & Industrial Research)

No. Assmt./71-(b)/87-EI dated 24.5.1988

OFFICE MEMORANDUM

Sub: Assessment of merit for promotion to the
next higher grade under erstwhile bye-law
71(b).

...

The following officers and Members of staff
were requested to submit their self assessment
report in the prescribed proforma, already provided
to them. Since CSIR has remained for the same,
they are once again requested to submit 20
copies of their self assessment report to the
office on or before 30.5.1988.

1. Sri J.P.Sharma, T.O. 'B' (I.L.O.)
2. Sri Mulk Raj, T.O., 'A'
3. Sri B.K.Majumdar, T.O. 'A'
4. Sri P.N.Mahendra, S.T.A.
5. Sri Lalji Shukla, S.T.A.
6. Sri S.G.Husain, S.T.A.

Sd. (S.K. Bose)
Section Officer

Copy to above officers and
members of staff.

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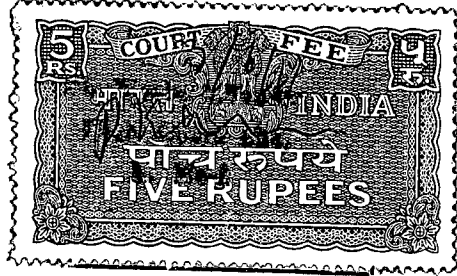
Civil Judge
Alldah महोदय

वादी मुद्दे

प्रतिवादी (मुद्दाअलेह)

का

वकालतनामा



J. P. Sharma

वादी (मुद्दे)

Dr. K. D. Bhatnagar

प्रतिवादी (मुद्दाअलेह)

ने मुकद्दमा

सन् १९

पेशी की ता०

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ऊपर लिखे मुकद्दमे में अपनी ओर से श्री पी० के० खरे

एडवोकेट
वकील महोदय

को अपना वकील नियुक्त करके प्रतिज्ञा इकरार करता हूं और लिखे देता हूं
इस मुकद्दमे में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी
व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या
हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा वा
इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर
से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें
या हमारी या विपक्षी (फरीकसानी) का दाखिल किया रुपया अपने या हमारे
हस्ताक्षर युक्त [दस्तखती] रसीद से लेवें या पंच नियुक्त करें-वकील महोदय
द्वारा की गई वह सब कार्यवाही हमको स्वीकार है और होगी इसलिए यह
वकालतनामा लिख दिया कि प्रमाण रहै और समय पर काम आवे।

हस्ताक्षर

J. P. Sharma
(J. P. SHARMA)

साक्षी [गवाह]

साक्षी [गवाह]

दिनांक

महीना

सन् १९

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

REGISTRATION NO. OA-42 OF 1988 (L)

J.P. Sharma Applicant

Versus

Union of India & Others Respondents

Application

Respondent No. 1/02 submit answer,

1. That before giving the parawise reply to the application it is necessary to bring the certain facts before this Hon'ble Tribunal which is essential for the just and proper disposal of the aforesaid case.
2. That Council of Scientific and Industrial Research is a Society registered under Societies Registration Act and also as held A.I.R. 1975 Supreme Court page 1329 Shri Sabhajit Tiwari case is not a State or Union of India within the meaning of article 12 of the Constitution. The application is bat for misjoinder of parties.
3. That the cause of action accrued to the applicant, if any, at New Delhi. The order against which application of the remedy is sought for arose at Council of Scientific and Industrial Research Headquarters at New Delhi where the interview were held and the results were announced and as such the Circuit Bench, Lucknow of the Additional Bench of the Central Administrative Tribunal,

Allahabad has no jurisdiction to try the case. Only the Central Administrative Tribunal, New Delhi has jurisdiction to take up the matter.

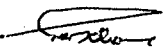
It is respectfully prayed that preliminary objection raised in the reply of the main application may be decided first before proceeding further with the application on merit.

Place : Lucknow

(G. K. Khanna)
Advocate

Dated : 19/9/88

T.C.


