

OK
 cleared
 SKY
 25/7/93

6/7/93

Hon. Mr. B.K. Singh, A.M.

Parties were called out.
 None responds. Put up
 this case on 6/8/93 for
 hearing on admission/
 disposal.

[Signature]
 A.M.

OK
 cleared
 M. 5/8/93 for
 recall of judgment
 date 26/9/93

6.8.93 - No sitting of D.B. case is
 adj'd 19.8.93

19.8.93

No sitting of D.B. adj
 19.8.93

No sitting of D.M.
 adj to 24.9.93

mo

OK
 cleared
 M. 5/8/93 for
 recall of judgment
 date 26/9/93

18/8/93

OK
 cleared
 M. 5/8/93 for
 recall of judgment
 date 26/9/93

O.A. 221/90 (L)

3.4.91
D.R.

Applicant's side is
absent. D.P. is present
today. R.A. has not
been filed. Applicant
to file R.A. by 3/5/91
No further opportunity
shall be provided to
the applicant.

3/5/91
D.R.

Respondent's side is
present. Applicant's
side is absent today.
Reply has not been
filed so far. Applicant
is directed to file it,
by 20/7/91.

10.7.91
D.R.

Both the parties are absent
today. Reply has
not been filed so far.
Applicant to file it, by
29/8/91.

→ listed
before me
on 3.1.91 for
filing counter.

3.1.91
D.R.

Both the Parties
are present today.
Counsel for the O.P.
Mr. Hari Har Saray
moved an application
for one month
extension of the
time, and he files
Power, on behalf
of the O.P. Hence
this case is listed
before me on
4.2.91 for filing
counter.

4/2/91
Counsel has
been filed.
Per op
on 14/3/91
J. Rajan

14.3.91
D.R.

Both the parties are
absent today. Applica
nt to file R.A. by 3/4/91

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

NO 221 of 90 199 (L)

A. NO 199 (TL)

Date of Decession 26.2.93

Yogendra Singh

Petitioner.

Advocate for the
Petitioner(s)

V E R S U S

Union of India & Others

Respondent.


Advocate for the
Respondents

C O R A M

Hon'ble Mr. Justice U.C. Srivastava, VC

Hon'ble Mr. K. Obayya, Member (A)

1. Whether Reporter of local papers may be allowed to see the Judgment ? ✓
2. To be referred to the reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgment ? ✓
4. Whether to be circulated to other benches ? ✓


Vice-Chairman / Member

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 221 of 1990(L)

Yogendra Singh Applicant

Versus

Union of India & Others Respondents


Hon'ble Mr. Justice U, C.Srivastava, V.C.

Hon'ble Mr. K. Obayya, Member (A)

(Hon'ble Mr. Justice U.C.Srivastava,V.C.)

By means of this application, the applicant has challenged the charge-sheet ~~as~~ meaning thereby, the disciplinary proceeding is ~~is~~ still pending. The learned counsel Sri Harihar Saran has stated that charge-sheet has been amended and as such this application as it ~~is~~ has become infructuous and is dismissed. It is open to the applicant to file any other application provided the same is maintainable and to take the pleas which he has taken in this application.


Member (A)


Vice-Chairman

Lucknow Dated: 26.2.1993.

(RKA)

24.9.93

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

Sri V. Kumar learned counsel for the applicant is present. We have heard in regard to the C.M. Application No. 538/93 which is restoration of O.A. No. 221/90 which was dismissed ^{as having} ~~and~~ become infructuous ^{on the} statement made by learned counsel for the respondents.

A perusal of impugned order reveals that the counsel for the respondents was present on that date. Hence issue notice to respondents to file objection if any, against this Misc. application within 4 weeks. List this case on ~~19.11.93~~ 19.11.93 for ~~admission~~. *disposal of C.M.A.*
no. 538/93

(g.s.)

A.M.

J. M.

Case not reached by 3.7.74
rose

Don W. Sed. Jersey to R. H. B. 2/20/21
Adm. to D. 2/21/21

OR
CARRA
Submitted
To District
M. A. 538/93
3/12/93

of
A BR share
already been
filled
MR 53893
not considered
early S. for
order
7/21

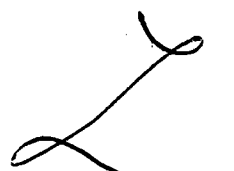
C.M.P. No. 538/93

in
O.A. No. 221/90

12/94
Hon. Mr. S.N. Prasad, J.M.
Hon. Mr. V.K. Selk, A.M.

Shri Hari Har Saran, learned
counsel for the respondents and Shri G.K.
Tripathi, brief-holder of Shri Vinod
Kumar, learned counsel for the
applicant of C.M.P. No. 538/93
are present. Shri G.K. Tripathi,
has not pressed this application
at this stage ^(vide his endorsement at the application) keeping in view the
clear observations made ~~by~~ by
this Tribunal in the aforesaid
Judgment/order dated
26-2-93. Hence this CMP
No. 538/93 stands automatically
dismissed and does not
call for any order.

in l/s
A.M.


J.M.

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 220 of 1989

APPLICANT(S) Shri Yogendra Singh

RESPONDENT(S) C.S.R.

<u>Particulars to be examined</u>	<u>Endorsement as to result of examination</u>
1. Is the appeal competent ?	yes
2. a) Is the application in the prescribed form ?	yes
b) Is the application in paper book form ?	yes
c) Have six complete sets of the application been filed ?	yes
3. a) Is the appeal in time ?	yes
b) If not, by how many days it is beyond time?	N.A.
c) Has sufficient case for not making the application in time, been filed?	yes
4. Has the document of authorisation/ Vakalatnama been filed ?	yes
5. Is the application accompanied by B.D./Postal Order for Rs.50/-	yes
6. Has the certified copy/copies of the order(s) against which the application is made been filed?	yes
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	yes
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	yes
c) Are the documents referred to in (a) above neatly typed in double space ?	yes
8. Has the index of documents been filed and paging done properly ?	yes
9. Have the chronological details of representation made and the out come of such representation been indicated in the application?	yes
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?	No

<u>Particulars to be Examined</u>	<u>Endorsement as to result of examination</u>
11. Are the application/duplicate copy/spare copies signed ?	yes
12. Are extra copies of the application with Annexures filed ?	yes
a) Identical with the Original ?	
b) Defective ?	X
c) Wanting in Annexures	
Nos. _____ pages Nos _____ ?	
13. Have the file size envelopes bearing full addresses of the respondents been filed ?	N.A.
14. Are the given address the registered address ?	yes
15. Do the names of the parties stated in the copies tally with those indicated in the application ?	yes
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?	yes
17. Are the facts of the case mentioned in item no. 6 of the application ?	yes
a) Concise ?	
b) Under distinct heads ?	
c) Numbered consecutively	
d) Typed in double space on one side of the paper ?	yes
18. Have the particulars for interim order prayed for indicated with reasons ?	yes
19. Whether all the remedies have been exhausted.	yes

dinesh/

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL ~~LUCKNOW~~

ADDITIONAL BENCH, ALLAHABAD

CIRCUIT BENCH AT LUCKNOW

O.A. No. 221 OF 1990 (2,

YOGENDRA SINGH

.....

Versus

The Council of Scientific &

Industrial Research and others.... Respondents

Central Administrative Tribunal

Lucknow

Date of Filing 16/7/90

Date of Receipt by Post.....

for Deputy Registrar(I)
16/7
16/8

I N D E X

Sr.No. Description of documents relied upon PageNo.

1. Application 1-27

2. Annexure No.1 28-33
True copy of impugned order dated 21.2.1990

3. Annexure No.2 34-35
True copy of Memorandum of Charge dated 2.5.1990

4. Annexure No.3 36-40
True copy of appointment order dated 12.12.80

5. Annexure No.4 41
True copy of Certificate of Registration under Registration of Societies Act

6. Annexure No.5 42
True copy of Bye Law No.74 of the Society(Council of Scientific & Industrial Research)

7. Postal Order for Rs.50/- No. 414727
Power

Filed today
16/7/90

Place : Lucknow

Dated : 16th July 1990

SIGNATURE OF THE APPLICANT

Y. S. Singh

M. Singh
D. Singh
D. Singh

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

O.A. NO. 221 of 1990 (L)

YOGENDRA SINGH, aged about 45 years,
son of Shri Ram Lakhan Singh Resident
of House No.567/176 Anand Nagar, Barha
Road, Lucknow at present posted as
a staff car driver (under suspension)
Central Drug Research Institute, Lucknow.... Applicant

Versus

1. The Council of Scientific & Industrial Research
New Delhi through its Director General,
 2. The Central Drug Research Institute,
Chhattar Manzil, Lucknow, through its Director
 3. The Director Central Drug Research Institute
Lucknow
- ... Respondents

DETAILS OF APPLICATION

1. PARTICULARS OF ORDER AGAINST WHICH THE
APPLICATION IS MADE:

The instant application under Section 18 of
Central Administrative Tribunals Act 1985 is being
filed by the applicant for challenging the
order dated 21.2.1990 passed by the Director,
Central Drug Research Institute, Lucknow placing
the applicant under suspension purportedly in
exercise of powers vested in him by Sub Rule (1) of Rule 10.

Dr. P. K. Singh

21.11.90

(2)

of the Central Civil Service (Classification, Control and Appeal) Rules, in contemplation of a departmental inquiry against him. The applicant by means of this application is also challenging the Memo dated 2.5.1990 issued by the Director Central Drug Research Institute, Lucknow proposing to hold an inquiry against the applicant under rule 14 of the ~~Classification~~ Central Civil Service (Classification, control & Appeal) Rules on the basis of the imputations of misconduct contained in Annexure No.1 attached to the said Memorandum and requiring the applicant to submit A Written Statement of Defence within 10 days of the receipt of the said Memorandum. True copies of the order dated 21.2.1990 as well as the Memo together with its enclosures are annexed hereto as ANNEXURE NO. 1 and 2 respectively.

2 . JURISDICTION OF THE TRIBUNAL

The applicant declares that the subject matter of the order and the Memorandum against which he wants redressal is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION:

The applicant further declares that the application is within the limitation period prescribed in section 21 of the Central Administrative Tribunal's Act 1985.

4. FACTS OF THE CASE:

(I) That the applicant was initially appointed

Dr. J. K. Singh

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by means of an order dated 12.12.1980 passed by the Administrative Officer Central Drug Research Institute, Lucknow as a Driver in the said Institute, on the terms and conditions mentioned in the said order. A true copy of the concerned order is annexed hereto as ANNEXURE NO.3.

II) That ever since his aforesaid appointment, the applicant has been serving the Central Drug Research Institute Lucknow as a driver with his utmost devotion to duty, honesty and efficiency and there has been no occasion of any complaint against him from either any member of the public or his superiors in office so much so that he has not received a single adverse entry or remarks in his entire till date Character Rolls. On the other hand, the applicant has received good and commendation entries for his work and conduct.

III) That it is relevant to point out here that the Central Drug Research Institute, Lucknow is a Unit of the Council of Scientific & Industrial Research New Delhi which is a Society, registered under the Societies Registration Act vide certificate of Registration dated 12.3.1948 issued by the Registrar of Joint Stock Companies Delhi. A true copy of the concerned certificate of Registration is annexed hereto as ANNEXURE NO.4.

Unit have

IV) That it is also relevant to point out here that the Council of Scientific & Industrial Research

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New Delhi has framed Bye Laws for the conduct of its affairs and under Bye Law No.74, the Central ~~Bye~~ Civil Services (Classification, Control & Appeal) Rules and the Central Civil Services (Conduct) Rules applicable to the employees holding civil posts under the Government of India have been made applicable in respect of the employees of the Council of Scientific & Industrial Research as well as its Units, with necessary modifications. The applicant is filing herewith a true copy of the Bye Law No.74 as ANNEXURE NO.5.

V) That it is further relevant to point out here that one Shri Sabhajit Tewari a Junior Stenographer serving in the Council of Scientific & Industrial Research in respect of certain grievances in respect to his service conditions filed a writ petition No.43/72 before the Hon'ble Supreme Court of India under Article 32 of the Constitution of India and a Constitution Bench of the Hon'ble Supreme Court of India vide its judgement and order dated 21.2.1975 reported in 1975 Vol-1 Supreme Court cases page 485 ~~reported~~ came to the conclusion that the Council of Scientific & Industrial Research is an Autonomous Body not in any manner under the control or supervision of the Government of India and as such it was not covered by the definition of the term 'State' as contained in Article 12 of the Constitution of India, and, therefore, the writ petition filed before the Hon'ble Supreme Court of India was not

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maintainable and was dismissed as such. The applicant is filing herewith ~~xxPhotostat copy of the judgment and c~~
~~understand in the aforesaid case xx xxxxxx Nov 6.~~

VI) That subsequently, a Bench of the 7 Hon'ble Judges of the Hon'ble Supreme Court of India in the case of Management of Sri Ram Institute for Industrial Research Versus its Workmen and Other connected matters was called upon to consider and interpret the term 'Industry' as defined under Section 2(j) of the Industrial Dispute Act and after an exhaustive discussion, the Hon'ble aforesaid Bench of the Hon'ble Supreme Court in its decision rendered on 21.2/7.4., 1978 exhaustively laid down tests to determine whether a particular Undertaking or organisation was covered by the definition of the term 'Industry' or not and in order to consider a number of activities including the activities of research institutes and determine specifically as to whether each of the aforesaid activity was covered by the definition of the term 'Industry' or not. As regards a Research Institute, the Hon'ble Supreme Court came to the conclusion that though such Research Institutes are mainly without any profit motive, they are covered by the definition of the term 'Industry'. The applicant is filing herewith a ~~xxxxPhotostat~~
~~xxxxxxx of paras 12 and 13 of the aforesaid decision of the~~
~~the Hon'ble Supreme Court,~~

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VII) That it is also relevant to point out here that as a sequel to the decision of the Hon'ble Supreme Court in the Bangalore Water Supply case, Parliament stepped

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in and by means of the industrial Dispute (Amendment) Act, 1982 (Act No. 46 of 1982) amended the definition of the term 'Industry' as contained in Section 2(j) and under clause 3 of the Amended Section 2(j) of the Industrial Dispute Act, Research Institutions were specifically excluded from the definition of the terms 'Industry'.

VIII) That though the aforesaid Amended Section 2(j) has not been enforced by the Government of India as yet, but the provisions of the said section clearly indicate that the Parliament also understood the judgement of the Hon'ble Supreme Court in the Bangalore Water Supply case to include within the definition of the term 'Industry' the Research Institutions also, In fact in the statements of objects and Reasons for enactment of Act No. 46 of 1982, it has been specifically mentioned as under.

" The supreme Court in its decision in Bangalore water Supply and Everage Board Versus Rajappa Vol.II, supreme Court Cases, while interpreting the definition of 'Industry' as contained in the Act observed that Government might restrict this definition by suitable Legislative measures. It is accordingly proposed to redefine the term 'Industry'. While doing so, it is proposed to exclude from the scope of this impression certain Institutions like Hospitals and Dispensaries, Educational, Scientific and Research or Training Institutes, Institutions engaged in Charitable Social and Philanthropic services etc. in view of the need to maintain any such institutions and atmosphere different from that of any Industrial and Commercial undertaking and to meet the Special

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needs of such organisations."

The aforesaid statements and objects of reasons further support the contention of the applicant that Parliament has also understood the decision of the Hon'ble Supreme Court in Bangalore water Supply case and has included within its fold all Research Institutions also.

IX) That in view of the above, it can safely be accepted that it is now a settled law that Research Institutions are also covered by the definition of the term 'Industry' as contained in Section 2(j) of the Industrial Dispute Act and the mere fact that it is not engaged in any profit making activity will not exclude such institutions from the definition of the term 'Industry' and as such the Council for Scientific & Industrial Research Institute, Lucknow is also covered by the definition of the term 'Industry' as contained in Annexure No.1 and its employees are entitled to the benefit of the said Act.

XO That according to the section 2(e) of the Industrial Employment (Standing Ordrs) Act 1946, the term ' Industrial-1 Establishment' has been defined to mean amongst other things, an Industrial Establishment as defined in Clause (ii) of Section 2 of Payment of wages Act, 1936 and according to Section 2(ii) an Industrial or other establishments means amongst other things while Clause (f) includes any workshop or other establishments in which articles are produced, adopted or manufactures with a view to their use, transport or sale.

XI) That in view of the aforesaid definitions and in view of the fact that the Central Drug Research Institute Lucknow on the basis of the Research work carried

out there. discovers formula on th

out therein, discovers formula on the basis of which life saving drugs can be manufactured and the said formula is then supplied to drug manufacturers throughout the country who in turn pay to the Central Drug Research Institute money in the form of Royalty. Besides, the Central Drug Research Institute, Lucknow engages itself in offering solutions to the problems faced in manufacture of drugs by drug manufacturers and for that purpose offers consultancy programmes and extracts money for offering those consultancy services. Thus, the Central Drug Research Institute is squarely covered by the definition of the term 'Industrial Establishment' as contained in Section 2(ii) of the Payment of wages Act and consequently is also covered by the definition of the said term as contained in Section 2(e) of the Industrial Employment (Standing Orders) Act.

XII) That under Section 3 of the Industrial Employment (Standing Orders) Act, it has been clearly provided that within six months from the date on which the said Act becomes applicable on an Industrial establishment, the employer 'shall' submit to the certifying officer draft standing orders proposed for adoption in the Industrial Establishment concerned. Sub Section 2 of Section 3 of the aforesaid Act provides that in the draft standing orders provisions are to be made in respect of every matter specified in the Schedule to the said Act and in case Model Standing Orders have been prescribed under the said Act, the Draft Standing orders as far as practicable has to be in conformity with the Model Standing Orders.

XIII) That Section 4 and 6 of the Industrial Employment (Standing orders) Act provides for a detailed procedure before a certifying Officer certifies the Draft Standing

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Dr. P. K. S. S.

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orders, including, an opportunity of hearing in respect to the Draft Standing orders to the Trade Union of the Workman and where there is no Trade Union, to the workmen concerned, Section 6 provides for a right of appeal against a certified standing orders.

XIV) That all the ~~the~~ aforesaid provisions clearly indicate that the conditions of Service of a workmen employed in an Industrial Establishment which is subject to the Industrial Employment (Standing Orders) has to be laid down in the form of Standing orders which has to be certified by the Certifying Officer and such Standing orders, in view of the fact that the certifying officer has to give an opportunity of hearing to the workman, generally contains only such terms and conditions which are acceptable both for the employer and employees, The aforesaid provisions also indicate that as far as a workman employed in the Industrial Establishment is concerned, he cannot be subjected to any terms and conditions by the employer unilaterally and which has not been consented to or has not been certified as a Part of the Standing Orders b-y the certifying officer.

XV) That section 12-A of the Industrial Employment (Standing orders) Act provides that during the period in which Draft Standing Orders are submitted and till they are certified, the Model Standing Orders as contained in the Schedule to the Act would be applicable to the employees of the Industrial Establishment concerned. Section 13-B of the said Act further provides that the Industrial Employment Standing orders Act would not apply to persons who are subject to Fundamental and Supplementary Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations as far as any Defence Services Classification, Control

29/10/21
21/10/21

Anil Kumar

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and appeal Rules or the Indian Railways Establishment or who are subject to any other rule or regulations which may be notified in this behalf by the appropriate Government.

XVI) That in view of the aforesaid provisions of law, it was Mandatory duty of the council for scientific & Industrial Research as well as the central Drug Research Institute to have submitted draft Standing Orders for Certification by the Certifying Officer and thereby they could have laid down service conditions applicable to an employee of the council concerned. Since the respondents hereto have till date not submitted any Draft Standing Orders for Certification, the effect is that the employees of the central Drug Research Institute have been deprived of the right to have their service conditions laid down in proceedings in which they were also associated and further the respondents have acted contrary to the provisions of the Industrial Employment Standing Orders Act.

XVII) That in view of the above and in view of the provisions of section 12-A of the Act concerned, in the absence of Certified Standing orders, the Model Standing orders are applicable to the employees of the council and its Units and the service conditions of the Council and its Units and the service conditions of the said employees are governed by the said model standing orders and not by any other rule or regulation or Bye-laws framed by the council or any of its Units, more so in view of the fact that the said Bye-laws rules or regulations are an unilateral act on the part of the Council and such a Bye law having not been certified under the industrial Employment Standing orders Act and also having not been framed after giving an opportunity to its employees

21/11/2013

Dr. B. S. Rao

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of the Institute.

XVIII) That the respondents hereto cannot rely on the provisions of Section 13-B of the Industrial Employment Standing Orders Act as the said provisions exclude from the applicability of the Act. Only two categories of persons, one in respect of the persons who are subject to the rules and regulations framed by the Government of India in respect of employees holding a civil post under its control and secondly in respect of employees for whom special rules or regulations have been framed and which rules and regulations have been specifically notified by the Government of India as being excluded from the provisions of the Act. Since, as already pointed out here in-above, the council of Scientific & Industrial Research is an Autonomous Body, not under the Control of the Government of India in any manner and not being covered by the definition of the term 'State' as contained in Article 12 of the Constitution of India, the employees of the Council of Scientific & Industrial Research and its Units cannot be treated to be persons holding civil posts in connection with the affairs of the Government of India and as such cannot also be treated as persons to whom various rules and regulations framed by the Government of India ifso-facto applies by virtue of their being employees

29/01/74 RTZ
Anil K. Desai

(12)

of the Government of India.

As regards second part of provisions 3 of the Section 13-B of the Industrial Employees Standing Orders Act, the Bye-laws relating to terms and conditions of service of the employees of the council and its Units including Bye-law 74 having not been notified by the Government of India to be excluded from the provisions of Industrial Employment Standing Orders Act, the said Bye-Law in absence of being certified under the Act concerned cannot be treated as enforceable against the employees of the Council of Scientific & Industrial Research and its units.

XIX) That in view of the above, Bye-law No.74 of the Bye Laws framed by the Council for Scientific and Industrial Research as contained in Annexure No.5 hereto is liable to be struck down as being contrary to provisions of of Industrial Employees Standing Orders Act and a direction is liable to be issued to the respondents hereto to refrain from enforcing the provisions of Central Civil Services (Classification Control & Appeal) Rules 1965 and the Central Civil Services (Conduct) Rules against the employees of Council of Scientific and Industrial Research as well as its Units solely on the basis of

Bye -Law No. 74.

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Dr. P. S. Rao
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XX) That a perusal of the Annexure No.1 enclosed with the impugned Memorandum would show to the Hon'ble Tribunal that the imputations of misconduct attributed to the applicant consist of having driven the official vehicle of the Institute in a negligent or rash manner repeatedly and in support of the said allegations two incidents of accidents having occurred while the applicant was driving the official car - one such accident occurred on 19.12.1986 which caused injuries to one Om Prakash a scooterist and the second on 8.2.1990 in which two employees of the Institute namely Shri Ganesh and Shri Badri Prasad were injured and the Jeep driven by the applicant was found dashed against a tree. On the basis of the aforesaid two incidents, the applicant has been stated to have committed misconduct as the said acts of the applicant amount to violation of Sub Rule 1 (iii) of Rule 3 of the Central Civil Services ~~(Classification, Control & Appeal) Rules~~ (Conduct) Rules as made applicable to the employees of the Institute.

XXI) That it is relevant to point out here that though the basis of the imputations of misconduct against the applicant are that by causing the aforesaid accidents he had committed an offence punishable under Section 279 I.P.C., but, it is emphatically submitted here that ~~xxxx~~ No First Information Report in respect of the any of the aforesaid incidents was lodged against the applicant with the Police, despite the second incident

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Dr. P. S. Singh

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atleast involved two employees of the Institute itself and in the absence of any such report, the allegations levelled against the applicant did not proceed any further from the stage of mere allegations and the genuineness of the said allegations could not be verified by an investigation through an independent agency like the Police. Despite the above, the applicant is now being proceeded against for having committed an offence punishable under section 279-I.P.C. which fact in itself goes to show that the Departmental Proceedings have been initiated against the applicant with apparent malafide intentions on the part of the Director of the Institute only with a view to punish him some how or the other.

