

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

OA/TA/RA/CP/MA/PT 0.A.260 of 20-90Dr. B. M. GuptaApplicant(S)

Versus

.....Respondent(S)

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B.C. file weeded and destroyed

Certified that the file is complete in all respects.

[Signature]
.....
Signature of S.O.[Signature]
11/6/12
.....
Signature of Deal. Hand

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 260 of 1989 90 (L)

21/8

APPLICANT(S) Dr. B. M. Gupta

RESPONDENT(S) U. O. 9

Particulars to be examined	Endorsement as to result of examination
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.O./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 outcome 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

(H)

Particulars to be Examined	Endorsement as to result of examination
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 ?	yes
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/

21/8

①
B-8-90

①
Hon M. D. K. Agrawal, J.M.
Hon Mr. K. Bhargava, J.M.

~~DA 257/90~~
6A 260/90

Shri B. K. Shukla for applicant.
Heard.

(A7)

Issue notice to respondents as
to why the petition is not
admitted.

List on 14-9-90 for
admission

[Signature]
Am

[Signature]
Jm

Notical Issued
Shri
3-9-90

②

14/9/90

Hon. Mr. Justice K. Nath, VC
Hon. Mr. M. M. Singh, Am.

OR

Notices were
issued on 3.9.90
Neither reply
nor any unsent
repl. cover has
been return back
S.F.A.

On the application on
behalf of respondent No. 3
for time to file reply,
list the case for
admission hearing on
12/11/90.

L
13/5

M. H. L
Am

[Signature]
VC

OR

Neither reply on behalf
of O.P. No 3 nor any unsent
repl. cover on behalf of
O.P. No 142 have been
return back.
S.F.A.

③

13-11-90 Hon Mr Justice K Nath, VC
Hon Mr M. Y. Pralokan, Am

Respondent No 3 has
applied for time to file
a reply on the ground that the
legal advisors of the Department
have to be consulted. List for
admission on 11.12.90

[Signature]
Am

[Signature]
VC

OR
No CR filed
S.F.A.

L
14/11/90

OA 260/905

20.8.91

(14)

10.9.91

No Shingrao for 10.9.91

Dr

No Shingrao for 11.11.91

Dr

(6)

21.2.91

Counter has been
filed. Put up
on 21/3/91 for
filing Response

Dr

CA/RA have been
served

S.F.A

4/9/91

(7)

21.3.91

D.R.

Respondent's side
is present. Applicant's
side is absent. R.A.

has not been filed.

Applicant is ordered

to file R.A. by 15

15.4.91.

(8)

15.4.91

D.R.

Respondent's side is
present. Response has not
been filed till today by Shri
D.K. Shukla Id. counsel for
the applicant. He desires
to file it, by 30.4.91.

30.4.91

D.R.

Both the parties are present
today. Applicant to file
Response by 10/7/91.

10, 11, 12 91
order back
Page 40
81

(9)

O.A. NO-260/90(L)

11-11-91

Hon. Mr. A.B. Gorthi, A.M.

Hon. Mr. S.N. Prasad, J.M.

Counter, Respondent have been
~~exchanged~~
exchanged. List this case for
hearing/admission on
10-12-91

J.M.

A.M.

SPH/

10-12-91

Hon. Mr. Justice U.C. Srivastava, J.C.

Hon. Mr. A.B. Gorthi, Member A.

Notice may be issued to the
Respondent No 2 and the
Copy of the application will also
step filed today be given to him by the office.
to O.P No. 2. Respondent No 2 will be filed
17/12/91 his reply within 3 weeks
for B.K. Shukla. after receipt of the Notice
List this case on 21-1-92
for hearing or admission.
A.M.

v.c

21-1-92 Hon. Mr. S.N. Prasad, J.M.

or
notice issued
19/12/91

Case called out. Mr. R.A. Mishra,
brief holder of Mr. B.K. Shukla, learned
counsel for the application for adjournment.
Mr. C.P. Narain, departmental advocate,
is present. Mr. H.H. Sarma, learned counsel
for respondent, has also moved an
application for adjournment. In this
case for admission/final disposal on
10-2-92, as the case may be.