Advocate

13/9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

REGISTRATION NO. OA-42 OF 1988 (L)

J.P. Sharma Applicant

Versus

Union of India & Others Respondents

WRITTEN STATEMENT ON BEHALF OF RESPONDENTS NO. 1

&2

The Respondents No. 1 and 2 most respectfully state as under:

1. That before giving the parawise reply to the application it is necessary to bring the certain facts before this Hon'ble Tribunal which is essential for the just and proper disposal of the aforesaid case.

2. That Council of Scientific and Industrial Research is a Society registered under Societies Registration Act and also as held A.I.R. 1975 Supreme Court page 1329 Shri Sabhajit Tiwari case is not a State or Union of India within the meaning of article 12 of the Constitution. The application is bat for misjoinder of parties.

3. That the cause of action accrued to the applicant, if any, at New Delhi. The order against which application of the remedy is sought for arose at Council of Scientific and Industrial Research Headquarters at New Delhi where the interview were held and

T. M. S. S. S.

the results were announced and as such the Circuit Bench, Lucknow of the Additional Bench of the Central Administrative Tribunal, Allahabad has no jurisdiction to try the case. Only the Central Administrative Tribunal, New Delhi has jurisdiction to take up the matter.

Parawise Reply

4. That the contents of para 1 of the application gives the particulars of the applicant and is admitted.

5. That the contents of para 2 of the application gives the particulars about the respondents which needs no comments.

6. That the contents of para 3 of the application gives the particulars of the order indicating the number, date and subject and need no comments.

7. That the contents of para 4 is denied as under. In this connection it may be stated that the interview were held and results were announced at Council of Scientific and Industrial Research, Headquarters at New Delhi. In this connection it may be stated that the cause of action against which this application has been made arose at New Delhi and therefore the Circuit Bench of Central Administrative Tribunal of Allahabad has no jurisdiction to try this application. Only Central Administrative Tribunal at New Delhi is the competent court to consider this matter.

In this connection it may again be stated that the case of the applicant was considered, assessed and finalised by CSIR Headquarters at New Delhi and as such this Tribunal has no jurisdiction to try this application.

Amended

8. That the contents of para 5 need no comments.
9. That the para 6(1) of the application are not disputed.
10. That the contents of para 6(2) of the application needs no comments. However, it may be clarified here that the Council of Scientific and Industrial Research have its national laboratories at various places in different scientific fields and are governed by the Council of Scientific & Industrial Research at New Delhi.
11. That the contents of para 6(3) of the application are denied as alleged. Council of Scientific and Industrial Research is a Society registered under the Societies Registration Act and is neither a State nor Union of India within the meaning of article 12 of the constitution as also held in A.I.R. 1975 Supreme Court page 1329.
12. That the contents of para 6(4) of the application are denied as under. It may be stated that the Council of Scientific and Industrial Research has got its own rules, regulations and bye-laws with regard to appointment and promotion at Council of Scientific and Industrial Research Headquarters at New Delhi as well as for the various national laboratories governed by it all over the country. Appointment of the Officers of Council of Scientific and Industrial Research and Director of National Laboratories are made as per rules, regulations and bye-laws of Council of Scientific & Industrial Research.

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13.. That the contents of para 6(5) are denied as alleged. In this connection it may be stated that the Governing Body of Council of Scientific and Industrial Research has full powers to make its own rules and regulations etc. within the framework of its bye-laws. However, for ammendment in the rules and and regulations or in the bye-laws approval from the competent authority is required.

14. That the contents of para 6(6) are denied as alleged. It may again be mentioned here that the Council of Scientific & Industrial Research is a Society registered under the Societies Registration Act and as held in A.I.R. 1975 Supreme Court page 1329, the Society is not covered within the meaning of article 12 of the Constitution of India and is neither a State nor the Union of India as alleged. The Society has full powers to make its own rules, regulations and bye-laws for performance of its activities and appointment, recruitment and promotion of its own staff.

15. That the contents of para 6(7) of the application are not clear and confusive. However, it may be mentioned here that the Director-General of the Council is the Principal Executive Officer of the Council of Scientific and Industrial Research.