XXII) That besides above, as already pointed out herein above, by law No.74 of the Bye Laws of the Council of Scientific & Industrial Research New Delhi under which the Central Civil Services (Conduct) Rules have been made applicable to the employees of the Council as well as its Units is itself ultravires of the provisions of Industrial Employment Standing Orders Act and is incapable of being enforced against the employees of the council and its Units and as such the impugned departmental proceedings initiated against the applicant for having violated the Central Civil Service(Conduct) Rules are themselves without jurisdiction and are liable to be quashed ~~xx~~ at this stage itself.

XXIII) That as already pointed out herein above, the

Dr. B. B. B. B.

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about the violation of such a provision, subject an employee to a disciplinary proceedings on the basis of an act or omission committed by such an employee and punish him.

XXV) That besides above, there is no provision in the Central Civil Services (Conduct) Rules which say that violation of the provisions of rule 3 would per se amount to mis-conduct nor is there any provision in the Conduct Rules itself saying that violation of Rule 3 would constitute misconduct. In view of the above, the action of the respondents hereto in conducting disciplinary proceedings against the applicant on the basis of violation of rule 3 of the Conduct Rules is nothing but an arbitrary and colourable exercise of power and as such is liable to be struck down on this ground alone.

XXVI) That the aforesaid contentions of the applicant find support from a decision of the Hon'ble Supreme Court of India in the case of A.L. Kalra Versus Project and Equipment Corporation of India Limited (1989) 3 Supreme Court cases Page 316 wherein the Hon'ble Supreme Court of India while construing a similar provision like rule 3 of the Central Civil Services (Conduct) Rules which found place in rule 4 of the Project and Equipment Corporation Employees' (Conduct, Discipline and Appeal) Rules has come to the conclusion that such a rule is waigve and no employee can be proceeded against departmentally merely having violated rule 4 of the Conduct Rules concerned. The relevant observations of the Hon'ble Supreme Court as contained in para 21 and 22 of the aforesaid judgement

10/12/87

Amir Hussain

(17)

are being reproduced as under:

" 21. And now to the facts. The Gravamen of the two heads of charges is that the appellant is guilty of misconduct as prescribed in Rule 4(1)(i) and (iii). It reads as under:

4. (1) Every employee shall at all times:

(i) maintain absolute integrity;

(ii) x x x

(iii) do nothing which is unbecoming of a public servant.

Rule 5 prescribes various misconducts for which action can be taken against an employee governed by the Rules.

22. Rule 4 bears the heading 'General'. Rule 5 bears the heading 'misconduct'. The draftsmen of the 1975 Rules made a clear distinction about what would constitute misconduct. A general expectation of a certain decent behaviour in respect of employees keeping in view Corporation culture may be a moral or ethical expectation. Failure to keep to such high standard of moral, ethical or decorous behaviour befitting an officer of the company by itself cannot constitute misconduct unless the specific conduct falls in any of the enumerated misconduct in Rule 5. Any attempt to telescope Rule 4 into rule 5 must be looked ~~into~~ upon with apprehension because Rule 4 is vague and of a general nature and what is unbecoming of a public servant may vary with individuals and expose employees to vagaries of subjective evaluation.

Dr. B. B. B.

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What in a given context would constitute conduct unbecoming of a public servant to be treated as misconduct would expose a grey area not amenable to ~~subject~~ objective evaluation. Where misconduct when proved entails penal consequences, it is obligatory on the employer to specify and if necessary define it with precision and accuracy so that any ex post facto interpretation of some incident may not be camouflaged as misconduct. It is not necessary to dilate on this point in view of a recent decision of this Court in Glaxo Laboratories(1) Ltd. V. Presiding Officer, Labour Court Meerut, where this Court held that 'everything which is required to be prescribed has to be prescribed with precision and no argument can be entertained that something not prescribed can yet be taken into account as varying what is prescribed. In short it cannot be left to the vagaries of management to say ex-post facto that some acts of omission or commission nowhere found to be enumerated in the relevant standing order is nonetheless a misconduct not strictly falling within the enumerated misconduct in the relevant standing order but yet, a misconduct for the purpose of imposing a penalty. Rule 4 styled as 'General' specifies a norm of behaviour but does not specify that its violation will constitute misconduct. In Rule 5, it is nowhere stated that anything violative of Rule 4 would be per se a misconduct. It would therefore appear that even if the facts alleged in two heads of charges are accepted as wholly proved, yet that would not constitute misconduct as prescribed in Rule 5 and no penalty can be imposed, for such conduct.

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It may as well be mentioned that Rule 25 which prescribes penalties specifically provides that any of the penalties therein mentioned can be imposed on an employee for misconduct committed by him. Rule 4 does not specify a misconduct."

XXVII) That the whole purpose of framing Central Civil Services (Conduct) Rules is to lay down a code of conduct to be followed by a person employed by the Government and a perusal of the rules concerned would show to the Hon'ble Court that the rules have been framed in order to meet the special situations and circumstances under which a Government Servant serves the Govt. and these situations and circumstances are peculiar to Government servants alone and it is not correct to say that an employee of a private organisation like the respondent society also serves under the same situations and peculiar circumstances as a Government Servant. The aforesaid contention of the petitioner finds support from the fact that Article 309 of the Constitution of India under which the Central Civil Service (conduct) Rules have been framed empowers Legislature and in its absence President or the Governor to lay down service conditions of persons holding civil posts under the Union or State Government. There is no provision under the Constitution empowering a Legislature or any other authority to lay down terms and conditions of service of an employee of a private organisation like the respondent Society. The fact that the framer of the Constitution preferred

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to specifically empower the Legislature to lay down term and conditions of a person employed on a post in connection with the affairs of the Union or the State clearly indicates that even according to the framers of the Constitution of India, the status of a Government servant stands on a higher pedestal than an employee of a private organisation and a Government servant cannot be equated with an employee of a private organisation. This is more so in view of the provisions of Article 311 of the Constitution of India which provides that a person serving on a Post under the Union or State Government cannot be dismissed, removed or reduced in rank by an authority subordinate to the Appointing Authority and without giving him an opportunity of defending himself. There is no provision in the Constitution similar to Article 309 in respect of employees of private organisations also and as such also the Government Servant cannot be equated with an employee of a private organisation.

XXVIII) That in view of the above, the rules applicable to a Government servant cannot under any circumstances be adopted in respect of employees of private organisation also.

XXIX) That on the one hand, the respondents/society has adopted the Central Civil Services (Conduct) Rules and Central Civil Service (Classification, Control and Appeal) Rules for its employees, on the other hand according to it, it is not obliged to comply with the provisions of Article 14 and 16 of the Constitution of India, as it is not covered by the definition of the term 'state' used in Article 12 of the Constitution of India as the said Articles are Fundamental Rights

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guaranteed to a citizen only against actions of such Bodies which are covered by the definition of the term 'State' in Article 12. Thus, the right guaranteed to a Government Servant under article 14 and 16 are not extended to the employees of the respondent society and it is apparent that the provisions of Bye-Law No. 74 are in fact arbitrary as by virtue of the said bye-laws the respondent Society has adopted only those rules applicable to a Government Servant which relate to disciplinary proceedings and mis-conduct whereas the beneficial provisions of Article 14 and 16 relating to employment, promotion etc. have not been adopted by the respondent society. Besides, the respondent Society has also not made any provision in its Bye-Laws similar to Article 311 of the Constitution of India nor has it adopted the said provisions of the Constitution of India and as such whereas the employees of the respondent Society is subject to the Central Civil Service (Conduct) Rules and the Central Civil Service (Classification, Control & Appeal) Rules but at the same time he can be dismissed by an authority subordinate to the Appointing Authority.

XXX) That in this connection it is relevant to point out here that the Council of Scientific and Industrial Research in a Counter Affidavit filed before this Hon'ble Tribunal in Registration (O.A.) No. 145/89(L) Smt. Madhuli Srivastava, Versus Director Central Drug Research Institute, Lucknow and another in para 12, 13 and 14 has specifically contended that since the Council of Scientific & Industrial Research is not an Instrumentality or Agency of the Govt., it is not obliged to be bound by Article 14 and 16 of the Constitution of India in the matter of employment. Further,

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the respondent Society also contended that it cannot be required to be bound by any principle other than the contract of service under which the employees serve it.

XXI) That the applicant in his capacity as staff car ~~preferred~~ driver is covered under the definition of the term 'workman' as contained in Section 2(s) of the Industrial Dispute Act as he is performing the duties which are purely technical in nature and he has no supervisory powers and has no control over any staff.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

- A. Because the provisions of Bye law 74 of the Bye Laws of the Council of Scientific and Industrial Research are contrary to the provisions of Industrial Employment Standing Orders) Act.
- B. Because the provisions of Bye Law 74 are contrary to the provisions of the Industrial Employment Standing Orders Act which is applicable to the respondent Society and as such the said bye-laws cannot be enforced against the employees of the respondent Society or its Units.
- C. Because the Bye Law No.74 having not been certified under the Industrial Employment (Standing Orders) Act cannot be enforced against the employees of the respondent society or its units.

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- D. Because in absence of the Standing Orders certified under the Standing Orders Act, the employees of the respondent society are subject to the Model Standing Orders and since under clause 14 of the Model Standing Orders, participation in an election has not been enumerated as misconduct and the impugned Memorandum of charges issued against the applicant is without jurisdiction.
- E. Because the provisions of Bye Law No.74 are also arbitrary and violative of Article 14 and 16 of the Constitution of India as on the one hand, Central Civil Services (Classification, Control and Appeals) Rules and Central Civil Services (Conduct) Rules have been made applicable to the employees of the respondent Society but the other beneficial rules including Article 14 and 16 and 311 have not been made applicable to its employees.
- F. Because the only imputation of misconduct levelled against the applicant is that he has violated rule 3(1) (iii) of the Central Civil Services (Conduct) Rules which in the humble opinion of the applicant are vague in nature and in view of the settled legal position, that it is incumbent on an employer to satisfy ~~xxxx~~ with precision every act or omission which would constitute misconduct, it is not open to the respondents Council to conduct disciplinary proceedings against the applicant on the ground of his having violated Rule 3 of the Conduct Rules

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as if that is permitted then it would expose the employees of the Institute to ex-post-facto determination of what act or omission would constitute misconduct without the employee himself being aware as to whether a particular act or omission would constitute misconduct or not.

- G. Because in a quite similar situation where an employee of Project and Equipment Corporation of India Limited had been proceeded departmentally for having violated rule 4 of the Project and Equipment Corporation of India, Limited (Conduct Discipline and Appeal) Rules which are similar in nature to rule 3 of the Conduct Rules the Hon'ble Supreme Court of India in the case of A.L.Kalra Versus Project and Equipment Corporation of India Limited came to the conclusion that the provisions of Rule 4 are vague in nature and no employee could be proceeded against departmentally for having violated the said rules and any such act on the part of the employer was arbitrary.

- H. Because the petitioner/applicant has no other alternate, adequate and equally efficacious remedy except to file this application under section 19 of the Central Administrative Tribunals Act.

6. DETAILS OF REMEDIES EXHAUSTED:

Not Applicable, as the applicant has no remedy against the impugned Memo Contained in Annexure

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[Signature]
[Signature]

No. 2 hereto specially in view of the fact that he is challenging the validity of Bye-Law No.74 which relief cannot be granted to him by any authority other than this Hon'ble Tribunal. As regards the order contained in Annexure No.1 hereto, the applicant cannot avail of any remedy in view of the fact that if the impugned Memo contained in Annexure No.2 hereto is quashed the order contained in Annexure No.1 would be required to be quashed as a consequent thereto.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH THE OTHER COURTS.

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court or any other authority of any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT :

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

- 1) the impugned order dated 21.2.1990 passed by the Director Central Drug Research Institute, Lucknow as contained in Annexure No.1 be quashed together with the impugned Memo dated 2.5.1990 issued by the Director Central Drug Research Institute Lucknow, as contained in Annexure No.2 hereto also be quashed and the respondents hereto be directed not to conduct any disciplinary proceedings against the applicant on the basis of the impugned Memo contained in Annex.No.2.

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Dr. P. S. Singh

ii) The respondents be directed not to enforce the provisions of Bye-Law No.74 of the Bye Laws of Council of Scientific & Industrial Research as contained in Annexure No.5 against its employees after declaring the same to be ultravires of Article 191(a) of the Constitution of India and also article 14 and 16 of the Constitution; after declaring the same to be ultravires of Industrial Employment (Standing Orders) Act ; and

iii) Any other relief deemed fit and proper in the circumstances of the case, including an order awarding costs of this petition.

9. INTERIM ORDER, IF ANY PRAYED FOR:

Pending final decision on the application, the applicant seeks the following Interim Relief:

The respondents be restrained from conducting any disciplinary proceedings against the applicant on the basis of the impugned Memo of charges dated 2.5.1990 issued against the applicant by the Director Central Drug Research Institute, Lucknow, as contained in Annexure No. 2 hereto, or, in the alternative pass any other suitable interim order deemed fit and proper in the circumstances of the case.

10. IN THE EVENT OF APPLICATION BEING SENT BY REGISTERED POST IT MAY BE STATED WHETHER THE APPLICANT DESIRES TO HAVE ORAL HEARING AT THE ADMISSION STAGE AND IF SO? HE SHALL ATTACH A SELF ADDRESSED POST CARD OR INLAND LETTER AT WHICH INTIMATION REGARDING THE DATE OF HEARING COULD BE SENT TO HIM.

NOT APPLICABLE

Not here

21/12/90

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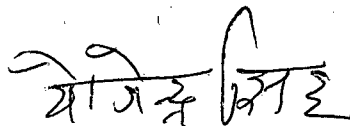
11. PARTICULARS OF BANK DRAFT/POSTAL ORDER FILED BY
THE APPLICANT IN RESPECT OF THE APPLICATION FEE.
POSTAL ORDER FOR Rs. 50/- attached

12. LIST OF ENCLOSURES:

1. True copy of letter dated 21 February 1990
2. True copy of impugned Memorandum dated 2.5.1990
3. True copy of order dated 12.12.1980
4. True copy of Certificate of Registration
5. True copy of Bye Law No.74
6. Postal Order

VERIFICATION

I, YOGENDRA SINGH, son of Shri Ram Lakhan Singh
aged about 45 years, resident of House No.567/176 Anand
Nagar, Baraha Road, Lucknow, at present posted as
Staff Car Driver, Central Drug Research Institute,
Lucknow, do hereby verify that the contents of
paragraphs 1, 2, 3, 4 (I) to (IV), 6, 7, 10, 11 & 12
are to to my knowledge, of those of paras 4 (V) to (XXIV), 5, 8 and 9
are believed to be true on legal advice and that I have
not suppressed any material fact.



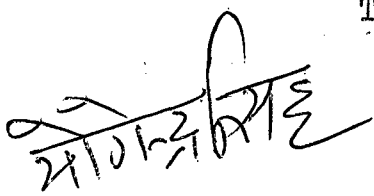
Date: 16.7.1990

SIGNATURE OF THE APPLICANT

Place: Lucknow

To

The Registrar,





IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH, LUCKNOW.

O.A.No. of 1990

YOGENDRA SINGH ... Applicant

Versus

The Council of Scientific & Industrial

Research, New Delhi and others Respondents.

ANNEXURE NO. 1

CENTRAL DRUG RESEARCH INSTITUTE

(Council of Scientific & Industrial Research)

Chattar Manzil Palace,
Lucknow

REGISTERED

No. 10(104)/90-vig.

Dated; 21 st. Feb. 1990

O R D E R

Whereas a disciplinary proceeding against shri
Yogender Singh, Staff Car Driver, CDRI is contemplated.

Now, therefore, the undersigned, in exercise of the
powers conferred by sub-rule (1) of Rule 10 of the Central
Civil Services (Classification, control and Appeal) Rules.
1965, as made applicable to employees of CSIR, Hereby
Places the said Shri Yogender Singh under suspension with
immediate effect.

It is further ordered that during the period that
this order shall remain in force, the Headquarters of
Shri Yogender Singh, Staff Car Driver, shall be Lucknow
and the said shri Yogender Singh shall not leave the
Headquarters without obtaining the previous permission of
the undersigned.

Received: 23.3.90

To,

Shri Yogender Singh,
Staff Car Driver,
General Section (Transport Cell),
C.D.R.I., Lucknow

Through: S.O. (G)

c/o 567/176 Anand Nagar, Bithur Road, Lucknow. 226002

Sd/xxx

(B.N. Dhawan) 2.2.90

Director

Central Drug Research Institute
Lucknow

T.C.

ANNEXURE 1

Statement of articles of Charge framed against Shri Yogender Singh, Staff Car Driver (Under Suspension), CDRI, Lucknow.

ARTICLE 1

That the said Shri Yogender Singh while functioning as Staff Car Driver in the Institute during the period from 16.12.80 to date has repetitively committed breach of Section 279 of IPC by driving his vehicle negligently or rashly and thereby endangering human life and causing hurt or injury to other persons while on official duty. Thus while driving Vehicle No. UTD-9941 rashly or negligently, he hit and injured a scooterist Shri Om Prakash on 19.12.86. The said Shri Om Prakash had to be paid Rs. 11,846/- as compensation on account of the injury caused by Shri Singh under the orders of the Motor Accident Tribunal, Lucknow. Again on 8.2.90 Shri Singh caused serious injury to S/Shri Ganesh and Badri Prasad, the employees of this Institute due to his rash or negligent driving which led to his jeep No. UGI-2058 having been found dashed against a tree at 7.00 P.M. on the wrong side of the road.

Repetitive breach of Section 279 of the IPC for which a driver can be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to one thousand of rupees or with both is an act unbecoming of a Council employee which is in contravention to Sub Rule 1(iii) of Rule 3 of the CCS(Conduct) Rules, 1964 as made applicable to the employees of CSIR.

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ANNEXURE II

Statement of imputation of misconduct or misbehaviour in support of article of charge framed against Shri Yogender Singh, Staff Car Driver (Under Suspension) CDRI, Lucknow

ARTICLE I

Shri Yogender Singh joined CDRI as Staff Car Driver w.e.f. 16.12.80. Lately, the performance of Shri Singh, Driver regarding maintenance and driving of the vehicle allotted to him has been found to be unsatisfactory. Due to his negligent driving of Vehicle No. UTD-9941, a scooterist was hit and injured on 19.12.86. Shri Singh did not report this incident to the office and it was only on receipt of the summons from the Court on 2.7.87. That the Institute came to know of the incident. Besides, this event occurred when the insurance of the vehicle driven by the Driver had expired. As a result, the Institute had to incur a loss of Rs. 11,846/- the amount decreed by the Court as compensation to the Scooterist.

Again on 8.2.90, while returning from tour on Vehicle No. UGI-2058, he crashed with a tree on his right hand side on the road and absconded from the site of the accident leaving the injured Passengers behind. He did not turn up even for several days to inform the office of this event.

He has, therefore, committed an offence under Section 279 of the IPC twice which states as follows:-

Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to one thousand of rupees, or with both.

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He has thus committed an act unbecoming of a Council employee which is in contravention of Sub Rule 1(iii) of Rule 3 of the GCS(Conduct) Rules, 1964 as made applicable to the employees of CSIR.

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ANNEXURE III

List of documents by which the article of charge framed against Shri Yogender Singh, Staff Car Driver (Under Suspension) CDRI, Lucknow are proposed to be sustained.

1. Report dated 9.2.90 submitted by Shri RS Deswal, Officer, CDRI.
2. Statement dated 9.2.90 of Shri Ganesh, Technician, Botany Divn., CDRI.
3. Statement dated 2.5.90 from Shri Badri Prasad, Tech., Botany Divn., CDRI.
4. Statement of Shri Om Prakash, Scooterist before the Motor Accident Tribunal, Lucknow dated 14/15th Sept., 1988.
5. Photographs of Accidental Jeep No. UGI-2058 taken on the spot of the accident.
6. Copy of the Judgement of Motor Accident Tribunal dated 28.10.88.

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ANNEXURE IV

List of witnesses by whom the article of charge framed against Shri Yogender Singh, Staff Car Driver (Under Suspension) CDRI, Lucknow are proposed to be sustained.

1. Shri R.S. Deswal, Secrity Officer, CDRI
2. Shri Ganesh, Technician, Botany Division, CDRI
3. Shri Badri Prasad, Botany Divn., CDRI
4. Shri Kailash Chandra, LDC(Transport Cell), CDRI

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IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH, LUCKNOW.

O.A.A. No. of 1990

YOGENDRA SINGH Applicant

Versus

The Council of Scientific & Industrial
Research, New Delhi and others Respondents.

ANNEXURE NO. 2.

CENTRAL DRUG RESEARCH INSTITUTE

(Council of Scientific & Industrial Research)

Chattar Manzil Palace,
Lucknow.
2.5.90

No. 10(104)/90-Vig

MEMORANDUM

The undersigned proposes to hold an inquiry against Shri Yogender Singh, Staff Car Driver (Under suspension) CDRI, under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 as made applicable to the employees of CSIR. The substance of imputations of misconduct or misbehavior in respect of which the inquiry is proposed to be held, is set out in the enclosed statement of article of charge (Annexure-I) : A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which and list of witnesses by whom, the article of charge is proposed to be sustained are enclosed (Annexure-III & IV).

2. Shri Yogender Singh is directed to submit within 10 days of the receipt of this memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charges as are not

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admitted. He should, therefore, specifically admit or deny ~~each~~ each article of charge..

4. Shri Yogender Singh is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules 1965, or the orders/directions . issued in pursuance of the said rules, the inquiring authority may hold the inquiry against him ex-parte.

5. Attention of Shri Yogender Singh is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964 under which no Council Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Council. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri Yogender Singh is aware of such representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the Central Civil Services (Conduct) Rules, 1964.

6. The receipt of this memorandum may be acknowledged.

Encl: As above

Sd/xxx 2.5.90
(B.N. Dhawan)
Director

To,

Centra-1 Drug Research Institute
Lucknow.

Shri Yogender Singh
Staff Car Driver (U/S), CDRI,
567/176, Anand Nagar,
Barha Road,
Lucknow-226005.

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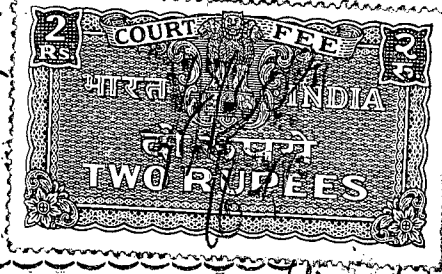
T. C.
D. C. Singh

ब अदालत श्रीमान

Central Add. Tribunal Bench All. Circuit Bench
Lucknow महोदय

[वादी] अपीलान्त

प्रतिवादी [रेस्पान्डेंट]



वकालतनामा

No.

1990

पीलान्त)

Y. G.endra Singh

C. S. I. R. and others

बनाम

प्रतिवादी (रेस्पान्डेंट)

मुकदमा नं०

सन् 1990 पेशी की ता० 16.7.1990 ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

Sri Amit Bose

वकील

महोदय

32/33 Gandhi Nagar Lucknow

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को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूँगा अगर मुकदमा अबम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

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साक्षी (गवाह)

साक्षी (गवाह)

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Accepted
Amit Bose
16/7/90

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH, LUCKNOW.

O.A.No. 221 of 1990 (C)

YOGENDRA SINGH

. I .

Applicant

Versus

The Council of Scientific & Industrial

Research, New Delhi and others ... Respondents.

ANNEXURE NO. 3.

CENTRAL DRUG RESEARCH INSTITUTE.