Notice was
issued to CP No 2.
Neither reply
nor any amended
reply has been
returned back.
S.P.A. /

29/1/92

25.2.92

Hon Mr S. N. Prasad J.M.

O.A 260/90

(A8)

Mr B. K. Shukla, learned counsel
for the proposed LRs of deceased applicant
and Mr Harihar Saran, learned counsel
for opposite party no. 3. The opposite
parties 1 & 2 have not yet appeared.
Issue notice to respondents 1 & 2. (ohhmita harkis
no. 182). Reply/objections, if any be filed
within 4 weeks hereof.

Let this case for disposal
of M.P No. 169/92 on 27.3.92.

J.M.

27.3.92

Honbl. Mr. S. N. Prasad J.M.

Case Called on. Mr. H. H. Saran
learned counsel for respondent no. 3.
objection has been filed against the
substitution application by the opp. party
no. 3.

Heard the learned counsel for
opposite party no. 3 in regard to mpe
petition no. 169/92 which is regarding
substitution of legal ~~representative~~ represent-
ative of deceased applicant. Dr.
B. M. Gupta, J. has considered the
view points and find that the substitution
application is within ^{the limitation} period and
I find no legal ground to reject the same.
MP No. 169/92. The ground appeared to
be sufficient and MP no. 169/92 is
allowed as prayed.

continued

269/90.

20.4.92 ~

This case is adjourned to ~~21.4.92~~
for hearing.

L

20.4.92

Honl. Mr. S. M. Prasad J.M

Sr. B. K. Shukla Ye & a
applicant and Sr. H. H. Saran

Ye & a the respondent. ar. 3

Head the learned Counsel
for the parties. Judgment reserved

9

Sm

23.4.92

Honl. Mr. S. M. Prasad J.M

Judgment for reasons
today with. after Cont.

Sm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT

BENCH LUCKNOW

Original Application No. 260 of 1990(L)

Dr. B.M. Gupta (Deceased)

1/1. Debashis Gupta

1/2. Smt. Joyoti Sen.

1/3. Smt. Aditi Gupta.

. Applicants

Versus

2. Union of India through Secretary, Science & Technology Mantralaya, New Delhi.

2. Director General, Indian Council of Medical Research, Ansari Nagar, P.B. No. 4508, New Delhi.

3. Director, Central Drug Research Institute, Chhattar Manzil, P.B. No. 173 Lucknow.

. Respondents.

Hon'ble Mr. S.N. Prasad, Member(J)

Since the former applicant Dr. B.M. Gupta died during the pendency of this application, his legal representatives, who are present applicants, have been brought on record. The applicant has approached this tribunal under section 19 of the Administrative Tribunals Act, 1985 with the prayer to the effect that the respondents be directed not to give effect to the impugned letter/order, dated 14.9.89 contained in Annexure No. A-1 to this application, and for directing the respondent No. 3 to pay the arrear of the difference of the salary/emoluments to the applicant along with up-to-date interest.

2. Briefly stated the facts of this case, inter-alia, are that the former applicant (since deceased Dr. B.M. Gupta) was working as Head of the Division of Virology, CDRI (Scientist E-II), and during