16. That the contents of para 6(8) of the application are not disputed.

17.. That the contents of para 6(9)^{and 6(10)} are denied as alleged. Bye-laws 71(b) is reproduced below:

Transcribed

"Notwithstanding anything contained in these Byelaws, the Governing Body may formulate a Scheme or schemes of promotional system in the CSIR for all categories of staff."

Under the above clause the Governing Body appointed a Valluri Committee to review the promotion system in CSIR and on the report of the Committee, CSIR with the approval of the Governing Body formulated a new Recruitment/Assessment Promotion Scheme which was circulated to all concerned for their option under the terms and conditions formulated therein. The applicant opted for erstwhile Bye-law 71(b) and for him the same with modifications made by the Governing Body were applicable and his suitability was assessed under these rules. The applicant at the time of giving option for the provisions never raised any objection nor he raised any objection at the time of processing his case for assessment or at the time of his attending interview. Now he is raising objections when he was not found suitable for the next higher grade and result of the same has been announced by the Council of Scientific & Industrial Research.

It may respectfully be submitted that the case of applicant for assessment promotion was taken, processed and completed as per provisions of the rules and regulations of Council of Scientific and Industrial Research as already opted by the applicant.

18. That the contents of para 6(11) of the application are not correct and denied. It is respectfully submitted that the contention of the applicant is confusive and misleading. Assessment of merit of each individual is made on the basis of self-assessment report

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of the work done which is assessed by the Committee with the performance of the candidate during interview, confidential report for the period under assessment and other achievements of the candidates by the Assessment Committee. It is totally denied that the promotion is made only on the recommendations of the Sectional Heads and Confidential Report but it depends on the capability of the candidate and performance during interview with reference to self-assessment report of work done (proforma II) and other achievements. The committee gives its recommendations keeping in view of the status of posts to which the promotion is to be considered. It may also be mentioned here that a person who is suitable for his present grade can not claim promotion to the next higher grade as a matter of right. It may be clarified here that the applicant cannot be judge of its own merit and if in the opinion of the assessment committee the candidate is not found fit for higher promotion he is not recommended for the same.

19. That the contents of para 6(12) of the application are denied as alleged. The assessment promotion is made on the basis of performance of the eligible persons before the Assessment Committee, self-assessment report indicating work done by him and his confidential report. It is baseless to say that the assessment were made on the basis of confidential report only.

20. That the contents of para 6(13) of the application are admitted to the extent that the applicant appeared before the assessment committee at New Delhi on 23.7.88. The applicant was assessed

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by the assessment committee duly constituted by the competent authority as per provisions of the rules. After interviewing the applicant and taking into consideration his self-assessment report indicating work done by him and also confidential report, the assessment committee did not find him suitable for promotion to the next higher grade and hence the result was communicated vide CSIR letter No. 9(2)-AO/87-PL dated 26.10.1987 through the respondent No. 2.

21. That the contents of para 6(14) of the application are denied as alleged. The contents of the decision of CSIR as per annexure 3 of the application are clear and self-explanatory and need no further clarification.

22. That the contents of para 6(15) are denied as alleged. It may be stated that the grievance of the applicant was carefully considered by the competent authority. Since there was no deviation in the process and formalities for consideration of the case of the applicant the appellant authority passed his order as per annexure-3 of the application. The applicant was given full opportunity to present his case, work and performance before the Assessment Committee which interviewed the applicant.

23. That the contents of para 6(16) are misleading and not clear. The competent authority to consider the suitability of the applicant was the Assessment Committee which was constituted by the

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competent authority and has full sanction of law. The committee under its jurisdiction interviewed the applicant, considered his confidential reports, self-assessment report of work done and performance of the applicant. However, the committee did not find the applicant suitable for promotion to the next higher grade. There is no violation of fundamental rights and principles of natural justice. The applicant was given the full opportunity to present his case before the Assessment Committee.