(Council of Scientific & Industrial Research)

Chattar Manzil Palace
Lucknow-226001.

No.5(109)/80-Estt.I.

Dated: 12.12.1980

MEMORANDUM

Subject: Appointment in the C.D.R.I., Lucknow.

On the recommendation of the selection committee which met on 11.12.1980 the Director, Central Drug Research Institute, has been pleased to approve the appointment of Shri Yogendra Singh as Driver in the CDRI., Lucknow on the following terms and conditions of service.:-

1. His initial pay will be Rs. 260/- P.M.
in the scale of Rs. 260-6-290-EB-6-326-EB-8-390-10-400
plus the usual allowances as are admissible to other Council Servants of the same pay and status stationed at Lucknow.

2. The appointment is under the Council of Scientific & Industrial Research which is an autonomous body.

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3. He will be liable for transfer, to any of the Laboratory Institute under the control of CSIR anywhere in India .

4. He be on probation on for a period of one years which may be extended or curtailed at the discretion of the competent authority. During the period of probation, his appointment may be terminated at any time without notice and without any reason being assigned.

5. His appointment will be temporary in the first instance. The services of a temporary employee may be terminated by a months notice on either side viz. the appointee or the appointing authority, without assigning any reasons. The appointing authority also reserves the right of terminating the services of the appointee forthwith or before the expiry of stipulated period of notice by making payment to him of a sum equivalent to the pay and allowance for the period of notice or the unexpired portion thereof.

6. The service is pensionable. He will be required to contribute compulsorily to the G.P. Funds at such minimum rate as may be prescribed by the CSIR from time to time.

7. He will have to produce two character certificates from two gazetted officers of the Central or provincial Government or stipendiary Magistrates in the prescribed form enclosed.

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D. C. B. S.
D. C. B. S.

21/11/1973

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8. No travelling allowance will be paid for reporting for duty.

9. His appointment will be subject to the production of the following documents at his own expense as indicated below in each cases.

(a) Medical Certificate of fitness for service from Chief Medical officer/Registered Lady Medical Practitioner in the prescribed form enclosed (to be produced at the of reporting for duty.)

(b) Documentary proof in respect of his date of birth educational qualifications in original (to be produced at the time of reporting for duty.)

(c) xxx

xxx

xxx

10. He will have to take an oath of allegiance to the constitution of India.

11. (a) If married, he is required to sign a declaration that he has not more than one living wife and if unmarried, he will not marry a second time while his first wife is alive save with the permission of the competent authority.

(b) xxx

xxx

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12. He will not be allowed to carry forward his leave earned by him in his previous Post, if any.

13. As required under F.R.48-A of the compilation of the

2101-2/1213

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(4)

fundamental and supplementary rules, he will not apply for or obtain a patent for an invention based on research work with the permission of the Director, C.D.R.I., and the Director-General Scientific & Industrial Research.

14. The provisions of the Central Civil Services (Classification Central and Appeal) rules, Central Civil Services (Conduct) Rules and such other rules or executive orders as may, from time to time, be applicable to the servants of the Council shall apply to the extent to which they are applicable to the service hereby provided for and the decision of the Council as to their applicability shall be final.

15. In case, he had migrated to India from Pakistan after 18.7.1984, his appointment will be subject to production of Indian citizenship issued in his favour under the provisions of Sec. 5(1) (a) of the Citizenship Act, 1955, at the time of reporting for duty.

16. If any information or declaration given by him proved to be false or if he is found to have wilfully suppressed any material information, he will be liable to removal from service and such other action as may be deemed necessary.

If he is willing to accept the offer of appointment on the aforesaid terms and conditions, he should report himself for duty to the undersigned immediately together with the aforesaid documents duly completed in all respects.

Sd/xxx
ADMINISTRATIVE OFFICER

T. C.
Dut. Base
am

मोहासिंह

40

(5)

To,

Shri Yogendra Singh,
567/176, Anand Nagar,
Barha Road,
Lucknow.

Copy to :

1. Dealing, Assistant (personal file alongwith application)
2. Accounts Section.
3. Bill Section.
4. Scientist I/C., Library.
5. Scientist I/C., Information
6. Scientist I/C.,-

Hem/-

T. C.
Unit Secy
Recd

योगेन्द्र सिंह

41

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALLAHABAD
CIRCUIT BENCH AT LUCKNOW.

O.A.NO. of 1990

YOGENDRA SINGH Applicant

Versus

The Council of Scientific & Industrial
Research New Delhi and others Respondents.

ANNEXURE NO. 4

MEMORANDUM OF ASSOCIATION
RULES & REGULATIONS
AND BYE -LAWS
COUNCIL OF SCIENTIFIC AND INDUSTRIAL RESEARCH
NEW DELHI
1976
.....

CERTIFICATE OF REGISTRATION OF SOCIETIES

ACT XXI of 1860

NO. X of 1941 - 1942

I hereby certify that THE COUNCIL OF
SCIENTIFIC AND INDUSTRIAL RESEARCH
has this day been registered under the
Societies' Registration Act XXI of 1860.

Given under my hand at Delhi this
Twelfth day of March one thousand ninehundred
and forty two.

Fee Rs.50/- paid.

SEAL

Sd/-
Registrar of Joint Stock Companies
Delhi

योगेश्वर

T. C.
Smt. Deepa
Datta

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH ~~ALLAHABAD~~

ALLAHABAD

CIRCUIT BENCH AT LUCKNOW.

O.A.No. of 1990

Yogendra Singh Applicant

Versus

The Council of Scientific & Industrial Research

New Delhi & others Respondents

ANNEXURE NO. 5

EXTRACT FROM BYE LAWS OF THE SOCIETY

CONDITIONS OF SERVICE OF OFFICERS AND STAFF OF THE SOCIETY

74. The Central Civil Services (Classification, Control & Appeal) Rules and the Central Civil Services (Conduct) Rules, for the time being in force, shall apply so far as may be, to the officers and establishments in the service of the Society, subject to the modification that :

- i) reference to the "President" and "Government servant" in the Central Civil Services (Classification Control & Appeal) Rules, shall be construed as reference to the "President of the Society" and "officers and establishments in the service of the Society" respectively; and
- ii) references to "Government" and "Government servant" in the Central Civil Services (Conduct) Rules, shall be construed as reference to the "Society and "Officers and establishments in the service of the society" respectively.

21/10/90

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In the Central Administrative Tribunal
Circuit Bench, Lucknow

OA NO: 221

of 1990(L)

Yogendra Singh ... Applicant
vs

C.S.R. & others ... Respondents

Application for allowing further time
of 4 weeks for filing counter

It is most respectfully stated
that the counter in the above
case is under preparation & would
be submitted soon. An extension
of 4 weeks therefore may kindly be
allowed for filing counter.

Lucknow

Dated 5.12.90

Hari Har Sarda

Hari Har Sarda
Advocate

Counsel for Respondents

W
3/1/91

21/12/90
5.12.90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. No. 221 of 1990

Yogendra Singh

.....Applicant

Versus

Council of Scientific & Industrial
Research, New Delhi & others

.....Opposite Parties

APPLICATION FOR TIME ON BEHALF OF
OPPOSITE PARTY No.2 and 3.

That it is most respectfully prayed that the
aforesaid case is fixed for today before this Hon'ble
Tribunal.

That under the Bye Laws of the C.S.I.R of which
Central Drug Research Institute is a unit, Joint Secretary
(Administration), Council of Scientific and Industrial
Research, Rafi Marg, New Delhi is the competent authority
to defend the suits and his Headquarters is at Delhi.

That before the counter affidavit is filed, Legal
Adviser and Joint Secretary (Administration) has to be
consulted on the matter and this will obviously take time.

PRAYER

It is therefore respectfully prayed that at least
one month time may kindly be granted to us.

Lucknow

Dated: 29.10.1990

(V.P. Bakshi)

Senior Controller of Administration
CENTRAL DRUG RESEARCH INSTITUTE

LUCKNOW.
Controller of Administration

केन्द्रीय औषधि अनुसंधान संस्थान
Central Drug Research Institute

LUCKNOW

of
29-10-90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH
ALLAHABAD.

CIRCUIT BENCH AT LUCKNOW.

O.A.No. 221 of 1990(L)

Yogendra Singh.

Applicant.

Versus

C.S.I.R. & Others.

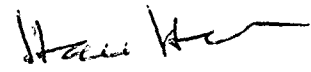
Opp. Parties.

The opposite parties beg to state as under:

1. That on 3.1.1991 is fixed for filing written statement in the above mentioned case.
2. That the written statement is ready but it has to be sent ~~signed~~ at Delhi for perusal and signatures of the opposite parties.
3. That this may take about one month time.

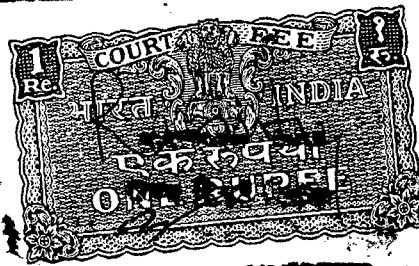
It is, therefore, prayed that four weeks time be given for filing the written statement. The Vakalatnama is also enclosed.

LUCKNOW: DATED:
January 3rd, 1991.


(HARI HAR SARAN)
ADVOCATE
COUNSEL FOR OPPOSITE PARTIES.

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH LUCKNOW



महोदय

कालतनामा

Regn.No. 221/1990(L)

Yogendra Singh

टिकट

वादी (अपीलान्त)

Versus

Union of India & others

बनाम

(प्रतिवादी रेस्पाण्डेंट)

नं० मुकद्दमा

सन्

पेशी की ता०

१६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री Hari Har Saran, Advocate &...

Shri R. S. Saran, Advocate

वकील

महोदय एडवोकेट

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पेशी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटाव 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 करे मुकद्दमा उठावे या कोई रुपया जमा करें या हारी विपक्षी (फरीकसानो) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने परोकार को भेजता रहूंगा अगर मुकद्दमा अदम पेशी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह बकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

नाम मुकद्दमा नं. नाम तफरीकत

R.S. Saran

Accepted R.S. Saran A2

Keelhar Hari H. Saran C-1289 Indraprastha

B. Sharma 4.12.90

हस्ताक्षर... निदेशक... सखवज

साक्षी (गवाह) ... साक्षी (गवाह) ...

दिनांक ... महोना ... सन् १६ ई०

अधीकृत

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ADDITIONAL BENCH - ALLAHABAD.

Circuit Bench at Lucknow.

O.A. No. 221/1990 (L)

Yogendra Singh.

....

Applicant.

Versus

The Council of Scientific &
Industrial Research & others.

....

Respondents.

WRITTEN STATEMENT/COUNTER ON BEHALF OF RESPONDENTS 1, 2 & 3.

1. That the contents of Paragraph 1 of the application do not require any comments.
2. That the contents of paragraph 2 of the application do not require any comments.
3. That the contents of paragraph 3 of the application do not require any comments.
4. That the contents of Paragraph 4(I) of the application do not require any comments.
5. That the contents of Paragraph 4(II) of the application are not admitted as stated. It is not admitted that the applicant worked with devotion and efficiency.
6. That the contents of Paragraph 4(III) of the application do not require any comments.
7. That the contents of Paragraph 4(IV) of the application are not admitted as stated. The Present

Handwritten signature

*filed today
1/2/91*


Bye-laws do not have Bye-law 74 as stated. The Bye-laws were revised in 1989 and Bye-laws 74 corresponds to revised Bye-law 12 thereof, the Central Civil Services (Conduct) Rules had been adopted with modifications.

8. That the contents of paragraph 4(V) of the application are admitted.

9. That the contents of paragraph 4(VI) of the application are not admitted as stated. In the case of Bangalore Water Supply and Sewerage Board Versus A. Rajappa - 1978 SCC (L&S) 215 the Hon'ble Supreme Court did discuss the scope of the definition of 'Industry' as contained in Industrial Dispute Act in Section 2(J) and observed that the definition was of wide amplitude and absence of profit motive or hardship to any class, cannot narrow down the definition. The matter, however, as to whether the C.S.I.R. is an Industry or not, was not before their Lordships. ~~The applicant has only filed extracts of paragraphs 112 and 113 of the case.~~ It would be necessary to peruse the whole judgment and it would show that in regard to Research Institutes there was a difference of opinion between the Judges in that case. So far as the Textile Research ^IInstitute was concerned, it was held to be an Industry under the special circumstances in which the Research was to be carried on. The research was in connection with Textile Trade and Industry and Allied Industries. The costs of maintaining the Association was ^{met}made partly by the members who benefited directly by research. It was rendering material service to a number of Mills with a view to

secure greater efficiency and reduction of costs and the Association was organized and arranged in a manner in which a Trade or Business is generally organized. It was on the consideration of these factors that the Association was held to be an Industry. In the case of C.S.I.R. it is submitted that it is purely a Research Organisation. It does not carry on any manufacture nor did it carry on any trade or business. The matter as to whether the C.S.I.R. is an Industry or not, came up directly for consideration before the Central Administrative Tribunal, Ernakulam in the case of M. Parameswaran Pillai Versus Chief Administration, C.S.I.R. and after consideration of the law on the subject including the case of Bangalore Water Supply and Sewerage Board Versus A. Rajappa, came to the conclusion that the C.S.I.R. cannot be held to be an Industry. The case is reported in (1989) 10 Administrative Tribunals' Cases at Page 849. Further the Madras High Court (1976 Lab. I.C. 1388) in the case of N. Karappannan Versus The Additional Registrar of Trade Union, Madras & Others also held that C.S.I.R. is not 'Industry'. Clearly, therefore, the C.S.I.R. is not an Industry.

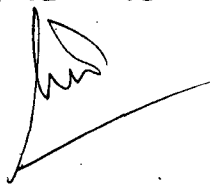
10. That the contents of paragraphs 4(VII) and 4(VIII) of the application are not admitted as stated. The Industrial Dispute (Amendment) Act, 1982 (Act No. 46 of 1982) was enacted not because the Parliament was of the view that Research Institutes are Industries but on account of the observations of the Hon'ble Supreme Court that the legislature should step in ^{with} which a Comprehensive Bill to



clear up the term and remove the doubts and set at rest once and for all the controversy that crops up from time to time in relation to the meaning of term 'Industry'. On the other hand the intention of the legislature is clear from the new definition of the word 'Industry' where Research Institute and some other Bodies have been excluded by special mention from the definition of 'Industry'.

11. That the contents of Paragraph 4(IX) of the application are not admitted as stated. Reference has already been made to the decision of the Central Administrative Tribunal, Ernakulam in the case of M. Parameswaran Pillai Versus Chief Administration, C.S.I.R. in which it has been held that the C.S.I.R. is not an Industry. The employees of the C.S.I.R. and its Units, therefore, cannot claim any benefits under the Industrial Disputes Act.

12. That the contents of paragraph 4(X) of the application do not require any comments except that the provisions of Section 2(e) of the Industrial Employment (Standing Orders) Act, 1946 and Section 2 of the Payment of Wages Act would be clear from the enactments themselves. It may, however, be mentioned that the term 'Industrial Establishment' has been defined in Clause (e) of the Section 2 as an Industrial Establishment as defined in Clause (ii) of Section 2 of the Payment of Wages Act, 1936. Section 2(ii) of the Payment of Wages Act does not define "Industrial Establishment" but "Industrial and




other Establishment". This means that the contents of this definition will not be helpful in interpreting the term "Industrial Establishment" in the Industrial Employment (Standing Orders) Act as the term "Industrial and other Establishments" is of a much wider import than the term "Industrial Establishment". It is clear that even in the definition of "Industrial and other Establishment" in the 'Payment of Wages Act,' the C.S.I.R. or its Units cannot be covered. Sub-Clauses (a) to (e) are definitely not applicable and so far as Clause (f) is concerned, it is as follows:-

Clause (f): Workshop or other Establishments, in which the articles are Produced, adapted or manufactures with a view to their use transport or Sales."

The C.S.I.R. does not Produce, adapt or manufacture any articles with a view to sale, use or transport. Consequently, it is not an 'Industrial Establishment' as defined in the Industrial Employment (Standing Orders) Act, 1946.

13. That the contents of Paragraph 4(XI) of the application are not admitted. As already explained in the preceding Paragraphs, the C.S.I.R. does not carry on any activity by way of Trade or Business and it is not an Industrial Establishment as defined in the Industrial Employment (Standing Orders) Act. It is a purely Research Institute and its activities are research oriented and to undertake Research Projects of National Priority. Even




receipt of Royalty on Processes which is quite insignificant will not amount to an economic venture or change the main and dominant purposes.

14. That the contents of Paragraphs 4(XII), 4(XIII) and 4(XIV) of the application donot require any comments as the contents of the Statute would be clear from the Statute itself. It is, however, submitted that these provisions are not applicable to the C.S.I.R.

15. That the contents of Paragraph 4(XV) of the application are not admitted as stated. Although the Industrial Employment (Standing Orders) Act is not applicable to the C.S.I.R. but so far as the application of the Central Civil Services (Classification, Control and Appeal) Rules and the Central Civil Services (Conduct) Rules are concerned, they have been made applicable to the employees of the C.S.I.R. under Bye-law 12 of the Bye-laws and they would be deemed to have been notified in this behalf by the appropriate Government. Consequently, although it is not admitted that the Industrial Employment (Standing Orders) Act is applicable to the C.S.I.R. the benefit of Section 13-B would be available to the C.S.I.R..

16. That the contents of Paragraph 4(XVI) of the application are denied. It was not necessary for the C.S.I.R. to submit draft Standing Orders for certification by the Certifying Officer.

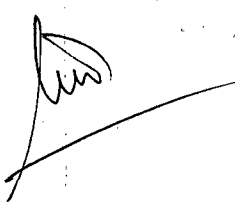


17. That the contents of Paragraph 4(XVII) of the application are denied. As the Industrial Employment (Standing Orders) Act is not applicable to the C.S.I.R. the question of Model Standing Orders being applicable does not arise. The employees are employees of C.S.I.R. which is a Society registered under the Societies Registration Act and, consequently, they are bound by the Bye-laws framed by the Society.

18. That the contents of Paragraph 4(XVIII) of the application are denied. Though it is denied that the Industrial Employment (Standing Orders) Act applies to the C.S.I.R. but if for arguments sake it is considered to be applicable then the C.S.I.R. is Protected under Section 13-B.

19. That the contents of Paragraph 4(XIX) of the application are denied. Bye-law 74 does not exist and no relief in respect thereof can be granted.

20. That the contents of Paragraph 4(XX) of the application do not require any comments. However, the facts would be clear from Annexure No.1 of the memo itself. The charges were that in one accident on 19.12.1986 the applicant caused injuries to Om Prakash, a Scooterist and in the second accident on 8.2.1990 two employees of the Institute Sri Ganesh and Sri Badri Prasad were injured and the Jeep driven rashly and negligently, was found dashed against a tree.



21. That the contents of Paragraph 4(XXI) of the application are not admitted as stated. The mere fact that a ~~XXXXX~~ First Information Report was not lodged, cannot lead to the conclusion that the applicant was not committed an act unbecoming of an employee in his position and guilty of misconduct. He failed to maintain devotion to duty which is expected of a driver to drive the vehicle with care and caution. There was no malafides on the part of the Department or any of its Officer.

22. That the contents of paragraph 4(XXII) of the application are denied. As already mentioned by-law 74 is no more applicable in view of the revision of bye-laws and the question of its being ultravires of the provisions of Industrial Employment Standing Orders, Act, does not arise. Even the present Bye-laws are not ^{invalid} valid in any way and the Central Civil Services (Conduct) Rules are applicable to the employees of the respondents and there is no ground to quash the Departmental proceedings. In fact the application is Pre-mature as the applicant could have raised the pleas before the competent Officer and as no final action has been taken, the application could not be filed.


23. That the contents of Paragraph 4(XXIII) of the application do not require any comments as it is admitted that the applicant is being proceeded against departmentally. It may however be mentioned that in the copy supplied, there is a gap below the line quoting Rule 3(I)(iii).



24. That the contents of Paragraph 4(XXIV) of the application are denied. There is no vagueness in the Rule. ^{repetitively causes hurt to persons in} A Driver who ~~causes~~ accidents in performance of his official duties is clearly guilty of failure ~~of~~ to maintain devotion to duties under Rule 3(I)(ii) and consequently, his conduct would be said to be unbecoming of an employee of the Institute. It may be mentioned that it is impossible to ^{lay} ~~pay~~ down specific misconducts in all cases due to different duties assigned to different category of employees and, once the C.C.S. (Conduct) Rules were adopted under the Bye-laws, they become ~~the~~ ² part of the conditions of service.

25. That the contents of Paragraph 4(XXV) of the application are not admitted. The very fact that the Code of Conduct is provided for the employees as per C.C.S. (Conduct) Rules, ^a A violation of these Rules would in the natural course amount to misconduct. There is no arbitrariness and colourable exercise of powers and there is no ground for striking down the provisions of Rule 3.

26. That the contents of paragraph 4(XXVI) of the application are not ^{admitted} ~~as~~ stated. The facts of the case of A.L. Kalara Versus Project and Equipment Corporation of India Limited - (1989) 3 Supreme Court Cases Page 316 were completely different. In that case there was a general provision but along with it, the Rules provided specifically for misconducts and it was on this account that it was held that an Act which does not fall with the listed misconducts could not be taken to be a misconduct under the general Rules. The law laid down by their




Lordships was in respect of the Particular facts of the case and it cannot be extended to the Central Civil Services (Conduct) Rules which are framed by the Central Government *and have been adopted by C.R.*

27. That the contents of Paragraph 4(XXVII) of the application are not admitted as stated. The Conduct Rules contained in Central Civil Services (Conduct) Rules have been adopted by the Bye-laws and, consequently, they form condition of service and Conduct of the employees of the Respondents. The argument that as the conditions of service of the Government Servants differs in some respect from the employees of the Respondents cannot lead to the conclusions that the Respondents cannot adopt any Rules framed by the Central Government. When a Particular Rule is adopted under the Bye-laws, it cannot be said to be discriminatory and non-applicable to the employees of the Respondents only because in some matters the status of a Government Servant is different from that of the employees of the Respondents.

28. That the contents of Paragraph 4(XXVIII) of the application are denied as there is no force in the allegations.

29. That the contents of Paragraph 4(XXIX) of the application are denied. There is nothing wrong in non-applicability of Articles 14 and 16 of the Constitution and application of Conduct Rules which have been adopted.



As already mentioned, the respondents can adopt instead of re-Producing ⁱⁿ its Bye-laws ~~and~~ any Rules of the Government. It only means that the Central Civil Services (Classification, Control and Appeal) ^{and C.C.S (conduct)} Rules were ^{with modification} bodily lifted and in-corporated in the Bye-laws. Non-applicability of Articles 14, 16, 309 or 311 is not relevant.

30. That the contents of paragraph 4 (XXX) of the application donot require any comments except that the case of ~~xxx~~ Madhuli Srivastava was in respect of completely different facts.

31. That the contents of Paragraph 4 (XXXI) of the application are denied. The C.S.I.R. or its Units are not Industries and, consequently, the ~~xxxxxx~~ applicant is not a Workman.


32. That the contents of Paragraph 5 of the application including the groundstaken therein are denied.

33. That the contents of Paragraph 6 of the application donot require any comments, ^{except that the matter} ^{should have been raised before the Enquiry Officer.}

34. That the contents of paragraph 7 of the application donot require any comments.

35. That the contents of Paragraph 8 of the application are denied. The applicant is not entitled to any relief.

36. That the contents of Paragraph 9 of the application need no comments as the interim relief has been refused.



27. That the contents of Paragraph 10 of the application need no comments.

38. That the contents of Paragraph 11 of the application need no comments.

39. That the contents of Paragraph 12 of the application need no comments.

VERIFICATION

I, V.P. Bakshi, Sr. Controller of Administration, Central Drug Research Institute, Lucknow, do hereby verify that the contents of Paragraphs 1 to 39 of this written statement/Counter are true to my knowledge, based on records, available in the office and on legal advice which are believed to be true. No Part of it is false and nothing material has been concealed. So help me God.