Contd....2/-

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the tenure of his service, the CDRI Administration in early 1979 took a firm decision to start a research project on antiviral drugs. On the basis of its accumulated experience, an institutional Research Project on "Development of Interferon Inducers and Antiviral Drugs for use in Man" was launched in collaboration with National Institute of Virology, Pune, and accordingly they submitted a suitable R & D proposal to Indian Council of Medical Research, and it was decided by the administration to appoint Dr. B.M. Gupta (aforesaid applicant since deceased) as the "Principal Investigator" of the project. In the very inception it was made clear that the total emoluments which the aforesaid Dr. B.M. Gupta was getting i.e. Rs. 3160/- per month, was to be protected as per existing C.S.I.R. Rules (vide annexure A-2). The savings generated were held in account of the grantee to pay for the protective salary of Rs. 3160/- per month as had been stipulated but the applicant was paid Rs. 1500/- per month only. The applicant had been urging his the ten employer CDRI Administration as well as the project sponsors I.C.M.R. through written reminders from time to time starting from July 8, 1981 and onwards but the emoluments given to the applicant was Rs. 1500/- per month and post-commuted pension amount of Rs. 995/- amounting the total of Rs. 2495/- per month and as such there was a shortfall of Rs. 665/- per month to the applicant and as such the applicant sustained a loss to the tune of Rs. 33915/- from 1981 to 1985 when the aforesaid project was completed and ~~none~~ ^{when in} response to the reminder sent by the applicant C.D.R.I. administration expressed its inability

(A10)

:: 3 ::

Rs. 33915/- in violation of the stipulation made by the Director C.D.R.I. (vide letter dated 14.9.1989 annexure A-1) illegally and arbitrarily, hence, the applicant approached this tribunal for the relief as indicated above.

3. In the counter, filed by the respondents No. 3 it has been, inter-alia, contended that the applicant retired from service of the C.D.R.I. on 31.12.1980 and from 1.1.1981, the applicant was being paid honorarium Rs. 1500/- per month despite the pension. It has further been contended that the applicant was neither engaged as C.S.I.R. Scientist nor was re-employed on a post under the C.D.R.I., and since the applicant accepted to work as Principal Investigator under the D.S.T. scheme on the conditions as laid down in the sanction of the D.S.T., as it would be clear from the letter of the Administrative Officer dated 22.1.1981 (vide annexure C.A.-2), there was no any violation of ~~any~~ Service Rules, hence, the applicant is not entitled to any amount or any interest from the C.D.R.I. It has further been contended that the claim of the applicant is barred by limitation.

4. The applicant has filed the rejoinder-affidavit wherein he has re-iterated almost those facts which have been mentioned in the application.

5. I have heard the learned counsel for the parties and have thoroughly gone through the records of the case.

6. The learned counsel for the applicant while drawing my attention to the contents of the

(11)

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application, counter-affidavit , rejoinder-affidavit and papers annexed thereto has argued that the aforesaid former applicant Dr. B.M. Gupta was a Scientist and ~~as~~ an eminent personality so, his honorarium should have been fixed not less than the pay which ~~was~~ being drawn by him at the time of his retirement i.e. 31.12.1980 as is clear from the perusal of Annexure A-2, and has further argued that since the applicant sustained a loss to the tune of Rs. 665/- per month for 51 months, ~~as~~ ^{if} The applicant was paid Rs. 1500/- only as an honorarium and Rs. 995/- as comuted pension, ~~as~~ there is a violation of the principle of natural justice and ~~the~~ violation of the terms and conditions as laid down in Annexure A-2, the relief sought for be granted.

7. The learned counsel for the respondent No. 3 while drawing my attention to the pleadings of the parties and to the papers annexed thereto has argued that a perusal of annexure C.A.-1 & C.A.-2 would show that the aforesaid Dr. Gupta agreed to work and had accepted the terms and conditions contained in letter dated 9.6.1980 (annexure C.A.-1) and as such aforesaid Dr. B.M. Gupta was not entitled to any other amount as he had already retired on 31.12.1980, and he was being given Rs. 1500/- as honorarium, over and above, his pension which he was getting from the department concerned and as such the applicants are not entitled to any relief and the application of the applicant be dismissed.