24. That the contents of para 6(17) are not correct and denied. They are also misleading and confusive. The case of the applicant was considered properly and as per provisions of the rules and regulations framed for the purpose. Even the applicant did not raise any objection at the time of consideration of his case or thereafter. The applicant is making this allegations only when his personal interest was not served.

25. That the contents of para 6(18) of the application are not correct. It may be stated here that the applicant was eligible for consideration of his merit by the Assessment Committee w.e.f. 31.8.1984 and it was done by constituting an Assessment Committee as per the constitution approved by the Council of Scientific & Industrial Research within the provision of rules and regulations and it has sanction of law. The applicant has again been eligible for consideration of his merit on subsequent chance for the same and for that purpose the applicant was requested to submit his self assessment report of the work done in proforma II. It is denied that he was entitled for promotion; rather he was eligible for consideration of his merit to assess his suitability for ~~promotion~~

trial

promotion to the next higher grade. It may further be stated here that the promotion can not be claimed as a matter of right and one can not be judged by his own merit. It depends on his capability and performance to be judged by the assessment committee in which the applicant was found unsuitable and not fit for promotion.

26. That the contents of para 6(19) of the application are not correct and denied. The assessment of the applicant was made as per provisions of the Council of Scientific & Industrial Research rules and regulations. The merit of the candidate assessed by a high power committee constituted with the approval of the Governing Body as per rules and regulations on the subject. It is totally denied that the applicant is entitled for promotion rather he was eligible for consideration of his merit for promotion to the next higher grade. In this regard it may be stated that on consideration of his merit by the assessment committee constituted for the purpose the applicant was not found fit and hence not recommended for promotion. The applicant was given full opportunity to show his performance with reference to his work and achievements during the period of assessment. Considering the performance of the applicant, confidential report and work done etc. the committee came to the conclusion that the applicant is not at all fit for the post for which his merit was considered. The assessment was made in accordance with the rules and regulations of the Council of Scientific and Industrial Research.

27. That the contents of para 7 are denied as under. The applicant is not entitled to any of relief claimed by him. It may be

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made clear that in the relief sought on the respondents the date of order which the applicant want to be quashed has not been given.

Contents of ground of relief as given are not correct and baseless and needs no further comments.

28. That the contents of para 8 are denied as alleged. In the event respondent no. 1 is restrained from making promotion and interview of post of Technical Officer, it will cause injustice not only to the respondent but other persons who are eligible for promotion will also suffer. So far the applicant is concerned in the event promotion are made it will cause no harm or injustice to him.

29. That the contents of para 9 needs no reply.

30. That the contents of para 10 needs no reply.

31. That the contents of para 11 needs no reply.

32. That the contents of para 12 needs no reply.

VERIFICATION

I, Shri R.N. Wahal, Administrative Officer, Industrial Toxicology, Research Centre, Lucknow do hereby verify the contents of para 1 to 32 are true to my best knowledge as per records of the Industrial Toxicology Research Centre, Lucknow

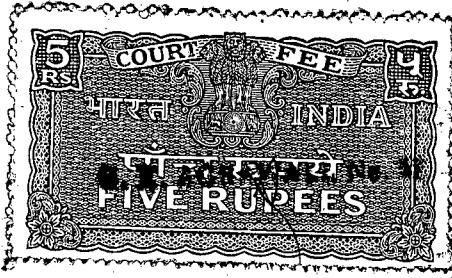
Place: Lucknow

(R. N. Wahal)

Dated : September 17, 1988

ब अदालत श्रीमान् Central Administrative Tribunal महोदय
[वादी अपीलान्त] श्री J.P. Sharma का वकालतनामा
प्रतिवादी [रिस्पॉण्डेंट]

J.P. Sharma



Union of India and others
वादी (अपीलान्त)

J.P. Sharma

बनाम Union of India + others प्रतिवादी (रिस्पॉण्डेंट)

नं० मुकद्दमा DA-42 सन् 1988(L) पेशी को ता० १६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री N.P. Srivastava, Advocate