Signed and verified this 1st day of

Feb 12, 1991 at Lucknow.

LUCKNOW: DATED:

1.2. , 1991

(V.P. BAKSHI)

Senior Controller of Administration,
Central Drug Research Institute,
Lucknow.

(For Respondents No. 1 to 3)

I identify the applicant who has signed before me.

LUCKNOW: DATED:

1.2. , 1991

(Hari Har Saran)

Advocate.

BENCH COPY

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH AT LUCKNOW

O.A. No. 221 of 1990 (L)

Yogendra Singh

...Applicant

Versus

Council of Scientific and Industrial

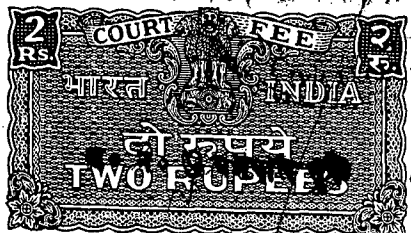
Research and others

...Respondents

1992

AFFIDAVIT
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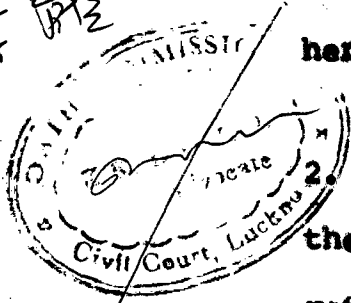


REJOINDER AFFIDAVIT TO THE WRITTEN STATEMENT/
COUNTER AFFIDAVIT FILED ON BEHALF OF THE
RESPONDENTS NUMBERS 1, 2 AND 3.

I, Yogendra Singh, aged about 45 years, son of Sri Ram Lakhan Singh, resident of house No. 567/176, Anand Nagar, Barhe Road, Lucknow, the deponent, do hereby make oath and state as under:-

1. That the deponent is the Applicant himself in the above mentioned Application and as such, he is fully conversant with the facts deposed to hereinafter.

That the deponent has read and understood the written statement/ counter, to be hereinafter referred to as the 'Counter', filed by Sri V.P. Bakhshi, Senior Controller of Administration



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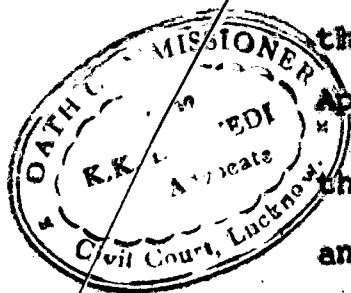
and Research, Drug Research Institute, Lucknow, and he states that he is fully competent to reply to the contents thereof parawise as under.

3. That the contents of paragraph numbers 1,2,3 and 4 of the Counter need no comments from the deponent.

4. That the contents of paragraph number 5 of the Counter are denied and those of paragraph 4(2) of the Application are reiteration as correct.

5. That the contents of paragraph number 6 of the Counter need no comments from the deponent.

6. That with regard to the contents of paragraph number 7 of the Counter it is submitted that at the time when the deponent filed his Application, it was not within his knowledge that the bye-laws of the C.S.I.R. have been amended and fresh bye-laws have been framed. In any case, under the fresh bye-laws also by-law 12 is in identical terms to the old bye-law 74 and as such, any reference to bye-law 74 in the Application filed by the deponent, has to be construed with a reference to bye-law 12.



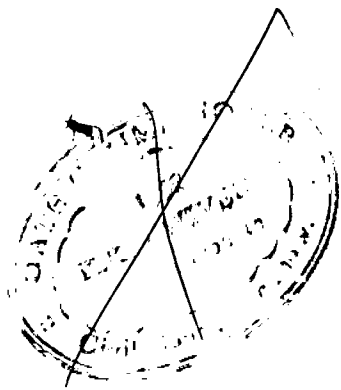
7. That the contents of paragraph number 8 of the Application need no comments from the deponent

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8. That the contents of paragraph number 9 of the Counter are denied and it is submitted here that a bare perusal of the observations made by the Hon'ble Supreme Court in the case of Bangalore Water Supply and Sewerage Board would show to the Hon'ble Tribunal that one of the precise questions before the Hon'ble Supreme Court was whether a Research Institute, which is carrying on its activities on Research without any profit motive is covered by the definition of the term 'Industry' as defined in section 2(j) of the Industrial Disputes Act and in paragraphs numbers 112 and 113 of the said decision the Hon'ble Supreme Court has clearly come to the conclusion that a Research Institute carrying on its activities without any profit motive would be covered by the definition of the term 'Industry'.

9. That the observations of the Hon'ble Supreme Court are general in nature and cover the other Research Institutes be it the C.S.I.R. or any other Research Institute and in face of the said observations it is no argument to contend that a Research Institute other than C.S.I.R. is covered by the definition of the term 'Industry' ~~whereas~~ whereas the C.S.I.R. is not. In any case, the Hon'ble High Court in the case of Indian Institute of



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Petroleum, Dehradun, Versus State of U.P., reported in 1984, volume 49, F.L.R., has held the Indian Institute of Petroleum, Dehradun, who is a unit of the Council of Scientific and Industrial Research, to be covered by the term

'Industry' and the said ~~judg~~ decision was rendered on analysis of the judgement of the Hon'ble Supreme Court in the Bangalore Water Supply Cse. In view of the aforesaid decision of the Allahabad High Court, it does not lie in the mouth of the C.S.I.R. to contend that the C.S.I.R. is not covered by the definition of the term 'Industry'.

10. That as regards the decision of the ~~2000~~ Ernadulam Bench of the Central Administrative Tribunal in M. Parmeshwaram Pilley's case, it is submitted that the decision by a ~~xxxx~~ larger bench of the Hon'ble Tribunal and Full Bench of the Hon'ble Tribunal in the case of Smt. Padma Ravindra Nath Versus Council of Scientific and Industrial Research, reported in 1992, volume 19, Administrative Tribunal cases, page 746, has held the C.S.I.R. to be covered by the definition of the term 'Industry' and thereby has over-ruled the decision in the Parmeshwaram Pilley's case. In view of the aforesaid authoritative pronouncement of the Full Bench of the Hon'ble Tribunal it is beyond controversy now that the C.S.I.R. is covered



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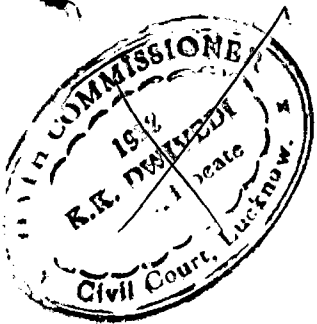
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by the definition of the term ' Industry' and it follows as a necessary corollary that the units of the C.S.I.R. including the Central Drug Research Institute are also covered by the definition of the term ' Industry'. A true photostat copy of the judgment of the Full Bench, referred to hereinabove, is being annexed hereto as Annexure Number R-1.

11. That the contents of paragraph numbers 10 and 11 of the Counter are not admitted as stated in view of the averments made hereinabove.

12. That the contents of paragraph number 12 of the Counter are denied and it is submitted that the primary function of the C.S.I.R. is to adopt articles namely marina, flora and fauna and utilise the same for producing drugs and marketed in fact also, produce drugs which are ~~marked~~ for use by Pharmaceuticals concerned. In this regard, the deponent craves indulgence of this Hon'ble Tribunal to file copies of the Annual Reports of the Central Drug Research Institute for the years 1987-88, 1988-89, 1989-90 and 1990-91 as Annexures Numbers 2,3,4 and 5 hereto.

13. That a bare perusal of the aforesaid Annual Reports would show to the Hon'ble Tribunal

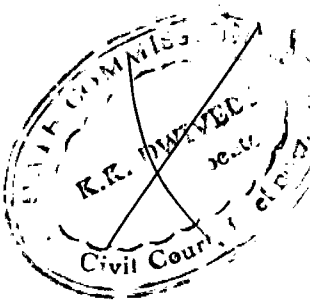


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that the Central Drug Research Institute is manufacturing and is selling the same to the Drug Pharmaceuticals concerns. It is also apparent that the Central Drug Research Institute is adopting articles for their use, namely Research in drug manufacturing. In view of the above also it is apparent that the Central Drug Research Institute is covered by the definition of the term 'Industrial establishment' as defined in section 2(11) (f) of the Payment of Wages Act and the contentions to the contrary, raised by the respondents in the Counter, are baseless and misconceived.

14. That the contents of paragraph number 13 of the Counter are denied in view of the averments made hereinabove.



15. That the contents of paragraph number 14 of the Counter need no comments from the deponent.

16. That the contents of paragraph number 15 of the Counter are denied. It is submitted here that as already pointed out hereinabove, the Industrial Employment (Standing Orders) Act applies to the C.S.I.R. as well as its units and

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Section 13(B) of the said Act does not exclude the C.S.I.R. from the provisions of the said Act as the employees of the C.S.I.R. are not employees of the Government of India, nor are they holding any post in connection with the affairs of the union, who alone under section 13-B of the Act are excluded from the provisions of the Standing Orders Act.

17. That the contents of paragraph numbers 16, 17 and 18 of the Counter are denied.

18. That the Contents of paragraph number 19 of the Counter are denied in view of the averments made hereinabove.



19. That the contents of paragraph number 20 of the Counter need no comments from the deponent.

20. That the contents of paragraph number 21 of the Counter are denied.

21. That the contents of paragraph number 22 of the Counter are denied. It is further respectfully submitted here that since the deponent has challenged the very ~~initial~~ authority of the provisions under which the proceedings are

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being conducted against him, the Application filed by him cannot be said to be pre-mature under any circumstances.

22. That the contents of paragraph number 23 of the Counter need no comments from the deponent.

23. That the contents of paragraph numbers 24, 25, 26, 27, 28, and 29 of the Counter need no comments from the deponent.

24. That the contents of paragraph number 30 of the Counter need no comments from the deponent.

25. That the contents of paragraph numbers 31 and 32 of the Counter are denied.

26. That the contents of paragraph numbers 33 and 34 of the Counter need no comments from the deponent

27. That the contents of paragraph numbers 35 and 36 of the Counter are denied by the deponent.

28. That the contents of paragraph numbers 37, 38, and 39 of the Counter need no comments.



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The application filed by the deponent is
liable to be allowed with costs.

dated Lucknow:

1992

[Signature]

Deponent

Verification

I, the deponent above named, do hereby
verify that the contents of paragraph numbers
1 to 28 of the affidavit are true to the best
of my personal knowledge and belief, no part of
it is false, nothing incriminating material has
been concealed, so help me GOD.

[Signature]

Deponent

I identify the deponent, who has
signed before me.

[Signature]
(R.K. Srivastava)

Clerk to Sri Amit Bose, Advocate.

Solemnly affirmed before me on this
day of May 1992 at a.m./p.m. by Sri
Yogendra Singh, the deponent who has been
identified by Sri R.K. Srivastava, Clerk to
Sri Amit Bose, Advocate.

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

[Signature]
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Amit Bose
Adv.

Annex No 1

(1992) 19 Administrative Tribunals Cases 746 (FB)

Central Administrative Tribunal, New Delhi

[BEFORE AMITAV BANERJI, J., CHAIRMAN, B.C. MATHUR, VICE-CHAIRMAN
(ADMINISTRATIVE) AND B.S. SEKHON, VICE-CHAIRMAN (JUDICIAL)]

PADMA RAVINDER NATH (SMT) AND OTHERS .. Applicants;

Versus

COUNCIL OF SCIENTIFIC AND
INDUSTRIAL RESEARCH

.. Respondents.

O.A. Nos. 1386, 1600, 1602, 1626, 1795 and 2337 of 1988,
decided on October 25, 1990

Industrial Disputes Act, 1947 — Section 2(j) (as it stands without amend-
ment of 1982) — Industry — Definition of — Council of Scientific and
Industrial Research (CSIR) and its constituent units — Held, CSIR satisfies
triple tests laid down by the Supreme Court in Bangalore Water Supply case
and therefore is an industry — Status of its constituents units also depends on
the satisfaction of these tests

Facts: Applicants were working as Clerks, Typists, Stenotypists, Helpers,
Sweepers, Librarians, Library Assistants, Drivers, Attendants, Guards,
Storekeepers, Malis, Bar Binders, etc. in Structural Engineering Research
Centre (SERC), a constituent unit of the CSIR. They claimed themselves to be
'workmen' under the Industrial Disputes Act, 1947. However, CSIR pleaded
that it was not an 'industry'.

Held:

The question whether CSIR is an 'industry' has to be examined in the light
of dictum of the Supreme Court in *Bangalore Water Supply and Sewerage Board
v. A. Rajappa*, wherein three tests have been laid down to judge whether clubs,
professions, educational institutions, co-operatives, educational institutes,
charitable projects and other kindred adventures are industries. The research
work carried out by the Council or its constituent units does involve coopera-
tion between the employee and the employer. The employees may comprise
scientists, clerical establishment and other Groups 'C' and 'D' personnel. The
scientific research particularly when it also takes up the setting up of several
facilities and dissemination of information and the results of its researches, the
Council does render service to the society and to the industries as also to the
government departments. It cannot be gainsaid that the Council does not
render its service without consideration. It also carries on systematic activities
which can be said to be modelled on co-operation between the employer and
the employee, which is calculated to satisfy the human wants. The Council
therefore satisfies the test of 'industry'. (Paras 10, 15, 16, 18 and 19)

Bangalore Water Supply & Sewerage Disposal Board v. A. Rajappa, (1978) 2 SCC 213: 1978 SCC
(L&S) 215, followed

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D.N. Banerji v. P.R. Mukherjee, AIR 1953 SC 58; *Indian Institute of Petroleum v. State of U.P.*, 1985 Lab IC 198 (All HC); *Des Raj v. State of Punjab*, (1988) 2 SCC 537: 1988 SCC (L&S) 631: (1988) 1 Scale 168, relied on

So far as the constituent units of the Council are concerned, their status also depends upon the satisfaction of triple tests. In the absence of proper data and material, it would be neither proper nor expedient to determine their status. The same is also true of the question as to whether employees of a constituent unit are 'workmen'. (Para 24)

Miss A. Sundarmal v. Government of Goa, Daman and Diu, (1988) 4 SCC 42: 1988 SCC (L&S) 892: AIR 1988 SC 1700, relied on

Ordered accordingly

K-M/7764

Advocates who appeared in this case :

B.S. Charya, Advocate, for the Applicant;

A.K. Sikri, Advocate, for the Respondents.

The Judgment of the Bench was delivered by

B.S. SEKHON, VICE-CHAIRMAN (JUDICIAL).— The following question has been referred to the Full Bench as per the reference order dated 20th September, 1989 drawn up by a Division Bench comprising Hon'ble Shri P.K. Kartha, Vice-Chairman and Hon'ble Shri P.C. Jain, Administrative Member:

"Whether Council of Scientific and Industrial Research (CSIR) or its constituent units would come within the definition of 'industry' and whether the persons employed by them in any capacity are workmen within the meaning of the Industrial Disputes Act, 1947."

By virtue of the order dated 14th February, 1990 made in Review Petition No. 63 of 1989 in T.A. No. 24 of 1987 titled *Director, Indian Institute of Chemical Technology, Hyderabad v. N. Subbarao*, Hyderabad Bench, after allowing the review petition, has referred a similar question arising in T.A. No. 24 of 1987 to the Full Bench. Absence of an authoritative decision of the Supreme Court on the aforesaid question, decision rendered by the Ernakulam Bench in T.A. No. 768 of 1987 entitled *M. Parameswaran Pillai v. Chief Administrator, CSIR*¹ and far-reaching implications of the decision on the issue referred to the Full Bench have prompted the instant reference.

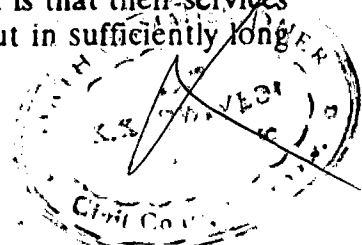
2. Ernakulam Bench relying upon the decision of the Allahabad High Court in *Ramesh Chandra v. Union of India*² held in its judgment dated 28-2-1989 in *M. Parameswaran Pillai*¹ that CSIR cannot be held to be an 'industry' and, therefore, a person working as a staff car driver under the CSIR is not a 'workman' and he cannot claim the benefit of Section 25-F of the Industrial Disputes Act, 1947 (for short 'the Act').

3. Applicants in the instant cases have also placed reliance upon the order dated 5-12-1988 made by the Supreme Court in Civil Writ Petition No. 631 of 1988 titled *Kamlesh Kapoor v. Union of India*. This order runs as under:

"We have heard the petition. The petitioners are working as casual workers in Indian National Scientific Documentation Centre which is a unit of CSIR for a number of years. Their complaint is that their services have not been regularised even though they have put in sufficiently long"

1 (1989) 10 ATC 849

2 1981 Lab IC 781 (All HC)



number of years of service. Having regard to the facts and circumstances of this case we issue a direction to Indian National Scientific Documentation Centre and CSIR to prepare a scheme for the absorption for all persons who are working on casual basis for more than one year in INSDOC and to absorb such of those persons who satisfy the scheme as regular employees in the respective posts held by them. The scheme shall be prepared within one year. Until the scheme is prepared and the question of absorption is settled, the services of the casual workers shall not be terminated and they shall be paid with effect from 1-12-1988 the minimum salary payable to a regular employee in a comparable post on monthly basis subject to the condition that the petitioners' work for the same number of days as regular employees. The question whether a writ can be issued to CSIR is however left open. The petition is disposed of accordingly."

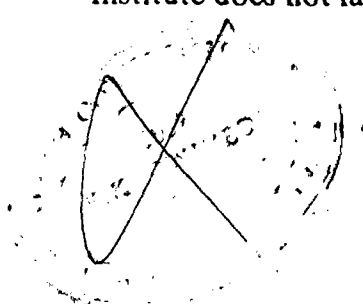
4. Before grappling with the issue referred to the Full Bench, it would appear to be appropriate to notice a few facts germane to the examination of the question referred to the Full Bench:

Applicants herein belong to various categories. These being Clerks, Typists, Steno-typists, Helpers, Sweepers, Librarians, Library Assistants, Drivers, Attendants, Guards, Storekeepers, Malis and Bar Binders etc. They have been working in the Structural Engineering Research Centre (SERC) for different periods ranging from one to three years. Applicant in O.A. No. 1626 of 1988 was engaged as a contract labour for driving the SERC vehicle. Applicants have sought regularisation of their services with all attendant benefits. Claiming themselves to be 'workmen' and SERC as an 'industry' as defined in the Act, the applicants have pleaded that as they have worked for more than 240 days, the termination of their services is retrenchment, which is violative of Section 25-F of the Act, read with Section 2(oo) thereof. SERC Karamchari Sangh, which is an association of employees, has also espoused the applicants' case in two cases being O.A. No. 1795 of 1988 and O.A. No. 2337 of 1988.

5. Respondents case is that CSIR decided to relocate SERC Roorkee and shift the office to Ghaziabad in 1986. The services of the applicants had to be 'hired' for helping the regular staff in doing the specific job of weeding out of old records, tracing out old records, files, packing of records, transportation and help in shifting of these records at SERC, Ghaziabad. Respondents have further averred that it was a temporary phenomenon and since the aforesaid specific job has now come to an end, there is no necessity of the applicants and there is no work for the applicants in which they can be engaged. Respondents have also joined issue on the question of CSIR being an 'industry' within the meaning of Section 2(j) of the Act.

6. Turning to the question referred to the Full Bench, it would be appropriate to state at the very outset that in '*M. Parameswaran Pillai*', the finding that CSIR is not an 'industry' was returned by the Ernakulam Bench on the following reasoning:

"As regards the applicability of the provisions of the Industrial Disputes Act to the petitioner, the CSIR being predominantly a research Institute does not fall within the definition of 'industry' in accordance with



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Section 2(j) of the Industrial Disputes Act. In *Ramesh Chandra v. Union of India*², the Allahabad High Court while applying the criteria laid down by the Supreme Court in *Bangalore Water Supply & Sewerage Disposal Board v. A. Rajappa*³ held that the National Sugar Institute being predominantly a research institute and its objective being to devise ways and means on economising the sugar production and to make the working of the sugar mills more efficient cannot be held to be an 'industry'. Since the term 'workman' has been defined in Section 2(s) of the Industrial Disputes Act as any person employed in any industry and since the CSIR cannot be held to be an industry, the applicant cannot claim the benefit under the Industrial Disputes Act."

7. The attention of Ernakulam Bench had not been invited to a subsequent decision of the Allahabad High Court rendered on 3rd August 1984 in Civil Miscellaneous Writ No. 2682 of 1984 titled *Indian Institute of Petroleum, Dehradun v. State of U.P.*⁴. Indian Institute of Petroleum, Dehradun (hereinafter called "Institute") is also a unit of CSIR. The aforesaid decision was rendered by Hon'ble Mr Justice A. Banerji (as he then was), who is also presiding over the Full Bench. The question as to whether the Institute is an 'industry' within the meaning of Section 2(k) of the U.P. Industrial Disputes Act, 1947, corresponding to Section 2(j) of the Act was considered thoroughly and in a very lucid and elaborate judgment, Hon'ble Justice A. Banerji held that the Institute is an 'industry' within the meaning of Section 2(j) of the Act as also Section 2(k) of the U.P. Industrial Disputes Act. Had this judgment been brought to the notice of the Hon'ble Members of Ernakulam Bench, the Bench might not have returned the finding it returned.

8. We may now refer to the definition of the expression 'industry' given in Section 2(j) of the Act, which definition holds a key to the answer of the vital question as to whether CSIR is an 'industry'. As per the aforesaid provision, unless there is anything repugnant in the subject or context, 'industry' means any business, trade, undertaking, manufacture or calling of employers and includes any calling service, employment, handicraft, or industrial occupation or avocation of workmen. This definition of 'industry' has been amended and substituted by Section 2 of Industrial Disputes (Amendment) Act, 1982 (46 of 1982). The substituted definition which has not yet been brought into force is in the following terms:

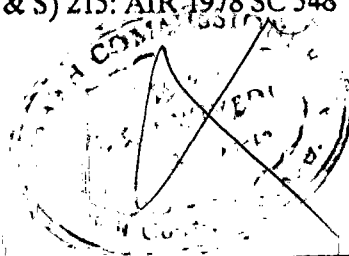
"2(j) "industry" means any systematic activity carried on by co-operation between an employer and his workmen (whether such workmen are employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature) whether or not,—

- (i) any capital has been invested for the purpose of carrying on such activity; or

3 (1978) 2 SCC 213; 1978 SCC (L & S) 215; AIR 1978 SC 548

4 1985 Lab IC 198 (All HC)

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(ii) such activity is carried on with a motive to make any gain or profit, and includes —

(a) any activity of the Dock Labour Board established under Section 5-A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948);

(b) any activity relating to the promotion of sale or business or both carried on by an establishment,

but does not include —

(1) any agricultural operation except where such agricultural operation is carried on in an integrated manner with any other activity (being any such activity as is referred to in the foregoing provisions of this clause) and such other activity is the predominant one.

Explanation.— For the purposes of this sub-clause, "agricultural operation" does not include any activity carried on in a plantation as defined in clause (f) of Section 2 of the Plantations Labour Act, 1951; or

(2) hospitals or dispensaries; or

(3) educational, scientific, research or training institutions; or

(4) institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service; or

(5) khadi or village industries; or

(6) any activity of the Government relatable to the sovereign functions of the Government including all the activities carried on by the departments of Central Government dealing with defence research, atomic energy and space; or

(7) any domestic service; or

(8) any activity being a profession practised by an individual or body of individuals, if the number of persons employed by the individual or body of individuals in relation to such profession is less than ten; or

(9) any activity, being an activity carried on by a cooperative society or a club or any other like body or individuals, if the number of persons employed by the co-operative society, club or other like body of individuals in relation to such activity is less than ten."