Contd....5/-

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:: 5 ::

8. A perusal of annexure C.A.-1 which is copy of letter of the respondents No. 1 dated 9.6.1980 to the respondent No. 3 shows that honorarium to the aforesaid Dr. B.M. Gupta at the rate of Rs. 1500/- per month from 1.1.1980 was granted for rendering of the services by him as referred to above. In this context it is noteworthy that office memorandum No. 11/4/80-ESTT dated 22.1.1981 issued by the respondents No. 3 (copy of which is annexure C.A.-2) shows that the aforesaid Dr. B.M. Gupta had accepted the terms and conditions contained in the aforesaid letter dt. 9.6.1980 granting him honorarium @ Rs.1500/- per month and after accepting the aforesaid ^{rate of} honorarium the aforesaid Dr. B.M. Gupta had taken over as Principal Investigator of the aforesaid scheme from the forenoon of 1.1.1981, after his retirement on 31.12.1980. It is also important to point out that a perusal of annexure A-2 which is D.O. letter dated 8.5.1980 addressed to Professor V. Rama-Lingo Swami, Director General, Indian Council of Medical Research, New Delhi shows that the total emoluments of the aforesaid Dr. B.M. Gupta at that time was Rs. 3160/- per month and keeping in view the above total emoluments, his honorarium was to be fixed. It is also pertinent to point out that a perusal of annexure A-3 which is the application of the aforesaid Dr. B.M. Gupta shows that he had requested for increasing his aforesaid honorarium, keeping in view the rising cost of the living etc. Thus, from the scrutiny of the entire material on record and keeping in view the acceptance of the aforesaid Dr. B.M. Gupta ^{about} the amount of honorarium to the tune of Rs. 1500/- per month and keeping ^{in view} the facts ^{that} of the aforesaid Dr. B.M.

Contd...6/-

AB

:: 6 ::

Gupta went on working till the completion of the aforesaid project, and keeping in view the facts that the aforesaid honorarium of Rs. 1500/- per month was fixed over and above, his pension and other retiral benefits after his retirement, I find that the above arguments of the learned counsel for the applicants do not appear to be sound and tenable, whereas the ^{above} arguments of the learned counsel for the respondents No.3 appear to be sound and tenable.

9. From the fore-going discussions and after scrutinising all the ~~entire~~ material on records and keeping in view the circumstances of the case, ^{I find} that the application of the applicant is devoid of merit and consequently, the application of the applicant is dismissed with no order as to the costs.


Member (J)

23.4.92

Lucknow dated 23.4.1992.

(RKA)

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

O.A. No. 260 of 1990

Central Administrative Tribunal

Circuit Bench, Lucknow

Date of Filing 21/8

Date of Receipt by Post

Deputy Registrar (I)

Dr. B.M. Gupta

Applicant 21/8

Versus

Union of India & Others Respondents

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4.	<u>Annexure No. A-3</u>	
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LUCKNOW: DATED

August 21, 1990

(B.K. SHUKLA)

Advocate

Counsel for the Applicant

AW

Filed today
21/8/90

noted for
20/8/90
B.K. Shukla
Adv.

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IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

O.A. No. 260 of 1990 (4)

Amended/substituted vide order dt.
27.3.92, passed on M.P. No 169 of 1992
BShukla
31.3.92

- 1/1. Debashis Gupta, aged about 26 years, son of late Dr. B. M. Gupta, resident of C-162 Nirala Nagar, Lucknow.
- 1/2. Smt. Joyoti Sen, aged about 39 years, wife of Commander A. K. Sen, daughter of late B. M. Gupta, resident of 23-Nofra, Colaba, Bombay.
- 1/3. Smt. Aditi Gupta, aged about 32 years, wife of Sri S. S. Gupta, d/o late B. M. Gupta, resident of Blossoms Cooperative Housing Society, Military Road, Marol, Andheri (East), Bombay.

--- Petitioners/Applicants

Dr. B. M. Gupta, aged about 68 years, son of Late Sri S. Gupta, resident of C-162 Nirala Nagar, Lucknow

.....Petitioner/Applicant

Versus

1. Union of India -

Through Secretary, Science & Technology
Mantralaya, New Delhi.