वकील

महोदय

एडवोकेट

नाम अदालत
मुकद्दमा नं०
नाम फरीकन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे
बेता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील
द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोंत्तर करें या कोई कागज दाखिल
करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल
करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर
से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा
उठावें या कोई रुपया जमा करें या हारी विपक्षी (फरीकसानी) का
दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (हस्तखती)
रसीद से लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह
सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार
करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता
रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो
जाता है उसको जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह
वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १६ २८ ई०

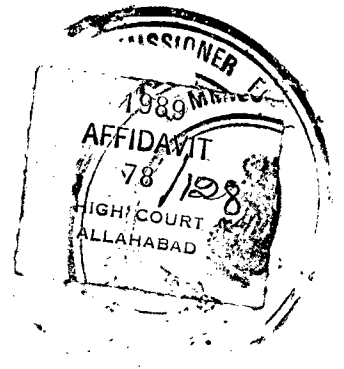
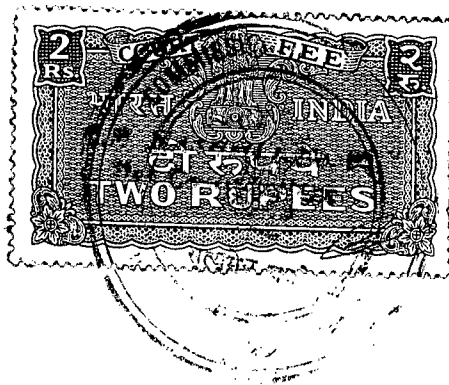
स्वीकृत

Mirza
8/3/1989

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: ALLAHABAD
LUCKNOW BENCH: LUCKNOW.

Reg. No. 42/1988 (L)

Counter Affidavit



J.P. Sharma. ... Petitioner

Vs.

Director General, S.I.R. and others.. Opposite Parties.

COUNTER AFFIDAVIT

TO THE AFFIDAVIT OF SHRI J.P. SHARMA: APPLICANT/
PETITIONER

I, M.L. Bhargava, aged about 54 years, at present posted as Controller of Administration at Lucknow Industrial Toxicology Research Centre, M.G. Marg, Lucknow, do hereby solemnly affirm as under:-

1. That the contents of paras 1 and 2 of the Affidavit are admitted.
2. That the contents of paras 3 to 5 of the affidavit are vague and as such denied for want of knowledge. No affidavit has been filed either of the Pairokar or the Counsel, nor the name of the Counsel has been disclosed.
3. That the Respondent has neither been correctly described nor served with notices.



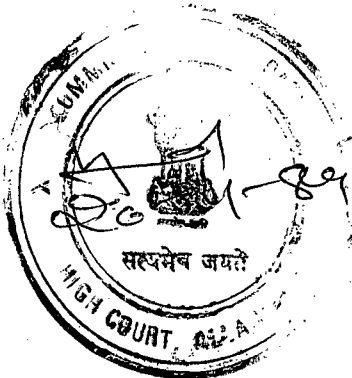
Bhargava

4. That the application does not disclose good or sufficient reason for restoration of the case.

Lucknow: Dated:

20.4.89

Bhargava
Deponent.



Verification

I, the above named deponent, do hereby verify the contents of paras 1 to 3 as true to my personal knowledge, based on the records of the office of I.T.R.C., while the contents of para 4 are believed to be true on legal advice.

Signed and verified this 20th day of April 1989 at Lucknow.

Bhargava
Deponent.

I know the deponent personally who has signed before me.

A. Khanna
Advocate
20/4/89

solemnly affirmed before me on 20-4-89 at 2-40 P.M. by the deponent Sh. M. Z. Bhargava who is identified by Sh. A. Khanna Advocate.

I have satisfied myself examining the deponent that he understands the contents of this affidavit which has been read and explained by me.

N. D. AHUJANI

OATH COMMISSIONER

High Court Lucknow Bench Lucknow

No. 79/1128

Date 20/4/89

RA

In the Central Administrative Tribunal, Allahabad, Lucknow Bench

Reg. No. 42/1988(L)

J.P. Sharma

Petitioner

Versus

Director General, SIR and ^{an} other

Opposite
Party

My Lords,

The applicant begs to enclose a copy of the rejoinder affidavit in the above mentioned case reiterating his request to recall the orders dated February 23, 1989 and to restore it in the interest of Justice.