It is commonplace that the expression 'industry', in the absence of coming into force of the amended definition, has to be construed according to the unamended definition. We have extracted Section 2(j) which was sought to be inserted by Section 2 of Act 46 of 1982 for the reason that the same shall have to be referred to during the course of discussion.

9. The definition of 'industry' which still holds the field is of a very wide amplitude. A mass of case-law which also reflected divergence of opinions has been built around this definition. Till the Seven Judge Bench of the Apex Court rendered the landmark decision in *Bangalore Water Supply & Sewerage Board v. A. Rajappa*³, there was a good deal of divergence about the exact connotation of the expression 'industry'. As observed by Hon'ble Justice Krishna Iyer, the tangled web of judicial thought had perplexed one-branch of industrial law



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a resulting from obfuscation of the basic concept of 'industry' under the Act. Divergence of opinions has been set at rest by the landmark judgment in *A. Rajappa*³. This decision has also brought out considerable exactitude in the matter of determining the question as to whether a certain undertaking, venture etc. is an 'industry' by laying down the triple tests which will be referred to hereinafter.

b 10. As mandated by Article 141 of the Constitution, the law declared by the Supreme Court is binding on all courts within the territory of India and as such is the law of the land. The question as to whether CSIR is an 'industry' has, therefore, to be examined in the light of the dictum of the Supreme Court in *A. Rajappa*³.

c 11. We may pause here to point out that CSIR is a society registered under the Societies Registration Act, 1860. SERC is one of the 42 constituent units under the CSIR. CSIR was registered in 1942. The functions thereof, as enumerated in para 3 of the Government of India Resolution dated 26th September, 1942, issued by the then Department of Commerce, are as under:

d "(a) to implement and give effect to the following resolution moved by the Hon'ble Dewan Bahadur Sir A.R. Mudaliar and passed by the Legislative Assembly on 14th November, 1941 and accepted by the Government of India:—

This Assembly recommends to the Governor General in Council that a fund called the Industrial Research Fund be constituted, for the purpose of fostering industrial development in this country and that provision be made in the Budget for an annual grant of rupees ten lakhs to the Fund for a period of five years.

(b) the promotion, guidance and coordination of scientific and industrial research in India including the institution and the financing of specific researches;

(c) the establishment or development and assistance to special institutions or department of existing institutions for scientific study of problems affecting particular industries and trade;

(d) the establishment and award of research studentships and fellowships;

(e) the utilisation of the results of the researches conducted under auspices of the Council towards the development of industries in the country and the payment of a share of royalties arising out of the development of the results of researches to those who are considered as having contributed towards pursuit of such researches;

(f) the establishment, maintenance and management of laboratories, workshops, institutes and organisations to further scientific and industrial research and to utilise and exploit for purposes of experiment or otherwise any discovery or invention likely to be of use to Indian industries;

(g) the collection and dissemination of information in regard not only to research but to industrial matters generally;

(h) publication of scientific papers and journal of industrial research and development; and

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(i) any other activities to promote generally the objects of the resolution mentioned in (a) above."

12. The objects for which the CSIR has been established and its major activities as specified in para 2 of the memorandum of association are as under:

"(a) To implement and give effect to the resolution moved by the Hon'ble Dewan Bahadur Sir A. Ramaswami Mudaliar, Hon'ble Member of the Department of Commerce of the Government of India and passed by the Legislative Assembly on the 14th November, 1941 and accepted by the Government of India, the full text whereof is as follows:

This Assembly recommends to the Governor General in Council that a fund called the Industrial Research Fund be constituted, for the purpose of fostering industrial development in this country and that provision be made in the Budget for an annual grant of rupees ten lakhs to the Fund for a period of five years.

(b) The objective of the Council being scientific and industrial/applied research of national importance, its major activities should be—

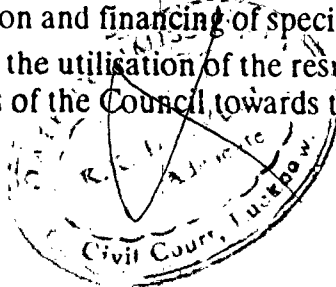
- (i) research and development projects of national priority as evolved by the high level body concerned with overall planning for science and technology in the country;
- (ii) research and development projects sponsored by industries in the public/private sector and others and in consonance with national priorities;
- (iii) research and development directed towards continuous improvement of indigenous technology and adaptation and development of imported technology;
- (iv) research and development of new technologies relevant to the country's social, economic and industrial needs in keeping with the national objective of self-reliance;
- (v) research and development on appropriate and alternate technologies, with emphasis on the use of local resources;
- (vi) basic scientific research that is necessary and industrial/applied research and development in progress and from the viewpoint of future advances in technology in consonance with the national priorities;
- (vii) maintenance of national physical standards and a library of standard reference materials; and
- (viii) technical advisory services like information extension, consultancy and testing.

(c) the establishment or development and assistance to special institutions or departments or existing institutions for scientific study of problems affecting particular industries and trade;

(d) the establishment and award of research fellowships and the institution and financing of specific researches;

(e) the utilisation of the results of the researches conducted under the auspices of the Council towards the development of industries in the coun-

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try and the payment of a share of royalties arising out of the development of results of researches to those who are considered as having contributed towards the pursuit of such researches;

(f) the establishment, maintenance and management of laboratories, workshops, institutes, museums, including mobile museums and organisations to further scientific and industrial/applied research and development and to utilise and exploit for purposes of experiment or otherwise any discovery or invention likely to be of use to Indian industries;

(g) the collection and dissemination of information in regard not only to research and development but to industrial matters generally;

(h) publication of scientific papers and journals devoted to scientific and industrial/applied research and development;

(h/h) to enter into arrangements with foreign scientific agencies and institutions for, exchange of scientists, study tours, training in specialised areas of science and technology, conducting joint projects, providing technical assistance in the establishment of scientific institutions and for other matters consistent with the aims and objectives of the society;

(i) for the purposes of the society to draw and accept and make and endorse discount and negotiate Government of India and other promissory notes, bills of exchange, cheques or other negotiable instruments;

(j) to invest the funds of, or money entrusted to, the society upon such securities or in such manner as may from time to time be determined by the Governing Body and from time to time sell or transpose such investment;

(k) to purchase, take on lease, accept as a gift or otherwise acquire, any land or building wherever situated in India which may be necessary or convenient for the society;

(l) to construct or alter any building which may be necessary for the society;

(m) to sell, assign, mortgage, lease, exchange and otherwise transfer or dispose of all or any property, moveable or immovable, of the society for the furtherance of the objects of the society;

(n) to establish and maintain a research and reference library in pursuance of the objects of the society with reading and writing rooms and to furnish the same with books, reviews, magazines, newspapers and other publications;

(o) to appoint, or employ, temporarily or permanently, any person or persons and to pay them, or other persons, for services rendered to the society such salaries, wages, gratuities, provident funds and pensions, and to introduce and implement welfare schemes, for the benefit of such persons, as the society may in this behalf determine; and

(p) to do all other such things as the society may consider necessary incidental or conducive to the attainment of the above subjects."

13. Para 4 of the memorandum reads thus:

"The income and property of the society, however, derived, shall be applied towards the promotion of the objects thereof as set forth in this

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memorandum of association subject nevertheless in respect of the expenditure to such limitations as the Government of India may from time to time impose. No portion of the income and property of the society shall be paid or transferred, directly or indirectly by way of dividends, bonus or otherwise howsoever by way of profit, to the persons who at any time are or have been members of the society or to any of them or to any persons claiming through them or any of them, provided that nothing herein contained shall prevent the payment in good faith of remuneration to any member thereof or other person in return for any service rendered to the society."

14. The functions of the Governing Body of the CSIR have been set out in Rule 45-A of the rules and regulations. CSIR has established research institutes and laboratories in various centres. Rule 71 provides that for each National Laboratory, an Executive Committee shall be appointed. Bye-law 34 provides that the functions of the Executive Committee include the following:

"(i) To formulate and approve R & D Plans in consonance with national goals and priorities and guide-lines indicated by the CSIR; to allocate resources and to evaluate performance:

(viii) Within the framework of rules and regulations laid down by the CSIR from time to time to approve schemes/projects of sponsored research work; filing of application(s) for patents; processes for commercial utilisation; development work in co-operation and collaboration with industrial firms; institutional consultancy; appointment of outside consultants; preparation of techno-economic feasibility reports; deputing of personnel for assignments in industrial firms; sanction of funds for task projects for outside agencies including universities and industrial firms; loan of equipment; deputation of staff; institutional awards and prizes; distribution of premia and royalties and sanction of pilot plant projects below Rs 5 lakhs."

15. Reverting to the crucial question as to whether CSIR is an 'industry' within the meaning of Section 2(j) of the Act, one of the points which weighed with the Ernakulam Bench for returning the finding it did, was that CSIR being predominantly a research institute does not fall within the definition of 'industry' as contained in Section 2(j) of the Act. A perusal of paragraph 23 of the decision in *A. Rajappa*³ goes to show that one of the contentions concretised in sub-para 2(c) of the aforesaid para was:

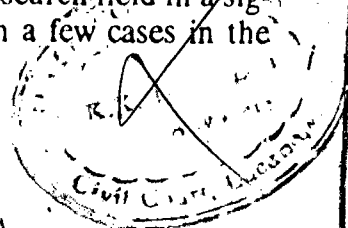
Would a university or college or school or research institute be called an industry?

In other words, Supreme Court had formulated a specific question as to whether a research institute can be called an industry. This question was considered in paragraphs 112 to 114 of the judgments written by Hon'ble Justice Krishna Iyer. The aforesaid paragraphs may be profitably extracted:

"112. We may proceed to consider the applicability of Section 2(j) to institutions whose objectives and activities cover the research field in a significant way. This has been the bone of contention in a few cases in the

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a past and is one of the appeals argued at considerable length and with considerable force by Shri Tarkunde who has presented a panoramic view of the entire subject in his detailed submissions. An earlier decision of this Court, *The Ahmedabad Textile Industry's Research Association case*⁵ has taken the view that even research institutes are roped in by the definition but later judicial thinking at the High Court and Supreme Court levels has leaned more in favour of exemption where profit-motive has been absent. *The Kurji Holy Family Hospital*⁶ was held not to be an industry because it was a non-profit making body and its work was in the nature of training, research and treatment. Likewise in *Dhanrajgirji Hospital v. Workmen*⁷ a Bench of this Court held that the charitable trust which ran a hospital and served research purposes and training of nurses, was not an industry. The High Courts of Madras and Kerala have also held that research institutes such as the Pasteur Institute, the CSIR and the Central Plantation Crops Research Institute are not industries. The basic decision which has gone against the *Ahmedabad Textile case*⁵ is the *Safdarjung case*⁶. We may briefly examine the rival viewpoints, although in substance we have already stated the correct principle. The view that commends itself to us is plainly in reversal of the ratio of *Safdarjung* which has been wrongly decided, if we may say so with great respect.

d 113. Does research involve collaboration between employer and employee? It does. The employer is the institution, the employees are the scientists, para-scientists and other personnel. Is scientific research service? Undoubtedly it is. Its discoveries are valuable contributions to the wealth of the nation. Such discoveries may be sold for a heavy price in the industrial or other markets. Technology has to be paid for and technological inventions and innovations may be patented and sold. In our scientific and technological age nothing has more cash value, as intangible goods and invaluable services than discoveries. For instance, the discoveries of Thomas Alva Edison made him fabulously rich. It has been said that his brain had the highest cash value in history for he made the world vibrate with the miraculous discovery of recorded sound. Unlike most inventors, he did not have to wait to get his reward in heaven; he received it munificently on this gratified and grateful earth, thanks to conversion of his inventions into money aplenty. Research benefits industry. Even though a research institute may be a separate entity disconnected from the many industries which funded the institute itself, it can be regarded as an organisation, propelled by systematic activity, modelled to co-operation between employer and employee and calculated to throw up discoveries and inventions and useful solutions which benefit individual industries and the nation in terms of goods and services and wealth. It follows that research institutes, albeit run without profit-motive, are industries.

h 114. True Shri Tarkunde is right if *Safdarjung*⁶ is rightly decided. The concluding portions of that decision proceed on the footing that research

5 *Ahmedabad Textile Industry's Research Association v. State of Bombay*, AIR 1961 SC 484: (1960) 2 LLJ 720

6 *Safdarjung Hospital v. Kuldip Singh Sethi*, (1970) 1 SCC 735: (1971) 1 SCR 177: (1970) 2 LLJ 266

7 (1975) 4 SCC 621: 1975 SCC (L & S) 342: AIR 1975 SC 2032

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and training have an exclusionary effect. That reasoning, as we have already expounded, hardly has our approval."

As per paragraph 142 the Supreme Court declared that professions, clubs, educational institutions, co-operatives, research institutes, charitable projects and other kindred adventures, if they fulfil the triple tests referred to in paragraph 140, cannot be exempted from the scope of Section 2(j). The concluding sentence of paragraph 113 reads thus:

"It follows that research institutes, albeit run without profit-motive, are industries."

16. From the foregoing, it is crystal clear that a research institute which satisfies the triple tests or the three ingredients referred to by the Supreme Court would be an industry. It cannot be taken out of the ambit of the expression 'industry' merely because it is a non-profit making institute. This brings us to the triple tests laid down by the Supreme Court in paragraph 140 of the judgment. It was ruled as per the aforesaid paragraph that 'industry' as defined in Section 2(j) and explained in *D.N. Banerji v. P.R. Mukherjee*⁸ has a wide import. The Supreme Court further declared as under:

"(a) Where (i) systematic activity, (ii) organized by co-operation between employer and employee (the direct and substantial element is chimerical), (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss e.g. making, on a large scale prasad or food), prima facie, there is an 'industry' in that enterprise.

(b) Absence of profit-motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.

(c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.

(d) If the organization is a trade or business it does not cease to be one because of philanthropy animating the undertaking."

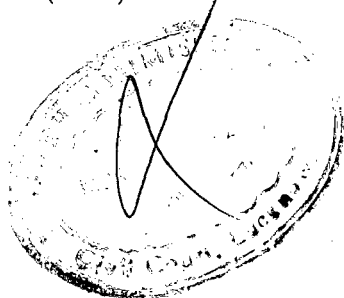
17. As ruled by the Supreme Court, the undoubted legal position is that a research institute which satisfies the triple tests set out in paragraph 140 of the judgment by Hon'ble Justice Krishna Iyer, would be an 'industry'. While considering such a question in *Indian Institute of Petroleum*⁴ which was issue No. 2 in the said case, Hon'ble Justice A. Banerji (as he then was) after an elaborate examination of the question and relying upon *A. Rajappa*³ enunciated as under:—

"According to the decision of the Supreme Court, the legal position at present prevails and until a party satisfies that organisation, institute or enterprise is not an 'industry' within the meaning of Section 2(k) of the Act, it would be an industry (provided it satisfied the triple tests outlined by Krishna Iyer, J. in his judgment.)"

It was also held in that case that there was a systematic activity organised by co-operation between employer and employee for the production of results for

8 AIR 1953 SC 58: 1953 SCR 302: (1953) 1 LLJ 195

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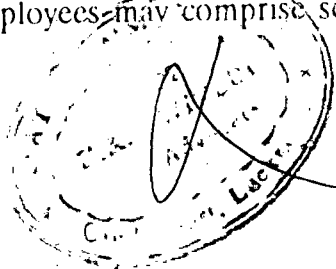
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a better and proper use of oil and oil exploration in the country. Such service satisfies human wants and desires for the better utility of oil and its products in the life and works of its citizens. The cardinal elements are all there in the case of the *Indian Institute of Petroleum*⁴ to bring it within the definition of 'industry'. It was further held that the institute although a Research Institute run by a society registered under the Societies Registration Act and whose members are all government nominees and whose almost entire funds come from government b coffer and whose main work is to do research in oil and oil exploration without any profit motive or as a commercial enterprise is nevertheless an 'industry' within the meaning of Section 2(j) of the Central Act. The essential element of relationship between the employer and the employee fulfils the tests laid down in *Bangalore Water Supply case*³.

c 18. On the basis of the foregoing, it can be safely stated that if CSIR satisfies the triple tests which is so to say the litmus test, it would be an 'industry' within the meaning of Section 2(j) of the Act. On the basis of the provisions of memorandum of association, rules and regulations and bye-laws of CSIR, the major activities and functions of CSIR are to undertake research, promotion, guidance and co-ordination of scientific and industrial research; utilisation of d the results of the researches conducted under the auspices of the Council towards the development of industries in the country; the establishment, maintenance and management of laboratories, workshops, institutes and organisations; to utilise and exploit for purposes of experiment or otherwise any discovery or invention likely to be of use to Indian industries; the collection and dissemination of information in regard not only to research but also to e industrial matters generally; publication of scientific papers and a journal of industrial research and development; providing of technical advisory services like information, extension, consultancy and testing; utilisation of the results of the researches conducted under the auspices of the Council and payment of a share of royalties arising out of the development of the results of researches to those who are considered as having contributed towards the pursuit of such researches. The society is also competent to enter into arrangements with foreign scientific agencies and institutions for, exchange of scientists, study tours, training in specialised areas of science and technology, conducting joint projects, providing technical assistance in the establishment of scientific institutions and for other matters consistent with the aims and objectives of the society. The society is also empowered to appoint and employ temporarily or g permanently any persons and to pay them salaries, wages, gratuities, provident funds and pensions and to introduce and implement welfare schemes for the benefit of such persons as the society may in this behalf determine.

h 19. Some of the functions of the Governing Body of the CSIR are to provide common facilities such as computer centres, instrumentation, maintenance, service and repair and help the laboratories in collection and dissemination of information; survey of industries and areas of science relevant to the activities of Council. The research work carried out by the Council or its constituent units does involve co-operation between the employee and the employer. The employees may comprise scientists, clerical establishment and

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a 24. So far as the constituent units of the Council are concerned, the determination of the question as to whether or not a particular unit is an 'industry' shall have to be determined in the light of the triple tests laid down by the Supreme Court as also the principles indicated hereinabove. In the absence of the proper data and material, it would be neither appropriate nor expedient to determine this question by the Full Bench. The same is also true of the question as to whether particular employees of a constituent unit are 'workmen' within the meaning of Section 2(s) of the Act. It may be incidentally mentioned in this connection that in a recent judgment rendered in *Miss A. Sundarambal v. Government of Goa, Daman and Diu*¹⁰ the Supreme Court has declared that the teachers employed by educational institutions whether the said institutions are imparting primary, secondary, graduate or post-graduate education cannot be called 'workmen' within the meaning of Section 2(s) of the Act. The following observations from paragraph 10 having a bearing on the question as to whether a teacher is a workman, may usefully be extracted:

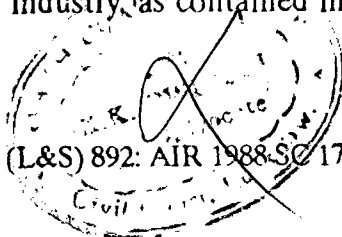
d "Imparting of education which is the main function of teachers cannot be considered as skilled or unskilled manual work or supervisory work or technical work or clerical work. Imparting of education is in the nature of a mission or a noble vocation. A teacher educates children, he moulds their character, builds up their personality and makes them fit to become responsible citizens. Children grow under the care of teachers. The clerical work, if any they may do, is only incidental to their principal work of teaching. We agree with the reasons given by the High Court for taking the view that teachers cannot be treated as 'workmen' as defined under the Act. It is not possible to accept the suggestion that having regard to the object of the Act, all employees in an industry except those falling under the four exceptions (i) to (iv) in Section 2(s) of the Act should be treated as workmen. The acceptance of this argument will render the words 'to do any skilled or unskilled manual, supervisory, technical or clerical work' meaningless. A liberal construction as suggested would have been possible only in the absence of these words. The decision in *May and Baker (India) Ltd. v. Their Workmen*¹¹ precludes us from taking such a view. We, therefore, hold that the High Court was right in holding that the appellant was not a 'workman' though the school was an industry in view of the definition of 'workman', as it now stands."

g Since there are different categories and classes of employees in the Council as also in a constituent unit, the question as to, whether a particular employee is covered by the definition of 'workman' given in Section 2(s) of the Act should appropriately be decided by the Bench concerned on the basis of the relevant material and data.

h 25. In sum, we hold that the CSIR is an 'industry' within the meaning of Section 2(j) of the Act. It would remain an 'industry' till such time as the legislature does not step in to make a legislative change. If and when any legislative change in the definition, of 'industry' as contained in Section 2(j) of the Act is

10 (1988) 4 SCC 42; 1988 SCC (L&S) 892; AIR 1988 SC 1700
11 AIR 1967 SC 678

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other Groups 'C' and 'D' personnel. The scientific research particularly when it also takes up the setting up of several facilities and undertakes dissemination of information and the results of its researches, Council does render service to the society and to the industries as also to the government departments. It cannot be gainsaid that the Council does not render its services without consideration. It also carries on systematic activities which can be said to be modelled on co-operation between the employer and the employee, which is calculated to satisfy human wants. We are thus of the view that the CSIR undertakes systematic activities, which is organised by co-operation between the employer and the aforesaid employees and the same is for the production and/or distribution of services calculated to satisfy human wants and wishes. The three ingredients required to be satisfied for determining as to whether a particular research institute is an 'industry', thus stand satisfied in the instant case. The Council can thus be safely regarded as in 'industry' within the meaning of Section 2(j) of the Act.

20. The submission that CSIR does not directly render services to the industrial establishments — public or private would not derogate from this conclusion. If such a line of reasoning to exclude an undertaking/establishment which satisfies the litmus test i.e. triple tests, were to be accepted, most of the industries/factories producing goods would be taken out of the ambit of 'industry', if such undertakings/establishments were to sell goods through intermediaries or agencies. It cannot be gainsaid that such a practice is prevalent on a substantial scale.

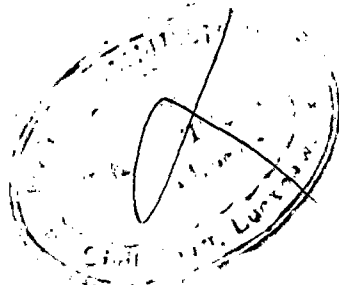
21. The other supportive reasons for which we are of the opinion that the Council though predominantly a research institute is an 'industry' is that the legislature would not have exempted a research institute in the amended definition which it seeks to insert, had it not been of the view that a research institute is an 'industry'. Research institutions are sought to be specifically excluded by sub-clause (iii) of clause (b) of the proposed amended definition. In this connection, it may not be inapposite to mention the well-settled propositions that the legislature is aware of the existing law and that the legislature will not make a superfluous provision. As referred to hereinabove, the judgment of the Allahabad High Court in *Indian Institute of Petroleum, Dehradun*⁴, also supports the view that the CSIR is an 'industry' within the meaning of Section 2(j) of the Act.

22. In a recent case *Des Raj v. State of Punjab*⁹ the Supreme Court applying the ratio of *A. Rajappa*³ overruled the Full Bench decision of the Punjab and Haryana High Court and ruled that the facts relied upon by the High Court did not take out the Irrigation Department outside the purview of the definition of 'industry' and that the main functions of the Irrigation Department when subjected to the dominant nature test clearly come within the ambit of 'industry'.

23. For all what has been said and discussed hereinabove, we are of the considered view that the Council of Scientific and Industrial Research is an 'industry' within the meaning of Section 2(j) of the Act.