2. Director General, Indian Council of Medical Research,
Ansari Nagar, P.B. No. 4508, New Delhi-110029

3. Director, Central Drug Research Institute,
Chhattar Manzil, P.B. No. 173 Lucknow-226001

.....Opposite Parties

Details of application

Particulars of applicant

- | | |
|--|--|
| (a) Name of the applicant | - Dr. B. M. Gupta |
| (b) Name of father | - Late Sri S. Gupta |
| (c) Designation of Office in which employed last | - Head of the Division
- Virology, C.D.R.I. |

15. M. Gupta

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- (d) Office Address - As above (Now retired)
- (e) Address for service
of all notices - C-162, Niralanagar, Lucknow.

Particulars of the Opposite Parties

- (a) Office address of respondents - As above
- (b) Address for service of all
notices - As above

1. Particulars of the order against
which this application is made

This is an application against refusal to pay the emoluments actually sanctioned to the applicant, vide letter, dated 14-9-89, issued by the Administrative Officer of Central Drug Research Institute, Lucknow. That by this letter, the Opposite Parties have refused to pay the difference of amount to the applicant. A true copy of the impugned letter, dated 14-9-89, is being annexed as Annexure No. A-1 to this application.

2. Jurisdiction of Tribunal

The applicant declares that the subject-matter

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B. M. Gupta

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of the order against which the applicant wants redressal is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation

The applicant declares that the application is within limitation prescribed under Section 21 of the Administrative Tribunal Act, as per the impugned letter, dated 14-9-89, contained in Annexure No. A-1 to this application.

4. Facts of the Case

(i) That the applicant was working as Head of the Division of Virology, CDRI (Scientist E-II). During the tenure of his service, the CDRI Administration in early 1979 took a firm decision, stemming from the internal compulsions of good house keeping operation, to start a research project on antiviral drugs. On the basis of its accumulated experience, an Institutional Research Project on "Development of Interferon Inducers and

B. M. Gupta

AWD

"Antiviral Drugs for use in Man" was launched in collaboration with National Institute of Virology, Pune. Accordingly, they submitted a suitable R & D proposal to Indian Council of Medical Research. It was decided by the administration to appoint Dr. B.M. Gupta, the applicant, as the 'Principal Investigator' of the project.

(ii) That this decision was communicated to the sponsors of the project, I.C.M.R (Indian Council of Medical Research)

(iii) That before finalization of the proposal, the Director, CDRI stipulated making it clear to the sponsors that the total emoluments that the Principal Investigator designate applicant, the then Head of Division of Virology, CDRI (Scientist E-II) was getting Rs. 3160/- per month, was to be protected as per CSIR Rules then in existence. The photo copy of the letter of the Director, CDRI., dated 8-5-80 is being annexed as Annexure No. A-2 to this application.

B. M. Gupta

(iv) That Director, CDRI further

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stipulated that the financial commitments for this project would be accommodated within the committed expenditure by eliminating the posts of Senior Research Assistant/Junior Research Associate, so that the salary and wages as drawn up and shown in Annexure No. A-2 of the CDRI component of the project proposals, would not require any change in budget, but change in staff only.

(v) That these stipulations from the grantee (Director, CDRI), since they were made before the finalization of the proposals and start of the project, were as much a binding on the sponsors as it was on CDRI administration itself.

(vi) That most of the conditions/stipulations in letter as stated in para (iii) & (iv) above were implemented by CDRI Administration and staff strength adjustment was accordingly made. However, the matter relating to protection of the applicant's salary was not implemented.

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(vii) That the savings generated were held in account of the grantee to pay for the protective salary of Rs. 3160/- per month as had been stipulated. But the applicant was paid Rs. 1500/- per month only. The applicant has been pressing ever since for payment of emoluments at the rate the grantee had stipulated.

(viii) That the project ended its tenure on 31st December, 1984. It further received an extension for 3 months more to enable the Project Investigator (applicant) to write up the final report and the status report.

(ix) That the applicant had been urging his then employer CDRI Administration as well as the project sponsors I.C.M.R through written reminders from time to time starting from July 8, 1981. The photo copy of the letter dated 8-7-81 is being annexed as Annexure No. A-3 to this application.