Lucknow

N. P. Srivastava
(N.P. Srivastava)

Advocate

Dated: May 9 , 1989

Counsel for the Petitioner

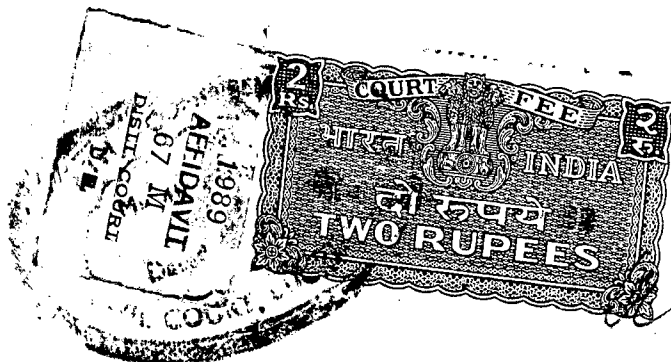
Recd one
Copy

9/5/89
(O.T. RE. LKO)

Dr. S. Kumar
to Mr. Kulkarni
recd.

9/10/5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
LUCKNOW BENCH



Reg. No. 42/1988(L)

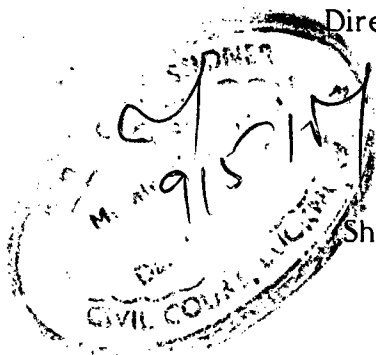
J.P. Sharma

Petitioner

Versus

Director General, SIR and other

Opposite
Parties



Rejoinder Affidavit to the Counter Affidavit filled by
Shri M.L. Bhargava, Controllar of Administration, ITRC, Lucknow

I, J.P. Sharma aged about 54 years S/o Late Shri Raghubir Prasad at present posted as Industrial Liaison officer at Industrial Toxicology Research Centre, M.G. Marg, Lucknow do hereby solemnly affirm as under:

1. That contents of para 1 of the counter affidavit calls for no comments.
2. That the contents of para 2 are emphatically denied. The opposite parties is supposed to be famillier with the name of the Counsel and disclosing the name of the Counsel or his Junior was not material. The name of Counsel is Shri P.K. Khare and he was not present in the Tribunal on that day as must be evident from the order sheet of the Hon'ble Tribunal. The affidavit of the Counsel

10
K
1/54

or Pairokar is not called for.

3. That the contents of para 3 of the Counter affidavit are denied. The respondent has been correctly described being opposite party No. 1 in the petition^{and} that he has been served with notices is evident from the fact that the deponent has filed a reply thereto in the form of Counter affidavit under reply.

4. That the contents of para 4 is emphatically denied. The non-appearance of the learned Counsel for the petitioner on 23rd February, 1989 by itself is good and sufficient reason for recalling the orders dated 23rd February and for restoration of the case.

Wherefore it is prayed that the order dated 23rd February, 1989 dismissing the case in default may kindly be recalled and the case be restored.

11 23A7

T. P. Sharma
P. A. Sharma

Lucknow

Dated May 29 1989

E. D. Sharma,
Deponent

Verification

I, the above name deponent do hereby verify that the contents of paras 1-4 of the above rejoinder affidavit are true to my personal knowledge and belief. No part of it is false and nothing material has been concealed so help me God.

Lucknow

Dated: May 3, 1989

E. D. Sharma,
Deponent

I identify the deponent Sri T. P. Sharma who has signed in my presence. Attestation Counsel for deponent.