⁹ (1988) 2 SCC 537: 1988 SCC (L&S) 631

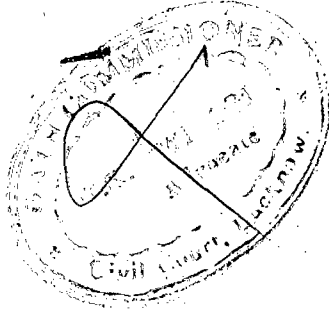
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made, it would be open to the CSIR to rake up the issue again. This decision will not then stand in their way. The Apex Court has elaborated the question of desirability of bringing about a legislative change whether by bringing into force the amended definition or by making suitable modifications in *Des Raj*⁹. a

26. These cases may be remitted to the concerned Bench for deciding the same in the light of the finding returned by us and in accordance with law.



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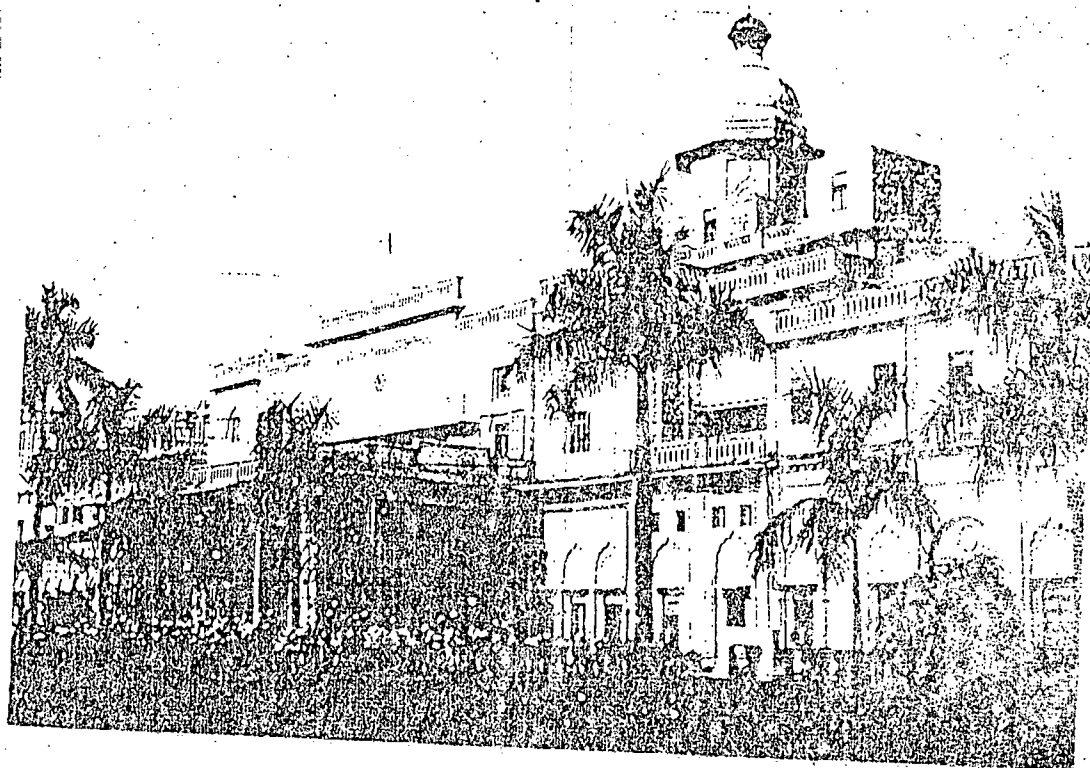
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INTRODUCTION

The progress of work in the various research and development areas of the Institute during 1987-88 is presented in this report. Eleven of these areas pertain to development of new drugs, diagnostics and vaccines and cover fertility regulation, infectious diseases, cardiovascular and nervous system disorders, drugs from natural sources including traditional remedies, marine flora and fauna, synthesis and screening of new compounds for obtaining lead molecules and standardization and process development of candidate drugs. Infectious diseases include filariasis, hookworms, malaria, amoebiasis, leprosy, cholera and leishmaniasis. Work on biotransformation of steroids and technology for the production of biocides form part of the area of fermentation technology. In the area of new leads development basic research in membrane structure and function, liposomes, peptide chemistry, synthetic carbohydrates and QSAR and computer graphics is undertaken to generate novel leads oriented to biomedical application. Significant achievements of the Institute during the year are given below :

Gugulipid, a hypolipidaemic drug developed by CDRI and released to Cipla Ltd., Bombay for commercialisation, has been introduced in the market under the trade name Guglip.

Phase III clinical trials of Centchroman, a once-a-week nonsteroidal oral contraceptive, are continuing. Half-life of the compound has been found to be about 169 hours.

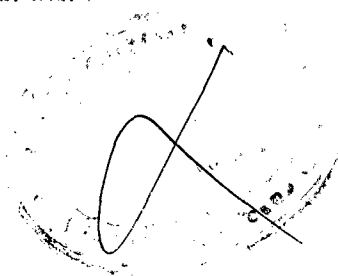
Phase II clinical trial data of Centpropazine, an antidepressant, is being compiled for submission to the Drugs Controller (India) for permission to undertake phase III trials.

Chandonium iodide, a neuromuscular blocking agent, has completed phase II clinical trials.

Clinical trials of Consap, a contraceptive cream, conducted at Bombay and Lucknow centres have indicated that the cream causes immobilization of spermatozoa without any side effect.

Amarelapse antimalarial, was found to be safe in subacute toxicity studies in two species of animals. Permission of the Drugs Controller (India) has been obtained to conduct phase I clinical trials.

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Subacute toxicity studies of arteether, a derivative of artemisinin prepared at CIMAP, in two species of animals have been completed and the data is being submitted to the Drugs Controller (India) for permission to undertake phase I clinical trials.

Compound 84/246, an immunoadjuvant for antifertility vaccine, has completed toxicity studies in rats and rhesus monkeys and the data is being compiled for submission to the Drugs Controller (India) for permission to undertake phase I clinical trials.

Compound 82/437 has shown 100% adulticidal activity against *Brugia malayi* in langur monkeys. Subacute toxicity study of this compound in rats has been completed.

Compound 87/209, a pyrrolidine derivative, in combination with chloroquine has shown antimalarial activity against chloroquine resistant *P. berghei* infection in mice.

Three new pyrimidine nucleosides synthesised on antileishmanial concept have shown 80-90% inhibition of amastigotes of *Leishmania donovani* in hamsters. High order of antileishmanial activity in such compounds has been observed for the first time.

A palmitoyl derivative isolated from the marine alga *Ulva lactuca* has been found to possess high order of activity against encephalomyocarditis virus.

A glycosidic fraction isolated from the stem bark of *Streblus asper* showed 100% and 70% macrofilaricidal activity against *Litomosoides carinii* and *B. malayi* respectively in rodents.

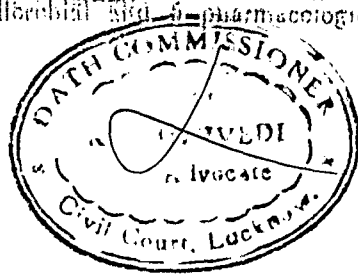
Kutkin from *Pterorhiza kurroa* has shown promising hepatoprotective activity in animal models.

Nyctanthes arbor-tristis seed butanol fraction showed inhibition of *L. donovani* infection in hamsters; its therapeutic index was ten times higher than with the standard drug pentamidine.

Bacosides A and B have shown EEG changes in animal experiments indicative of improvement in clinically related old age EEG alterations.

Two hundred twenty seven new synthetic compounds, 100 plant extracts and 210 marine flora and fauna extracts were screened for biological activity. About 100 compounds showed activity. Of these, 50 synthetic compounds showed antileishmanial activity, 4 antimalarial, 3 antitubercular, 1 antiparasitic, 1 antipneumococcal and 1 antipneumococcal activity. 100 compounds showed pharmacological activity, 100 compounds showed

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antifertility activity, 1 anthelmintic, 1 antiviral, 1 hypoglycaemic and 6 pharmacological activity and 2 extracts of marine samples showed pharmacological activity.

Serodiagnostic kit for amoebiasis using axenic *Entamoeba histolytica* whole antigen has been released to Curewel (India) Ltd., New Delhi for marketing.

Mycobacterium habana vaccine against leprosy has completed toxicity studies in rabbits and monkeys and the data has been submitted to the Drugs Controller (India) for permission to initiate clinical trials. Heat-killed and gamma-irradiated vaccines and the first sonicated residue of *M. habana* vaccine have been demonstrated to produce delayed type hypersensitivity response in the footpad of mouse against challenge with killed *M. leprae*, thereby indicating closed antigenic similarity between these two mycobacteria.

Serodiagnostic tests, based on ELISA and IFA, for Kala-azar using *L. donovani* promastigote antigens have been developed and evaluated in preliminary field trials with encouraging results.

Acute toxicity and pharmacological studies of clofazimine and dapsone combination tablet dosage form have been completed and the data is being compiled for submission to the Drugs Controller (India) for permission to undertake clinical trials.

Antifungal culture RMA 19 has been identified as *Aspergillus nidulans*. Active principle isolated from it is non-polyenic in nature and the partially purified compound has shown significant activity against *Candida albicans*.

Production of *Bacillus thuringiensis* and *B. sphaericus* has been scaled up to 1500 litre fermentor scale. Field trials of *B. sphaericus* formulation in plaster of paris are in progress in collaboration with the Malaria Research Centre, New Delhi ; the results are encouraging.

A simple method has been developed for the preparation of α -pyridyl bromide and its conversion to 1-(2-pyridyl) piperazine a drug intermediate.

Lactate dehydrogenase (LDH) has been shown to play an important role in energy metabolism of malarial parasites. Antibodies to LDH of *P. knowlesi* have been demonstrated in immune monkey sera by immuno-dot-enzyme staining method. These antibodies showed reactivity with different strains and species of malaria parasites including *P. falciparum* and *P. vi. ex* but did not cross react with LDH of the host (muscle, heart and sperm) and other parasites. Thus the anti-LDH antibodies have been found to be specific for LDH of plasmodia and may have potential for immunodiagnosis of malaria.

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It has been suggested that *E. histolytica* cultures which appear to be avirulent are heterogeneous and their passage through cholesterol selects virulent sub-population leading to enhancement of virulence.

Liposomes bearing the antibody 'anti-mouse erythrocyte F(a'b')₂' reported earlier to specifically recognize mouse erythrocytes *in vivo* and deliver their contents to these cells presumably via membrane-membrane fusion have been found quite effective in delivering antimalarial drugs to red cells in mice infected with the malarial parasite *P. berghei*.

Liposomes coated with the macrophage-specific immunostimulant tetrapeptide tuftsin have been found to be significantly more effective as vehicles for delivering antimonials to macrophages in *L. donovani* infected hamsters than tuftsin-free or glycolipid bearing liposomes.

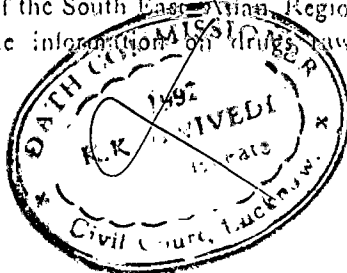
A new short-term bioassay method for detection of carcinogenic potential of drugs has been standardized. Based on induction of altered foci in rodent liver, the method involves initiation of carcinogenesis by a known agent in partially hepatectomized rats followed by administration of a known promoter or the test compound and then evaluation of carcinogenic potential of the promoter/test compound by enzyme histochemical studies and morphometric analysis of the foci.

The Regional Sophisticated Instrumentation Centre (RSIC), supported by DST, carried out spectral (nmr, mass, ir, uv) analysis, gas/high pressure liquid chromatography, β and γ scintillation counting and elemental analysis of about 5000 samples received from research institutions, academia and industry.

The laboratory animals facility of the Institute has been upgraded to the National Laboratory Animal Centre with the financial assistance from the Department of Biotechnology (DBT). During the year, 4000 animals and blood samples, tissues and embryos from non-human primates were supplied to research institutions in the country. Consultancy on establishment of laboratory animals facility was provided to Sanjay Gandhi Post Graduate Institute of Medical Sciences, Lucknow and Institute of Microbial Technology, Chandigarh.

The National Information Centre for Drugs and Pharmaceuticals (NICDAP), sponsored by Department of Scientific & Industrial Research, has been selected as the WHO collaborating Centre on Drug Information for a period of four years from February 1988. The Centre will act as a focal point for information activities in the area of drugs and pharmaceuticals for the countries of the South East Asian Region. NICDAP will collect, collate and disseminate information on drugs, raw materials and patent status and

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provide training to WHO fellows in the area of drug information. NICDAP continued to publish four monthly bulletins : Current Highlights (R & D), Industry Highlights, Patents Awareness and Current Indian Titles.

A technician training course in laboratory animals science was organized from 2 to 27 November 1987 in collaboration with the DBT ; 20 trainees from 15 institutions attended the course. Nineteen persons from various institutions received training in tissue culture, liposome technology, fermentation technology, handling of sophisticated instruments etc. Ad hoc short-term training in techniques in drug research was provided to 6 WHO fellows from Burma, Sri Lanka and Bangladesh, 2 UNIDO fellows from Turkey and 1 trainee from Vietnam under the Indian Technical Economic Cooperation Programme.

A workshop on 'Quantitative Structure Activity Relationship (QSAR)' was organized during 15-20 November 1987 in collaboration with the Federal Republic of Germany and the Indian Government; 35 participants from different parts of the country attended the workshop. A symposium on 'Ethical use of Laboratory Animals in Biomedical Research', sponsored by CDRI an DBT, was organized during 23-27 November 1987. RSIC organized workshops on FT NMR spectroscopy and electron microscopy.

One hundred sixty nine research papers and review articles were published in Indian and foreign journals and 4 patents were filed in India.

Two new Divisions : Microbial Genetics and Physiology have been created.

Dr. B. N. Dhawan, Scientist Director's Grade, was the recipient of Vasvik Award (Biological Sciences) for 1986 for new drug development.

Dr. (Mrs.) Nityanand, Scientist E-II, received the Smt. Chandaben Patel Industrial Research Award for Women Scientists for 1985 for her contributions in basic and applied sciences.

Dr. K. B. Mathur, Scientist E-II, was the recipient of Ranbaxy Research Foundation Award 1986 (Pharmaceutical Sciences) for his contributions in the field of peptide chemistry.

Dr. Ajay Kumar, Scientist B, was awarded the Indian National Science Academy Medal for Young Scientists (Biological Sciences) for his contributions in the field of phospholipid asymmetry.

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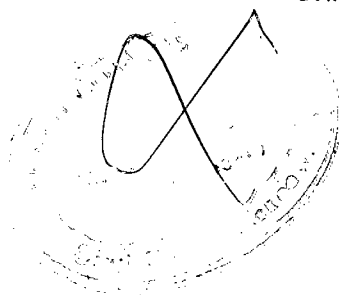
Appendix—iv

BUDGET

(1987-88)

Head	Actual expenditure (Rs. in lakh)
<i>Recurring</i>	
Pay of officers	109.830
Pay of establishment	95.513
Allowances & honoraria	107.655
Contingency	61.180
Maintenance	15.797
Chemicals & apparatus	90.554
Total	180.529
<i>Capital :</i>	
Works	2.484
Services	17.200
Equipment	46.767
Miscellaneous	20.956
Total	87.453
Grand Total	567.982

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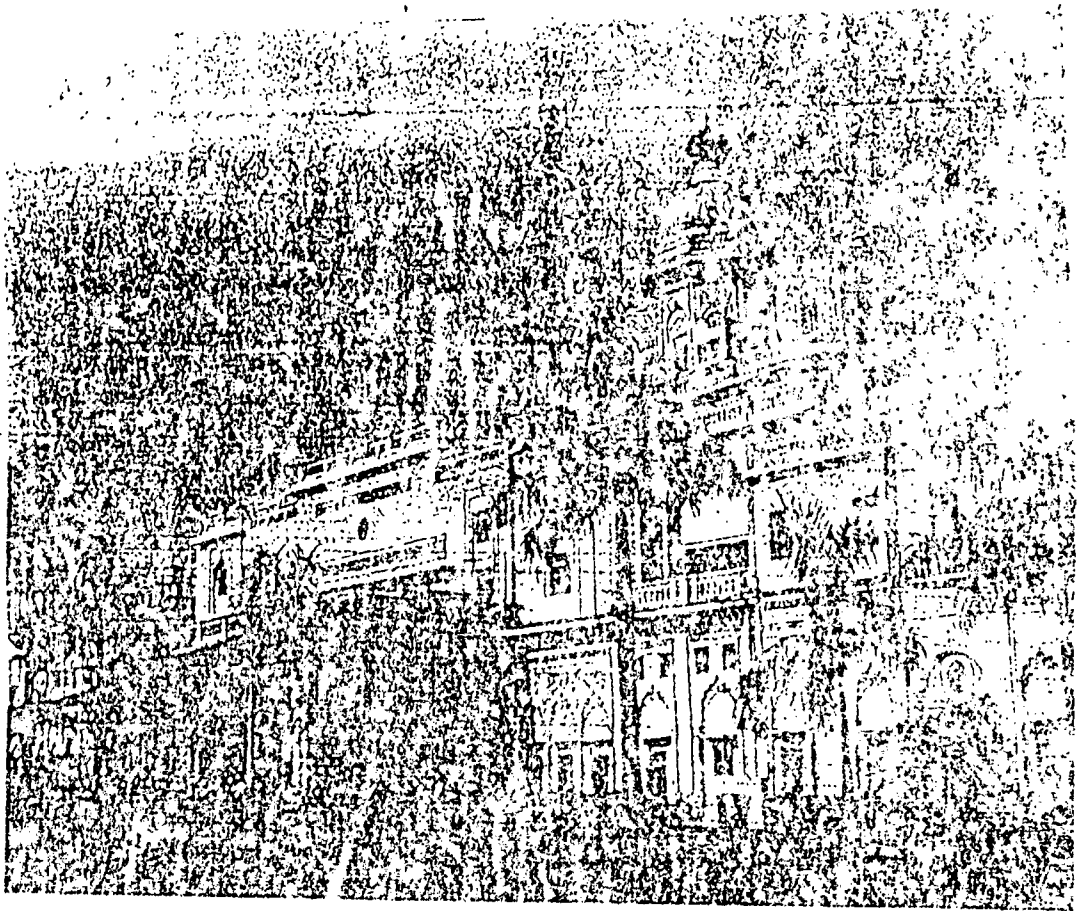


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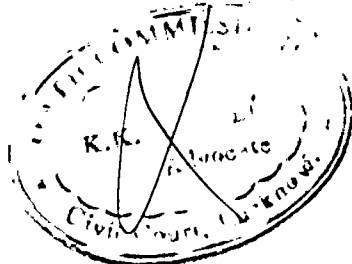
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V. ANALYTICAL/TESTING SERVICES

Pharmacopoeial assay, toxicity testing, biological screening and physico-chemical analysis of samples/compounds were carried out for research institutions, hospitals and industry :

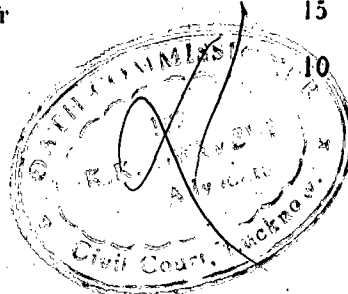
Pharmacopoeial assay

<i>Organisations</i>	<i>Samples</i>
Central Medical Store, HEC Hospital Ranchi	Becosule
Chief Research and Quality-Control Division, Royal Drugs Ltd., Kathmandu, Nepal	Mebendazole (7 samples)
Somaya Organics Ltd.; Barabanki	n-Butyl alcohol (11 samples)
L.N.M. Railway Hospital, Gorakhpur	Paracetamol Tabs
V.P. Chest Institute, Delhi	Corticosteroid Tabs
Central Hospital, Ranchi	Servoprim-80

Biological Screening

<i>Anthelmintic :</i>	<i>Number of compounds/samples</i>
Kurukshetra University, Kurukshetra, Haryana	10
<i>MAO inhibitors :</i>	
V.L. College of Pharmacy, Lucknow	10
<i>Antimicrobial :</i>	
Allahabad University, Allahabad	10
A.P.S. University, Rewa	4
Government Science College, Gwalior	20
Lucknow University, Lucknow	19
Rajasthan University, Jaipur	15
S.V. University, Tirupati	10

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Bose Institute, Calcutta	20
National Institute of Oceanography, Goa	12
Punjab University, Punjab	1

Pharmacological activity

361 compounds/samples received from universities and research departments were screened.

Physicochemical measurements:

The Regional Sophisticated Instrumentation Centre carried out spectral, elemental and other analyses of samples (number given against each) for universities, research laboratories and industry :

Spectroscopy: Mass (2130), NMR (758), IR (1561), UV (394)

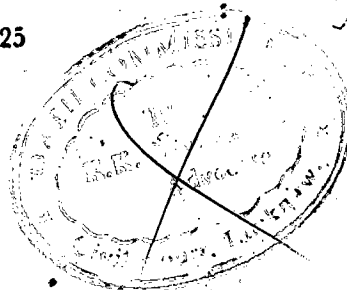
Microanalysis: CH (1637), N (1284)

Gas liquid chromatography: 97

Beta and gamma scintillation counting: 2897

WM 400 NMR: 25

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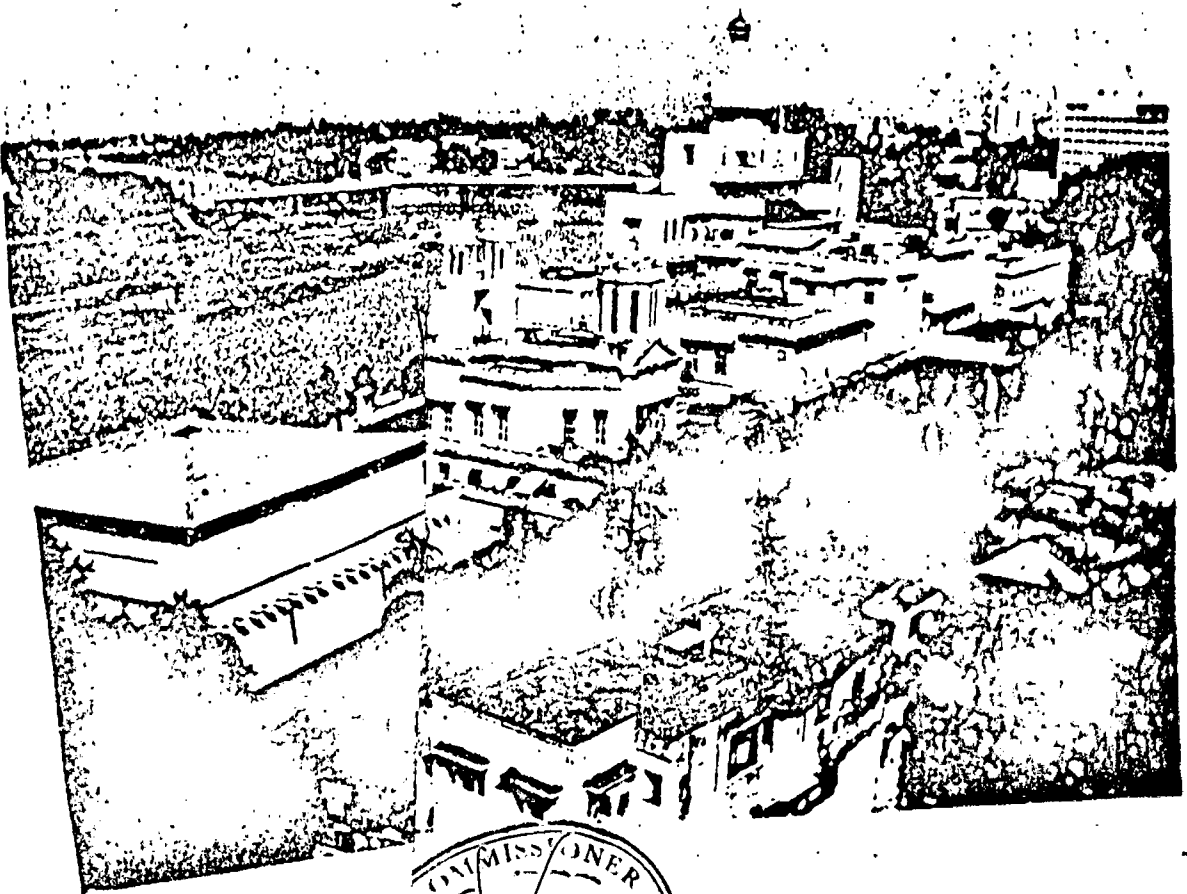


Annexure No 4

वार्षिक प्रतिवेदन (21)
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केन्द्रीय औषधि अनुसंधान संस्थान लखनऊ - 226 001
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peptides as analgesics and immunomodulators and anti-diabetic agents.