(x) That no demand certificate relating

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B. M. Gupta

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to the project on conclusion was made available by grantee to Project Investigator on 14-12-1987, but the promise of payment of the emoluments at the stipulated rate was not fulfilled.

(xi) That in response to written reminders sent by the applicant, the CDRI administration has expressed its inability to pay the arrears of salary/emoluments less paid to the applicant for the period under reference, which comes approximately Rs. 33915/-, in violation of the stipulations made by the Director, CDRI in June 1980. The true copy of the impugned letter, dated 14-9-89 has already been annexed as Annexure No. A-1 to this application.

(xii) That the decision of the CDRI administration of 1979-80 assuredly taken on the basis of C.S.I.R. service rules and merit of the case in the matter of salary/emoluments to be paid to the Principal Investigator, designate of the project, cannot now be revoked by the

B. M. Gupta

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present CDRI management with retrospective effect, particularly when the applicant has committed no breach of the C.S.I.R. (Council of Scientific & Industrial Research) Service Conduct Rules.

(xiii) That to the contrary the project under the applicant's guidance, successfully operated to produce not only results, ideas and products central to the objectives of the project (antiviral drugs) but went far beyond to attract considerable national and international attention.

(xiv) That accordingly, the Director CDRI proceeded with the project; as per his own suggestions he did not recruit personnel to the post of the Senior Research Associate, and the post remained vacant throughout the tenure of research.

(xv) That it may be noted that the project was launched in June 1980 as per the proposal of the Director, CDRI, when the applicant was working as Head of the Division of Virology, CDRI.

13. M. Gupta

The applicant was looking after the project on the part-time basis in addition to his normal duties.

On his superannuation, the applicant took over charge of the project with effect from 1-1-81.

The stipulation of re-employment was very clear
as indicated in Director, C.D.R.I. letter, dated
8-5-80 (Annexure No. A-2), that the total emoluments
would be the same as being drawn by him on retirement
e.g. Rs.3160/- per month.

(xvi) That as against the above stipulations, the emoluments given to the applicant were Rs. 1500/- per month and post-commuted pension amount of Rs.995/- amounted to Rs. 2495/- per month. So in this way, there was a shortfall of Rs.665/- per month. Thus the total shortfall from 1981 to 1985 (51 months) comes to Rs.33915/-

(xvii) That the applicant continued to work despite the shortfall in emoluments.

B. M. Gupta

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Between the time the decision of C.D.R.I. administration to pay the applicant Rs. 3160/- per month as Principal Investigator of the project, and the decision communicated to the applicant, and he took over the duties of Principal Investigator with effect from 1-1-1981, there is nothing on record of C.D.R.I. administration to show that the applicant would not be paid this emolument. Six months time (i.e. 8-5-80 to 1-1-81) was sufficient interval of time within which C.D.R.I. administration could have communicated a change in decision. Because the terms were acceptable to the applicant (i.e. the emoluments equivalent to the last pay drawn by the applicant), therefore, the applicant accepted the offer and committed himself to work whole-heartedly in furtherance of the programme in preference to other alternatives.

B. M. Gupta

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(xviii) That in the above circumstances, the Opposite Parties have illegally withheld/refused the difference of the salary/emoluments of the applicant.

(xix) That the Opposite Party No. 3 is duty-bound to pay the difference of the salary/emoluments equivalent to the last pay drawn along with entire arrears of about Rs. 33915/- together with the interest at the rate of 18 % per annum from the date the amount became due till the date of its actual payment.

(xx) That in view of the Annexure No. A-1, the Opposite Parties are under legal obligation to pay the arrears of the salary/emoluments to the applicant.

5. Grounds of relief with legal provisions

(i) Because the impugned order/letter dated 14-9-89 has been passed arbitrarily, illegally and without application of mind.

B. M. Gupta

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(ii) Because the applicant is very much ✓
entitled to get the salary/emoluments equivalent
to the last pay drawn by him, ✓ for the period ✓
when he was in service.