In the Central Administrative Tribunal, Allahabad
Lucknow Bench, Lucknow

C.M. An. No. 31/09(C)
On

Reg. No. 42 of 1988 (L)

J.P. Sharma

Petitioner

Versus

Director General, SIR and others

Opp. Parties

Notice

Dear Sir,

Kindly find enclosed a copy of Restoration application in the above mentioned case proposed to be filed before the Central Administrative Tribunal, Lucknow Bench, Lucknow.

You are aware that the above mentioned case was dismissed in default on February 23, 1989.

Lucknow

Dated: March 13, 1989

M. Srivastava
(N.P. Srivastava)
Advocate
Counsel for Petitioner
Flat No. D 3/4 PWD Colony
Rajendra Nagar, Lucknow

Office

Filed today. Affidavit on 10 Rs. stamp
Paper is not needed but learned
Counsel insists to put up the same
before Hon'ble Court.

Put up tomorrow on 14.3.89
before the Hon'ble Court for orders
with previous papers.

In the Central Administrative Tribunal, Allahabad
Lucknow Bench, Lucknow

Murthy *Amegjee*

13.3.89

AS

13/3/89

Reg. No. 42 of 1988 (L)

J.P. Sharma

Petitioner

Versus

Director General, SIR and others

Opp. parties

Application for Restoration

My Lords,

For facts and reasons stated in the enclosed affidavit in respect of the above mentioned case it is expedient and necessary that the above mentioned case is restored.

Wherefore it is respectfully prayed that this Hon'ble Tribunal may kindly be pleased to allow this restoration application in the interest of justice.

N. P. Srivastava

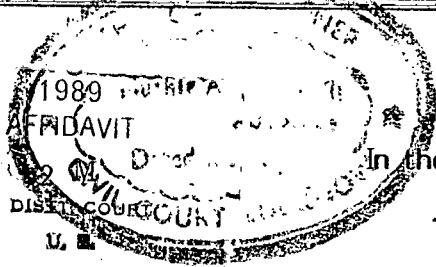
(N.P. Srivastava)

Advocate

Counsel for Petitioner

Lucknow:

Dated: March 13, 1989



In the Central Administrative Tribunal, Allahabad

Lucknow Bench, Lucknow

Reg. No. 42 of 1988 (L)

J.P. Sharma

Petitioner

Versus -

Director General, SIR and others

Opp. parties

Affidavit on behalf of Deponent in the above mentioned case

I, J.P. Sharma aged about 55 years, S/o Late Shri R.P. Sharma, Resident of 119/76 Ka Khandari Bazar Lane, Lucknow at present employed as Industrial Liaison Officer at Industrial Toxicology Research Centre, Lucknow do hereby solemnly affirm and state as under:

1. That the deponent is the petitioner in the above mentioned case and is fully conversant with the facts deposed to hereunder.
2. That the above mentioned case was fixed for hearing on 23rd February 1989 before this Hon'ble Tribunal.
3. That the deponent was busy with some official work and authorised the Paikar Shri A.L. Gupta to represent before this Hon'ble Tribunal.
4. That when the case was called out the Paikar rushed to the counsel engaged by the deponent in this case.

5. that he could not locate the Counsel of the deponent and when he returned back to this Hon'ble Court, the case had already been dismissed in default.

Under the circumstances mentioned above it is respectfully prayed that the above mentioned case may kindly be restored in the interest of justice.

Lucknow

Dated: March 13, 1989


DEPONENT

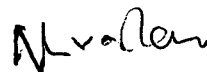
The above named deponent do hereby verify that the contents of para 1-5 of this Affidavit are true to my knowledge and belief. No part of it is false and nothing material has been concealed so help me God.

Lucknow

Dated: march 13, 1989


DEPONENT

I identify the Deponent who has signed before me.