The realisation of objectives of thrust area programmes set forth in the eighth plan demand upgradation of existing facilities to overcome obsolescence and development of new facilities to meet future needs. Major inputs will be made for upgradation of the following facilities: (i) bioassay of lymphokines, antigen characterisation, gene sequencing and cloning, DNA probes; (ii) computer modelling and drug designing; (iii) clinical pharmacokinetic laboratory for bioavailability/bioequivalence studies on selected generic drugs; (iv) housing facilities for animals infected with tropical diseases.

New facilities that are proposed to be developed include (i) High Voltage Electron Microscopy for biological studies; (ii) Parasite Bank for procurement, maintenance and supply of selected protozoal and helminth parasites and vectors for parasite antigens/biochemical studies; (iii) Protein Engineering Facility for development of new vaccines and site specific drug delivery systems and study of drug receptor interactions; (iv) Centralised Cell Culture Facility for maintenance of cell culture lines and hybridoma, and (v) Primate Behaviour Facility for study of the effect of psychopharmacological agents, dependence producing compounds and for development of primate models for neurological disorders.

2. Progress in R&D Programmes

Most of the objectives set forth in the plan of work of various project areas have been accomplished as will be evident from the following highlights.

2.1 New drug development

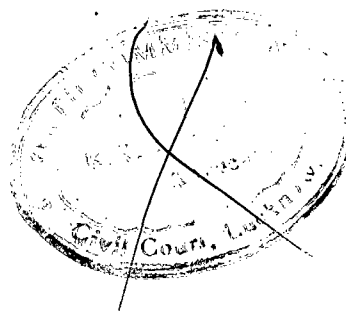
Centchroman (oral contraceptive) completed extended phase III trials in 125 women volunteers at 30 mg weekly dose and in 87 women at a new 30 mg biweekly regimen at 7 state medical colleges and 6 family welfare clinics at Lucknow; no adverse effects were observed. Ultrasonographic examination showed the ovarian size within normal range. Phase III trials of Centchroman for the treatment of advanced cancer of breast are in progress at Bangalore, Bombay, Delhi, Lucknow and Varanasi centres.

Centpropazine (antidepressant) has been cleared by the Drugs Controller (India) for carrying out phase III clinical trials.

Centimzone (antithyroid), phase IV clinical study to monitor its efficacy and adverse effects has progressed well at Department of Surgery, K.G's Medical College, Lucknow and Department of Endocrinology and Metabolism, AIIMS, New Delhi. Patients suffering from hyperthyroidism have shown remission in most cases and partial remission in some cases at Lucknow centre; the achievement of euthyroid state is indicated by decline in T_3 , T_4 and TSH levels. At the Delhi centre half the cases had clinical remission and some other cases showed partial response.

Electromechanical monitoring of Chandonium iodide (neuromuscular blocking agent) induced muscle relaxation has been completed and the data submitted to the Drugs Controller (India) for permission to conduct phase III trials.

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Interferons have shown a prophylactic/immunomodulatory role in fungal infections. Murine interferons (MulFN- α/β) and IFN inducer (Poly I:C) have provided significant protection in Swiss and Balb/c mice against *Candida albicans*. MulFN has been found to be protective and therapeutic; the protective effect was, however, inoculum and dose dependent. Protection was also obtained in *Aspergillus fumigatus* keratitis.

2.3 Diagnostics

Filariasis diagnostic kit developed at CDRI for detection of early cases of filariasis was released to Malladi Drugs & Pharmaceuticals Ltd., Madras for commercialisation.

Immunodiagnostic tests (IFA & Dot-ELISA) for detection of leishmaniasis (kala-azar) were found to be highly sensitive and specific for diagnosis of kala-azar in a pilot clinical study.

2.4 Animal model/test systems

Following animal model/test systems have been developed during the year:

Indian langours (*Presbytis entellus*) infected with the human filaria parasite *Brugia malayi* have been found to develop symptoms similar to clinical manifestation in humans. This animal model of filariasis with oedematous swelling developed in inoculated limb will be suitable for understanding the mechanism of development of elephantiasis in humans and as a tertiary test model for new antifilarial drugs.

Successful transmission of *Leishmania donovani* infection in Indian langours has been achieved making this species a good model for secondary screening of antileishmanial compounds.

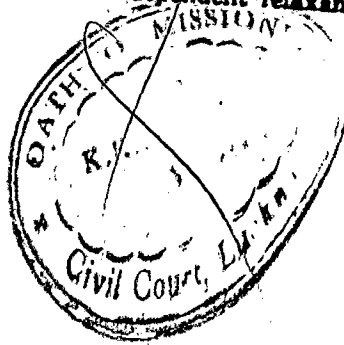
In view of therapeutic potential of agents affecting calcium, potassium and sodium channels, test systems have been standardised to evaluate drug effects on ionic channels in the myocardium.

2.5 Basic research

Significant leads have been identified involving anti-oxidant enzymes and polyamine uptake mechanism of filarial parasites as biochemical targets for development of better antifilarial compounds.

A proaggregatory factor of low molecular weight protein has been found in mouse plasma; the factor is calcium dependent and inhibited by increasing the cellular cAMP levels.

Serotonin (5-HT) induced peripheral inhibitory effect has been demonstrated for the first time. 5-HT produces biphasic response on the isolated colon of *mastomys*: initial relaxation followed by contraction. Specific 5-HT₁ receptor antagonist, methysergide, blocks Ca-independent-relaxant effect: mediated via 5-HT₁ receptors.



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Studies on erythrocyte membrane have convincingly demonstrated that both membrane skeleton-bilayer interactions and ATP-dependent aminophospholipid pump are required for maintenance of the asymmetric transbilayer phospholipid distribution in erythrocytes.

Studies on major integral membrane proteins of *P. falciparum* infected monkey erythrocytes have shown that erythrocyte anion channel protein does not undergo any major structural changes during malarial infection.

Bacillus sphaericus (mosquito larvicide) formulation has shown efficacy against larvae of *Culex* and *Anopheles* mosquitoes in several field studies. The biocide has been found to be effective till the observation period of 4 months of the study so far. The formulation does not show any significant deterioration on storage in polythene packets at room temperature.

Liposomal preparation of stibionate against leishmaniasis in hamsters has been found more effective than the unliposomal drug.

Primaquine tape containing an improved matrix has shown desired release of the drug. Its efficacy in challenged monkeys was about 50%. The tape is being improved further.

Improvement has been made in the process for synthesis of Centchroman by modification of certain steps; the modified process has effected considerable economy and safety.

An enzyme immunoassay has been developed for the estimation of Centchroman in human serum. The assay has a sensitivity of 2.50 pg/cc, which is ten fold more sensitive than the HPLC assay.

3. Services by National Facilities

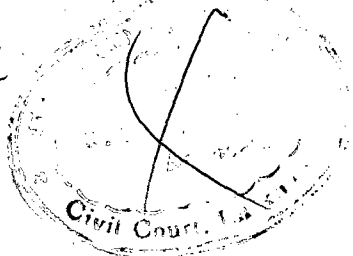
ICMR Centre for Advanced Pharmacological Research on Traditional Remedies has made significant progress in evaluation of hepatoprotective activity of Picroliv; identification of adaptogenic activity in *Asperagus racemosus*; identification of antiurolithiatic activity of *Crotaeva nurvala* in its active principle, lupeol; standardisation and quality control of specifications for Kahar Sutra to effect minimal variation in clinical preparations; and identification of antifilarial activity of *Streblus asper* in its 2 glycosides which are being modified chemically to make them safer.

WHO Collaborating Centre for Preclinical Evaluation of Antimalarials has imparted training in maintenance of rodent malaria parasite and primary screening of potent antimalarial compounds. It also supplied cryopreserved strains of laboratory maintained rodent and simian malaria parasites to 3 institutions.

The newly created 'Parasite Bank' has become operational and a few research centres of the country have already taken advantage of this national facility.

National Laboratory Animal Centre (NLAC) has introduced new strains such as DBA/2 and C₃H/J inbred mice and F344 Fischer and Wistar inbred rats. A tissue culture laboratory has been initiated to create a facility alternative to the

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use of laboratory animals in biomedical research. NLAC has been linked with International Council of Laboratory Animals Science (ICLAS) as an associate member. The centre has also started a quarterly publication NLAC Newsletter with the objective to fill the information gap between NLAC and users of its services.

Regional Sophisticated Instrumentation Centre (RSIC) carried out spectral (nmr, mass, ir, uv) analysis, gas/high pressure liquid chromatography, elemental analysis, electron microscopy, etc. of about 8500 samples received from research institutions, academia and industry.

National Information Centre for Drugs and Pharmaceuticals (NICDAP) has continued to provide information services in the area of drugs and pharmaceuticals to industry, academia and research organisations in the country. It published four monthly bulletins: *Current Highlights (R&D)*, *Industry Highlights*, *Patents Awareness* and *Current Indian Titles*. It functions as a WHO Collaborating Centre on Drug Information for the countries of the South East Asian Region and as a centre for Biotechnology Information System Network of the Department of Biotechnology.

4. Human Resource Development

Like the previous years the institute has made significant contribution by training Indian and foreign scientists/students from research organisations/industry/academia. For this purpose the institute has organised training programmes and conducted workshops in different fields.

During the year 30 research fellows/scientists were awarded Ph.D. degree from different universities.

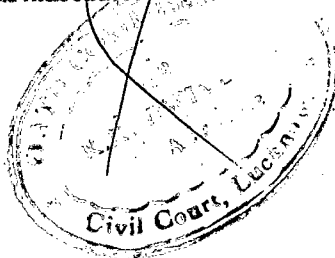
A practice school for final year students of BITS, Pilani has been initiated enabling them to spend 6 months on research projects in the institute's laboratories. Under a summer training programme selected M.Sc. 1 year and B.Sc. III year students of local educational institutions were paid stipends to work in CDRI laboratories for 3 months.

NLAC provided training in maintenance of laboratory animals to 17 trainees and specialised training to 5 trainees. RSIC provided training in use of sophisticated instruments to 16 trainees from various parts of the country.

The institute provided ad-hoc short term training in techniques in drug research to 7 persons under the fellowship programmes of Indian Technical Economic Cooperation Programme (1), S&T Programme with Czechoslovakia (1), Thailand Institute of Scientific & Industrial Research (1), UNIDO (1) and WHO (3).

Four workshops, one seminar and two symposia were also held at the institute during this period: RSIC workshops on FT NMR (19 April) and Mass Spectroscopy (8 August); Workshop on Quality of Worklife in CSIR Laboratories (21-22 August); NICDAP regional seminar on Biomedical Library and Information Network (30 August), Symposium on Natural and Synthetic Drugs (10-11 February) and Workshop on Clinical Pharmacokinetics (26-30 March).

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Other Activities

A 'Healthcare Centre' established under the joint auspices of CDRI and the Department of Health & Family Welfare, U.P. at Tilhar town in Shahjahanpur was inaugurated on 8 November; the centre makes available to rural people institute's drugs and facilities for specialised test.

To inform and educate people about CDRI work and achievements several exhibitions have been organised: S&T Exhibition at Ottapalam, Kerala (1-14 Sept) and CSIR Foundation Day (26 Sept) and National Science Day (28 Feb) at CDRI.

The institute celebrated its 39th Foundation Day on 17 February; the Annual Day address was delivered by Prof. B. Ramamurti, Head, Department of Neurosurgery, V.H.S. Medical College, Madras and Presidential address by Prof. S. C. Bhattacharya, Ex-Director, Bose Institute, Calcutta. On this occasion Prof. P. N. Tandon gave away mementoes to institute employees who had completed 25 years of service in CDRI and Dr. S. C. Bhalla, Director-General Medical & Health Services, U.P. released the institute's Filariasis Diagnostic Kit being marketed by M/s Malladi Drugs & Pharmaceuticals Ltd, Madras.

The programme of general lectures by different R&D divisions was continued during the year to cultivate awareness among the staff about the institute's R&D programmes and achievements.

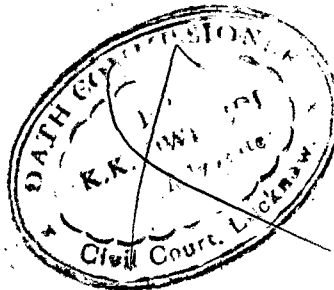
The institute also organised CSIR distinguished scientists lecture on 'Liposome technology' delivered by Dr. B. K. Bachhawat, Head, Biochemistry Department, Delhi University (18 Oct); and CDRI's 40th anniversary inaugural lecture on 'Clinical research from wards to laboratories' by Prof. P. N. Tandon (14 March).

6. Honours/Awards

Several scientists of the institute have received recognition during the year. Dr. D. S. Bhakuni and Dr. A. P. Bhaduri shared the Ranbaxy Research Award (Pharmaceutical Sciences) for 1988; Dr. C. M. Gupta received Dr. Nityanand Endowment Lecture Award (1989) of the Indian National Science Academy, Dr. (Mrs.) Madhu Dikshit, INSA Young Scientist Medal and Achari Prize of India, Pharmacological Society (1989); Dr. N. L. Pal, Silver Medal of the Indian Society of Parasitology Parasite Photocontest (1989); Mr. Pradeep Kumar Srivastava, Outstanding Young Person of India Award of Indian Junior Chamber (1989-90) and I myself have been elected fellow of the National Academy of Science, Indian college of Allergy and Applied Immunology and National Academy of Indian Medicine (1989).

During the year yet another significant development is the success achieved by Wockhardt Pvt. Ltd., Bombay which produced 45 tonnes of Dextropropoxyphene hydrochloride (DHC) based on technology developed by CDRI; the production of DHC has effected foreign exchange saving through import substitution of internal demand (20 tonnes) and by earning of foreign exchange

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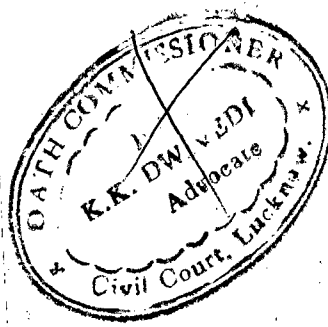
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export (25 tonnes) to 11 countries including USA, UK, Switzerland, France, etc.

Gugulipid (hypolipidaemic) developed by CDRI and marketed by CIPLA Ltd., Bombay under the trade name *Guglip* has fared well in the market. During the year the *Guglip* sale was worth Rs. 60 lakhs. Gugulipid has been licensed to Arkopharma Laboratories, France for marketing to EEC member countries.

The external cashflow during the year 1989-90 was Rs. 304.5 lakhs which constituted 33% of the total institute's budget of Rs. 969.5 lakhs.

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H. N. DHAWAN
Director

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Physicochemical measurements:

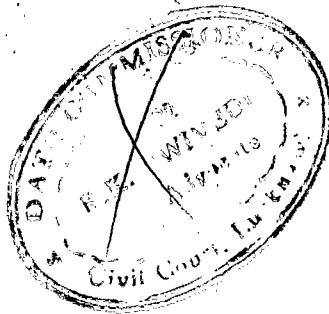
The Regional Sophisticated Instrumentation Centre carried out spectral, electrochemical and other analysis of samples (number given against each) for universities, research laboratories and industry:

Spectroscopy: Mass (1657), NMR (701), IR (1426), UV (167) Microanalysis: CHN (679)

Gas liquid chromatography: 97

PM 400 NMR: 161

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VI TRAINING/WORKSHOPS

Training:

Short term training was provided to the following persons as indicated against each:

Mr. A. Ghotke and Mr. M. Narsimha Membrane biochemistry
Poona University, Pune

Mr. V. G. Misra and Mr. R. K. Hans. Carcinogenicity, bioassay systems and
IV Orientation Training Programme histochemistry
Industrial Toxicology Research Centre,
Lucknow

Mr. M. Premnathan, Antiviral screening and tissue culture
Centre for Advanced Study in Marine
Biology, Annamalai University, Madras

Mr. K. V. Sharma -do-
Bharat Immunological and Biological
Corporation Ltd., New Delhi

Dr. M. M. Zafar, Screening of potential compounds against
Research Officer, malaria/leishmania parasites
Hamdard University, New Delhi

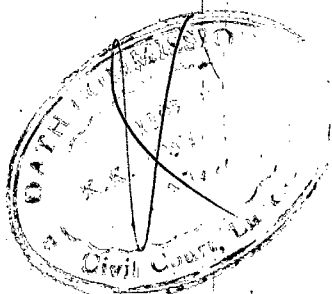
Mr. S. Rajendra, In vitro and in vivo screening
Textile Research Association, of antibacterial/antifungal agents
Coimbatore

Mr. R. Mohan and Mr. P. Ravindran Immunodiagnosis of Filariasis
Malladi Drugs & Pharmaceuticals Ltd.,
Madras

Mrs. Usha Gaur and Sunita Malaviya, Immunology of Filariasis
Department of Zoology, Ujjain Univer-
sity, Ujjain

Mr. Simmi Agarwal and Chemotherapy of Filariasis
Anita Shukla
Department of Chemistry, Lucknow
University, Lucknow

श्री श्री श्री



37

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126

Mr. P. Murilidhar and
Miss Jayshree,
Post Graduate Institute of Medical
Education and Research, Chandigarh

Laboratory maintenance of **O**arial
parasite

Mr. Pankaj Seth,
Lucknow University, Lucknow

Pharmacological screening

Mr. S. N. Sarkar,
Indian Veterinary Research Institute,
Izatnagar

Pharmacological screening

Mr. A. K. Pandey and
Mr. B. P. Singh
Harcourt Butler Training Institute
Kanpur

Fermentation technology

UNIDO Fellow

Mr. Ram Raja Pandey,
Royal Drug Research Laboratory,
Kathmandu, Nepal

Pharmacological screening

TISTR Fellow

Mr. J. Limpanussorn,
Thailand Institute of Scientific
and Technical Research,
Bangkok, Thailand

Toxicology

S&T Programme

Dr. Samuel Velechny,
Slovak Academy of Sciences, Kosice,
Czechoslovakia

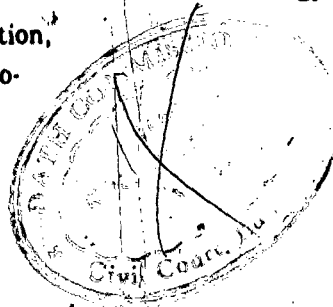
Biochemistry of helminths

ITEC Fellow

Ms. Pham Thi Bao,
Department of International Cooperation,
State Committee for Science & Techno-
logy, Hanoi, Vietnam

Fermentation technology

2101.2 1212



184 (38)

WHO Fellow

Miss Mary Rashidi
International Relations Department,
Ministry of Public Health,
Kabul, Afganistan

Chemical analysis of drugs

Mr. Nguyen Ngoc Quang and
Mrs. Pham Thuy Hanoi, Pharmacist,
Vietnam

Process development

Training courses:**(i) Training of students from Birla Institute of Technology and Science (BITS), Pilani**

Fifteen students of BITS were provided training during the period, 26 May-23 July 1989 under their Summer Practice School Training Programme. Eight students were trained in different R&D projects in the institute from 6 Jan-17 June 1990 on monthly stipend.

(ii) Summer vacation programme for students

Under the CSIR Summer Vacation Programme, six students (M.Sc. I/-B.Sc.III) of local educational institutions were provided 3 months training on monthly stipend.

(iii) Technician training course in laboratory animal science

Seventeen trainees from 11 research institutions/academic institutions/industry attended the training course during 11 Sept.-6 Oct. 1989.

Specialised training was provided to 5 scientists for a period ranging between 4-12 weeks.

(iv) CSIR Orientation Training Course for Scientists B

Eight scientists B from CSIR laboratories were provided training at CDRI during 22 May-27 June, 1989 in various disciplines of the institute.

Dr. Neeraj Sihna and Mr. S. Radhakrishnan from CDRI participated in the course during 10 Apr.-9 Oct. 1989.

सिंह नेरज



(39)

185

Workshops/Symposia

Workshops on FTNMR and Mass spectrometry were organised by Regional Sophisticated Instrumentation Centre on 19 April and 8 August respectively.

Workshop on 'Quality of Worklife in CSIR Laboratories' sponsored by NIS-TADS (CSIR), New Delhi was held during 21-22 August.

A regional seminar was organised by National Information Centre for Drugs & Pharmaceuticals, CDRI on 'Biomedical Library and Information Network' on 30 August.

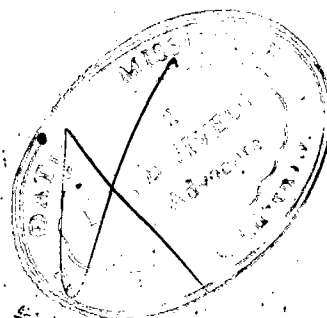
Symposium on 'Nutrition and Drug Action' was held in collaboration with the Roussel Scientific Institute, Bombay on 16 December.

International Symposium on 'Natural and Synthetic Drugs' sponsored by DST, DOD, DBT and CSIR was held during 10-11 February.

Workshop on 'Health Monitoring of Laboratory Animals' sponsored by DBT and Laboratory Animal Science Association of India was organised during 27-28 February.

Workshop on 'Clinical Pharmacokinetics' sponsored by International Union of Pharmacology, Indian National Science Academy and CDRI was held during 26-30 March.

21.8.83



(40)

✓ V ANALYTICAL/TESTING SERVICES

186

Pharmacopoeial assay, toxicity testing, biological screening and physico-chemical analysis of samples/compounds were carried out for research institutions, hospitals and industry:

Pharmacopoeial assay

Organisations

Samples

Somaiya Organics (India) Ltd., Barabanki n-Butyl alcohol

Rajendra Agriculture University, Bihar Turmeric powder

Gujarat Agriculture University, Anand Commiphora wightii resin

Biological Screening

Antibacterial/Antifungal:

Number of compounds/samples

Industrial Toxicology Research Centre,
Lucknow

5

Lucknow University, Lucknow

16

Jabalpur University, Jabalpur

2

Saugar University, Saugar

1

Antiviral:

Lucknow University, Lucknow

38

Antimalarial:

Saugar University, Saugar

6

Antifilarial:

3

Lucknow University, Lucknow

Pharmacological activity:

333 compounds/samples received from universities and research departments were screened.

SMA I and II (male antifertility vaccine): Toxicity studies on the vaccine referred by ICMR were carried out in monkeys and report compiled.

Electron microscopy:

Electron microscopy of 350 samples for Medical Colleges, Research Institutes and Universities were carried out.

21/5/67 RPS



(41)

187

192

Appendix - iv

BUDGET

1989-90

Head Actual expenditure (Rs. in lakh)
Recurring:

Pay of officers	117.282
Pay of establishment	92.970
Allowances & honoraria	151.055
Contingency	71.000
Maintenance	18.850
Chemical & apparatus	96.000

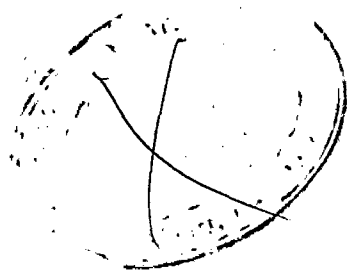
Total 547.137

Capital	
Works	1.863
Services	16.700
Equipment	71.370
Miscellaneous	27.919

Total 117.852

Grand Total 664.989

21513 JPE



Annexure No 5

188

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वार्षिक प्रतिवेदन
ANNUAL REPORT
1990-91



केन्द्रीय औषधि अनुसंधान संस्थान लखनऊ-226 001
CENTRAL DRUG RESEARCH INSTITUTE LUCKNOW-226 001

प्रोग्रामर सिद्ध

189

(47)

From the Director's Desk

It gives me pleasure to present CDRI Annual Report for the year 1990-91, which marks the completion of the Institute's four decades of existence. A brief account of the progress is given below under the headings, products/ technologies released, R & D programmes and academic and other activities.

1. Products/ Technologies Released and Agreements Signed

Centchroman, a non-steroidal oral contraceptive for the female, has been released to public sector firm Hindustan Latex Ltd., Trivandrum for marketing. It has been approved for introduction in the National Family Welfare Programme by the Ministry of Health & Family Welfare, Govt. of India.

Process technology for 1-acetyl phenyl carbinol has been released to Altus Pharma Tech Pvt. Ltd., Bombay for commercialisation.

Agreements have been signed with two firms viz (i) Ranbaxy Laboratories Ltd., Ropar (Punjab) for development of Chandonium iodide; and (ii) LVMH Recherche, France for study on selected plant extracts for cosmetic and dermatological purposes.

About 5000 kits of a two minute test paper for iodine estimation of iodised salt have been supplied to UNICEF for field trial.

2. Progress In R & D Programme

Significant progress has been made under 15 project areas, including the new area of 'Chemistry and Biology of Peptides' introduced this year.

2.1 New Drug Development

2.1.1 Fertility regulation

Centchroman (oral contraceptive) extended phase III clinical trials have been continued during the year. At 30 mg weekly dose 36 women volunteers who completed a total of 1623 months and 1452 menstrual cycles with use duration ranging between 13-40 months were free from pregnancy and any adverse effects except prolongation of a few cycles during the study period. The above dose given initially for 12 weeks in a biweekly mode followed by weekly schedule has been evaluated at 6 medical colleges and 5 Family Welfare Centres under the Directorate of Family Welfare, UP and found as a safe and effective contraceptive in women with a lower Pearl Index. Centchroman phase III multicentric clinical trials in cases of advanced breast cancer have continued at 5 centres. Synthesis of three immunogens has been made to develop its homologous and heterologous immunoassay.

21/12/91
[Signature]



44

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✓ **IV ANALYTICAL/TESTING SERVICES**

Pharmacopoeial assay, toxicity testing, biological screening and physico-chemical analyses of samples/ compounds were carried out for research institutions, hospitals and industry:

1. Pharmacopoeial assay

Organisations

The Assistant Collector of Customs,
Calcutta

Arko Pharma Laboratories, France

Dr. D.K. Tandon, Bhuvaneswer

Department of Shalya, Shalakya,
BHU, Varanasi

Somaiya Organics (India) Ltd.,
Barabanki

Gujarat Agriculture University, Anand
IDPL, Bombay

Samples

p-Nitroacetophenone

Gugulipid

Ayurvedic sample

Kshar sutra

n-Butyl alcohol

Commiphora wightii resin (26)

Insulin

2. Biological screening

Antibacterial / Antifungal

Osmania University, Osmania

PEG Degree College, Chamoli
Uttar Pradesh

Lucknow University, Lucknow

PEG College, Nazibabad

Anthelmintic

Lucknow University, Lucknow

Sagar Vishwavidyalaya, Sagar

Indian Lac Research Institute, Ranchi

Antifertility

Lucknow University, Lucknow

Regional Engineering College, Warangal

Number of compounds/ samples

12

10

12

7

9

10

1

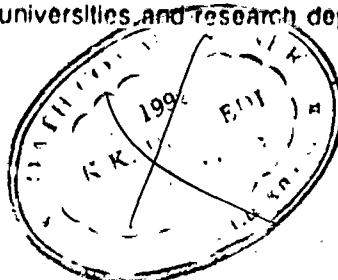
6

18

3. Pharmacological activity

286 compounds/ samples received from universities and research departments were screened.

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191 (45)

86

Steroid and peptide hormones in 400 samples and trace elements in 850 samples received from Medical Colleges at Lucknow and Allahabad.

4. Electron microscopy

Electron microscopy of 265 samples for medical colleges, research institutes and universities were carried out.

5. Physicochemical measurements

The Regional Sophisticated Instrumentation Centre carried out spectral, elemental and other analyses of samples (number given against each) for universities, research laboratories and industry:

Spectroscopy : Mass (1220), NMR (686), IR (1127), UV (167)

Microanalysis : CH (372), N (239)

Gas liquid chromatography: 50

WM 400 NMR: 113

~~21513~~ RTZ

192

46

✓ **V TRAINING/WORKSHOPS****1. Training**

Short - term training was provided to the following persons in the techniques indicated against each:

Miss Projna Paromita Halder,
Birla Institute of Technology and
Science (BITS), Pilani

Reproductive biology and
fertility regulation

Mr. Anil Singh and Mr. Saurabh
Srivastava, BITS, Pilani

Biochemical studies related to
malaria infection and CNS active
drugs

Mr. Shalendra Saraf, Department of
Pharmaceutical Sciences,
Doctor Hari Singh Gaur Vishwa
Vidyalaya, Sagar

Biochemical techniques

Dr. D. Das,
Department of Biophysics,
Institute of Medical Sciences,
BHU, Varanasi

Estrogen receptor assay

Mr. D.C. Biswas,
U.P. Drug House (P) Ltd.,
Lucknow

Bioassay of antibiotics

Miss Ritu Saxena,
Miss Elke C. Schaffers, Miss S.D. Graft
and Miss M-H-M Van Oostan,
Erasmus University, Rooterdan,
The Netherlands

Techniques in pharmacology

Dr. R.P. Gupta,
Department of Pharmaceutics,
BHU, Varanasi

HPLC techniques

Mr. Pankaj Sinha, Mr. Swanesh Paliwal
and Miss Simantini Das,
Harcourt Butler Technological Institute,
Kanpur

Fermentation technology

Mr. Nitesh,
BITS, Pilani

Drug standardization techniques

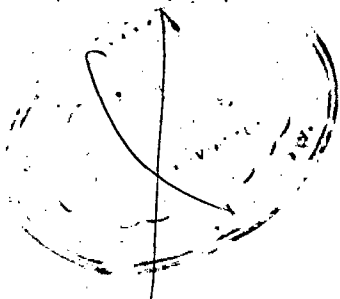
Miss Rupali Mitra,
Bharat Aluminium Co. Ltd., Bilaspur

Electron microscopy techniques

Km. Mangla Dave,
Govt. Girls' College, Khandwa, M.P.

Biomedical analysis of medicinal
plants

20/12/82



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(47)

88

Mr. K. Elango,
JSS College of Pharmacy, Rocklands,
Ootacamund

Techniques in pharmacology and
drug standardization

Mr. R.C. Sekar,
BITS, Pilani

Fermentation technology

Mrs. Simmi Sarin and
Miss Amita Shukla,
Lucknow University, Lucknow

Chemotherapy of filariasis

Dr. Yogesh Porwal,
GSVM Medical College, Kanpur

Immunology of filariasis

Mrs. Budha Ram Singh and
Mrs. Neeru Nalvar,
Lucknow University, Lucknow

(10)

Miss Nupur Singhal,
BITS, Pilani

Helminthic chemotherapy

Miss Neena Singh, and
Miss Depika Mahajan,
Post-Graduate Institute of Medical
Education and Research

Culture and chemotherapy of
leishmaniasis

Miss Anvita Dubey,
Sagar University, Sagar

Chemotherapy of malaria

Dr. Manmeet Singh
Ayurvedic College, Lucknow

Stool examination for amoebic
and giardial infections

Mr. Chauhan and Mr. S.B. Sinde,
BITS, Pilani

Drug standardization techniques

ITEC Programme
Mrs. Pham Thi Bao,
Department of International Cooperation
State Committee for Sciences &
Technology, Hanoi, Vietnam

Microbial transformation of
steroids
(15 Jan - 10 July)

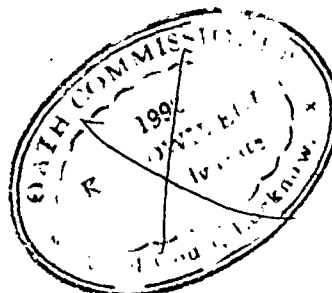
WHO Fellow
Dr. Li Gyong Bok,
Institute of Antibiotics, Academy of
Medical Sciences, Suncheon City,
North Korea

Membrane biology
(23 July - 12 Sept)

Dr. Kim Man Son,
Institute of Antibiotics, Academy of
Medical Sciences, Suncheon City,
North Korea

Microbial genetics
(23 July - 12 Sept)

21/07/79



48

194

89

Hakim Md. Abu Taleb,
Principal,
Government Tibbiah College,
Sylhet, Bangladesh

Standardization of crude drugs
(13 Aug - 7 Sept)

INSA-FASAS-TWAS, TCDC Programme

Mr. Samten and Mr. Tashi
Indigenous Hospital, Thimpu, Bhutan
Dr. S. Rana Singh
Vishwa Institute of Oriental Medicine
Kocheikade, Sri Lanka

Medicinal plants research
18 - 26 May

Identification of medicinal plants
4 Oct 90 - 3 Jan 91

2. Training courses

- (i) *Training of students from Birla Institute of Technology and Science (BITS), Pilani*
Fifteen students of BITS were provided training during the period 20 May - 20 July under their Summer Practice School Training Programme.
- (ii) *Summer vacation programme for students*
Under the CSIR Summer Vacation programme, six students (M.Sc. I/B.Sc III) of local educational institutions were provided 3 months training on monthly stipend.
- (iii) *Technician training course in laboratory animal science*
Nineteen trainees from research institutions/ academic institutions/ Industry attended the training course during 3 - 28 December.

3. Workshops/ Symposia

Workshops on 'Recent Trends in Electron Microscopy - Malaria Research' and 'Modern NMR and Biology' were organized by Regional Sophisticated Instrumentation Centre on 3 September and 24 October respectively.

Symposium on 'Biosciences', sponsored by CSIR-DAAD, was organized during 15 - 18 November.

Group monitoring workshop on 'Neurobiology' sponsored by Department of Science & Technology was held during 30th Nov. - 1st December.

Symposium on 'Non-human Primates in Research and Conservation Strategies', sponsored by CDRI, DIT, Laboratory Animal Science Association of India and Primatological Society of India was organised during 31st Jan - 2nd Feb, 1991.

21.5.91 RT



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Appendix — IV

BUDGET

1990-91

Head

(A) Recurring:

Sanctioned Estimates
(Rs. in Lakh)

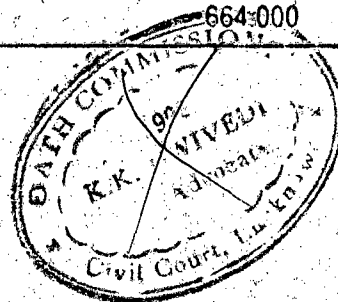
Pay of officers, establishment and allowances & honoraria	372.000
Contingency	70.000
Maintenance	18.000
Chemical & apparatus	95.000
Total	555.000

(B) Capital

Works	2.000
Services	10.000
Equipment	61.000
Miscellaneous	36.000
Total	109.000

Grand Total 664.000

योग ३.३१६



Before the Central Administrative Tribunal
Additional Bench at Allahabad
Circuit Bench, Lucknow

C.M. Application No. 538 of 1993

In re:

O.A. No. 221 of 1990

Yogendra Singh

Applicant

versus

Council of Scientific and Industrial
Research and others

Respondents

Application under rule 15(2) of the Central
Administrative Tribunal (Procedure) Rules, 1987
for recall of the judgment dated 26.2.1993

This humble application on behalf of the
applicant above-named most respectfully sheweth as
under:

That for the facts, circumstances and
reasons contained in the accompanying affidavit,
it is most respectfully prayed that the Hon'ble
Tribunal may be pleased to recall its order dated
26.2.1993 and after restoring the aforesaid
application to its original number hear and dispose

D.O.
26-2-93

Brief holders of Sign Manual
Not pressed
8/2

Put up
with
21/5
18/5-1993

File today
19/5/93

Place before
the Hon'ble
Bench on
6/7/93 for
order

30.6.93

Amr Bar
Amr

over 19.5.93
19.5.93

of the same on merits after giving an adequate opportunity to the applicant to make his submissions before the Hon'ble Tribunal.

Amit Bose
(Amit Bose)

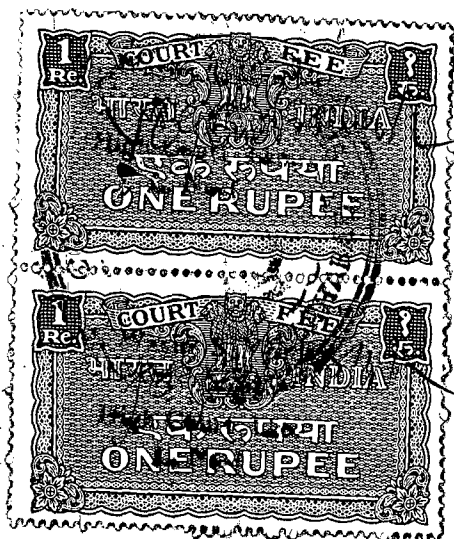
Advocate
Counsel for the applicant

Lucknow:Dated

April 30, 1993

Before the Central Administrative Tribunal
Additional Bench at Allahabad,
Circuit Bench, Lucknow

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C.M.Application No.

of 1993

In re:

O.A.No. 221 of 1990

Yogendra Singh

-Applicant

versus

Council of Scientific and Industrial
Research and others

--Respondents

--

AFFIDAVIT

I, Yogendra Singh, aged about 48 years,
son of Sri Ram Lakhan Singh, resident of House no.
567/176, Anand Nagar, Barha Road, Lucknow, the deponent,
do hereby make oath and state as under.



1. That the deponent is the applicant himself in
the above-mentioned application and, as such, he is
fully conversant with the facts deposed to
hereinafter.

2. That the deponent has filed the above-mentioned
application before this Hon'ble Tribunal challenging
the order of his suspension dated 21.2.1990, and the
memo. of charges issued against him on 2.5.1990
by the Director, Central Drug Research Institute,
Lucknow proposing to hold an inquiry against the

योगेंद्र सिंह

deponent under rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules. The said order of suspension and thememo of charges have been annexed as Annexures nos. 1 and 2 to the above application.

3. That the main ground on which the aforesaid application was filed by the deponent was that the Council of Scientific and Industrial Research as well as its units are covered by the definition of the term 'industry' as defined in section 2(j) of the Industrial Disputes Act and also covered by the definition of the term 'industrial establishment' as defined in section 2(e) of the Industrial Employment (Standing Orders) Act read with section 2(ii)(f) of the Payment of Wages Act and, as such, it was incumbent on the Council to have submitted draft standing orders for certification by the Certifying Officer under the Standing Orders Act or to have got Bye-law 12 framed by it certified under the said Act and since none of the aforesaid two steps were taken by the Council, Bye-law 12 whereby the provisions of the Central Civil Services (Classification, Control and Appeal) Rules and the Central Civil Services (Conduct) Rules were made applicable to the employees of the Council could not be made applicable to them, and, as such, no action could be taken against any employee of the Council including the deponent under the provisions of the Central Civil Services (Classification, Control and Appeal) Rules or the Central Civil



22/1/22
21/1/22

Services (Conduct) Rules . Since the impugned order of suspension and the memo. of charges issued against him were issued under the provisions of the Central Civil Services (Classification, Control and Appeal) Rules and the deponent was charged for having violated the Central Civil Services (Conduct) Rules, disciplinary proceedings instituted against him as well as the order of suspension were without jurisdiction and, therefore, liable to be quashed.

4. That counter and rejoinder affidavit had been exchanged in the aforesaid application and the same was fixed for hearing on 26.2.1993 but inadvertently the said date could not be noted by the counsel for the deponent and, as such, he could not appear before the Hon'ble Tribunal when the aforesaid application was taken up for hearing. On the said date the deponent also could not appear before the Hon'ble Tribunal as he was held up due to family problems and, as such, the aforesaid application was heard and disposed of ex parte.



5. That an impressⁱⁿ had been given to the Hon'ble Tribunal by the counsel for the respondents that the application had become infructuous since the charge-sheet had been amended , but, it is respectfully submitted here that the amendments made to the memo. of charges vide Memorandum dated 23.12.1992 are only formal in nature relating to the provisions , violation of which the deponent was being proceeded against. The aforesaid facts

29/12/92
M.E.

would be evident from the aforesaid Memorandum dated 23.12.1992 a true copy of which is being annexed as Annexure no. 'A' to this affidavit.

6. That it is apparent from the above that the substance of the charges as well as the provisions under which he is being proceeded against are the provisions of the Central Civil Services (Conduct) Rules and the Central Civil Services (Classification, Control and Appeal) Rules which, according to the submissions of the deponent in his application are not applicable to the employees of the Council and as such by no stretch of imagination can it be said that the application filed by the deponent had become infructuous in any manner.

7. That in view of the above and in view of the fact that the deponent could not appear before the Tribunal on 26.2.1993 when the aforesaid application was disposed of finally, it is necessary in the ends of justice to the deponent that the Hon'ble ^{Tribunal} ~~Court~~ may be pleased to recall its order dated 26.2.1993 and after restoring the aforesaid application to its original number hear and dispose of the same on merits.

8. That the deponent was furnished a certified copy of the order dated 26.2.1993 only on 13.4.1993 whereafter he is filing the instant application within a period of 30 days as prescribed by rule 15(2) of the Central Administrative Tribunal (Procedure) Rules, 1987



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21/12/12

and as such the instant application is within time.

Lucknow: Dated

योगेश्वर सिंह
Deponent

~~April~~, 1993
12-5-93

I, the deponent named above, do hereby
verify that contents of paras 1 to 8 of
this affidavit are true to my own
knowledge. No part of it is false and
nothing material has been concealed; so
help me God.

योगेश्वर सिंह

Lucknow: Dated

Deponent

~~April~~, 1993
12-5-93

I identify the deponent who has signed before me.

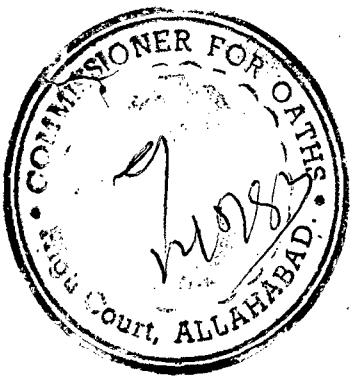
R.K. Srivastava
(R.K. Srivastava)
Clerk to Sri Amit Bose, Advocate

Solemnly affirmed before me on 12/5/93
at 9.31 a.m. by Yogendra Singh

the deponent who is identified by Sri

~~clerk to Sri~~ R.K. Srivastava / Amit Bose

Advocate, High Court, Allahabad. I have satisfied
myself by examining the deponent that he understands
the contents of the affidavit which has been read out
and explained by me.



योगेश्वर सिंह

C. P. MISRA
Advocate Oath Commissioner
High Court
Lucknow
Date 12/5/93

CENTRAL DRUG RESEARCH INSTITUTE
(Council of Scientific & Industrial Research)

Registered A.D.

Chattar Manzil Palace
Lucknow

No.10(104)/90-Vig.

23rd December, 1992

MEMORANDUM

In partial modification of Annexures I and II of Memorandum of even number dated 2.5.90 issued to Sri Yogender Singh, Staff Car Driver (Under suspension), the following paragraphs of Annexures I and II will stand amended as follows:-

Annexure - I

In the 1st paragraph of Annexure-I for the words "of section 279 of I.P.C." read "Rule 3 (1) (ii) and (iii) of C.C.S. (Conduct) Rules 1964 as made applicable to the employees of CSIR."

For the 2nd paragraph of Annexure-I the following paragraph is substituted.

"By the aforesaid negligence and rashness in performance of his duty as a driver Sh. Yogender Singh aforesaid has contravened the provisions of clauses (ii) and (iii) of sub-rule (1) of Rule 3 of CCS (Conduct) Rules 1964 as made applicable to the employees of CSIR."

Annexure - II

The last two paragraphs of Annexure-II the words "He has thereforeemployees of CSIR" will be substituted by the following:-

"He has, therefore, committed an act/misconduct which tantamounts to habitual negligence and rashness resulting in serious consequences."

"He has thus failed to maintain devotion to duty and committed an act unbecoming of a Council employee contravening Sub Rule (1) (ii) (iii) of Rule 3 of CCS (Conduct) Rules, 1964 as made applicable to the employees of CSIR."



श्री ३.

2

In case Shri Yogender Singh, Driver, has to make any written representation against the amended charge-sheet he can make it within 10 days of the receipt of this memorandum.

V.P. Kamboj

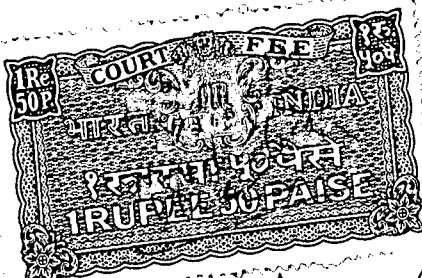
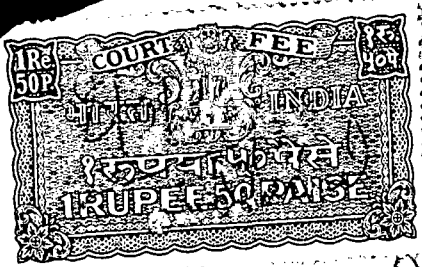
(V.P. KAMBOJ)

Director

CDRI, Lucknow.

✓ Sri Yogender Singh,
Staff Car Driver (U/S), CDRI,
567/176, Anand Nagar,
Baraha Road,
Lucknow 226 005





F.F. 6/81

Before Central Administrative Tribunal.

अदालत श्रीमान्

महोदय

[वादी अपीलान्त]

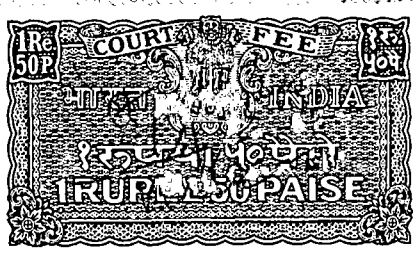
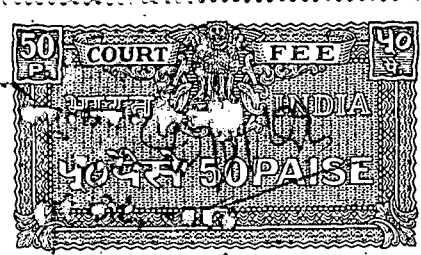
प्रतिवादी [रेस्पाडेंट]

Yogendra Singh

वकालतनामा

OA No. 221/90

MP 538/93



(वादी अपीलान्त)

Yogendra Singh
Council of Science and Industrial Research
(प्रतिवादी रेस्पाडेंट)

नं. मुकद्दमा

सन्

पेशी की ता०

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ऊपर लिखे मुकद्दमा में अपनी ओर से श्री
Vishwa Mohini.Vimal Kumar, Advocate
16/1281, Indira Nagar Lucknow

Advocate High Court, 126/43/5, B.N. Road Lucknow

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिख देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें 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 हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें - वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूँगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फंसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिये यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

[Signature]

साक्षी (गवाह)

(गवाह)

दिनांक

2/7/92

महोना

स्वीकृत

[Signature]

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Accepted

Accepted