(N.P. Srivastava)
Advocate High Court & Services Tribunal
Rajendra Nagar, Lucknow

Subscribed and sworn to before me in office

at 11-10-89

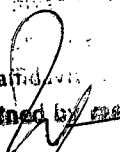
in the presence of

Subscribed

I have explained the contents of this affidavit to the deponent

and he has acknowledged the contents of this affidavit

read out and explained by me


1313147
GUSHIR ALAM FAROOQI
Only Officer
Civil Court Lucknow

A
5/9

In the Central Administrative Tribunal, Lucknow

Registration no. 117/88 (b) Asharfilal Gupta

Registration No. OA 42/1988 (b) J.P. Sharma

Registration No. OA 44/88 (b) Mulkraj

Registration OA 45/88 (b) P.N. Mahendra

Versus

Director General, Scientific and Industrial Research and others

Application for adjournment

My Lord,

The applicant request to state as under:

1. That the applicant has been engaged as a counsel in the above mentioned cases.
2. That the applicant will be out of Lucknow in connection with a case listed in the Central Administrative Tribunal, Allahabad on 28.8.1989.

Wherefore it is prayed that the above mentioned cases be fixed for some convenient date preferably in the last week of October 1990.

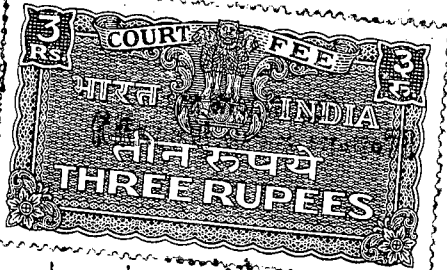
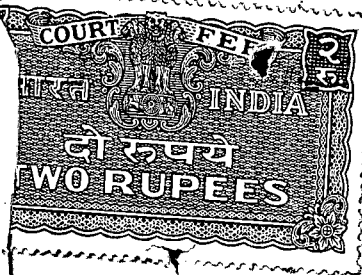
Lucknow

28.8.1990

N.P. Srivastava

(N.P. Srivastava)
Counsel for the above cases

Central Administrative Tribunal, Allahabad
Lucknow Bench, Lucknow



8/6

42/88 J.P. Sharma v. Union of India and others

44/88 Mukkay v. Union of India and others

45/88 P.N. Mahendra v. Union of India and others

Application for adjournment-

The applicant begs to state as under:-

1. That the applicant has been engaged as a counsel in the above mentioned cases.
2. That the applicant has to appear in a final hearing case at CAT Allahabad fixed for 22.4.1991.
3. That the applicant will, therefore, proceed to Allahabad to appear before the CAT Allahabad on 22.4.1991.

Prayer

It is therefore prayed that in the above mentioned case he be adjourned to some other date preferably in July 1991.

For and on behalf of

(N.P. Srivastava)

Counsel for the above named
petitioners

Dated Lucknow - 22.4.91

THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW.

Central Administrative Tribunal
Lucknow Bench

Date of Filing 31.7.95
Date of Receipt by Post

To,

The
Deputy Registrar,
Central Administrative Tribunal,
Lucknow.

Sir,

Please supply to me a Certified Copy of the Judgment/
Order delivered in the following case :-

(A) Number & Year of the
Original Application/
CCP/MP/TA.

OA No 42/88(L) connected with
OA No 44/88 & 45/88 of 199 .

(B) Names of the parties

J. D. Sharma vs CRR, P. N. Mahendra vs CRR
Versus 2 Mukherjee vs CRR

(C) Whether the case is
pending or disposed of

Disposed of on 06.04.1995

(D) The name with date of
document of which copy
is required.

Order of Haith CAT dt 06th April, 1995

(E) Nature of Application
Urgent/Ordinary.

Ordinary

(F) In the case of a copy
of an order, whether
for private or general
use.

For office record.

(G) Name and Full postal
Address of the Applicant:

Asit Kumar Chaturvedi, (R. P. TRIPATHI)
Advocate,
Bashir Building, Pandariba,
opposite Late C.B. Gupta Kothi,
Charbagh, Lucknow. I.T.R.C. Lko

(H) Postal Order No./ Date
and Amount.

No. 35-825924 dt 04.07.95

Date : 31.07.1995

for Rs. 05/- (Rupees Five only)

180. Rs. 5/-
RE
21/7/95