(iii) Because the Opposite Parties have
failed to fulfil their own commitments/terms and
conditions as per Annexure No. A-1, dated 8-5-80.

(iv) Because the Opposite Parties have
failed to consider the representations given by the
applicant from time to time.

(v) Because the act of the Opposite Parties
is arbitrary, illegal and unwarranted.

(vi) Because the Opposite Parties have
violated the principles of natural justice of law.

(vii) Because the Opposite Party No. 3 is
under legal obligation to pay the arrears of the
salary/emoluments to the applicant.

6. Details of remedies exhausted

(a) The representation, dated 8-7-81

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-13-

sent to the Director General, Indian Council of Medical Research, contained in Annexure No. A-3.

(b) A letter, dated 21-12-81 sent to the Senior Scientific Officer, Department of Science and Technology, Technology Bhawan, Mehrauli Road, New Delhi.

(c) A letter, dated 10-2-82 sent to the Principal Scientific Officer, Department of Science and Technology, Technology Bhawan, New Mehrauli Road, New Delhi.

(d) A letter, dated 29-6-83 sent to the Secretary, Department of Science and Technology, Technology Bhawan, New Mehrauli Road, New Delhi.

7. Matter not previously filed or pending in any other Court

That the applicant further declares that he has not previously filed any application, Writ Petition or suit relating to the matter in respect of which this

B. M. Gupta

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application has been made, before any Court or any other Bench of this Tribunal, nor any such application, Writ Petition or suit is pending before any of them.

8. Relief Sought

(a) In view of the facts and circumstances mentioned above, the applicant prays that this Hon'ble Tribunal may very kindly be pleased to direct the Opposite Parties not to give effect to the impugned letter/order, dated 14-9-89, contained in Annexure No.A-1 to this application.

(b) In view of the facts and circumstances mentioned above, the applicant prays that the Opposite Party No. 3 may kindly be directed to pay the arrear of the difference of the salary/emoluments to the applicant along with up-to-date interest.

(c) Any other relief which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case, be also awarded.

B. M. Gupta

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9. Interim order, if any, prayed for

No interim order is being prayed for.

10. That this application is being filed through
the Counsel.

11. Particulars of Postal Order filed in respect of
the application fee.

No. 8 02 467532, dated 20-8-90, for Rs. 50/-
only.

12. List of enclosures

1. Annexure No. A-1

Letter dated 14-9-89 issued by the
Administrative Officer, Central Drug
Research Institute, Lucknow.

2. Annexure No. A-2

Letter of the Director, CDRI, dated 8-5-80

3. Annexure No. A-3

Letter dated 8-7-81

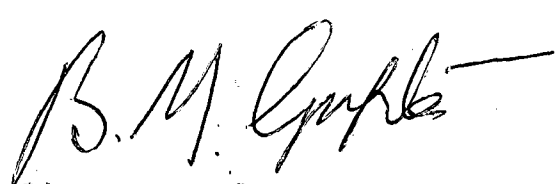
Verification :-

I, Dr. B.M. Gupta, aged about

-16-

AB^o

68 years, son of Late Sri S. Gupta, resident of
C-162 Niralanagar, Lucknow, retired from the post
of Head of the Division Virology, C.D.R.I. Lucknow,
do hereby verify that the contents of paras 1 to 12
are true to my personal knowledge, and I have not
suppressed any material fact.



LUCKNOW: DATED
August 21, 1990

Signature of the applicant

Through



(B.K. SHUKLA)
Advocate

Counsel for the Applicant

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

O.A. No. of 1990

Dr. B.M. Gupta Applicant

Vs.

Union of India & Others Respondents

Annexure No. A-1

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OF 15-200

CEVENING

30-11-80



No. 11/4/80-Ext

आरोग्य और परिवार कल्याण विभाग, लखनऊ

असल पत्रिका, गोरू बाग, नं. 173

पिन 226 001 (भारत)

CENTRAL DRUG RESEARCH INSTITUTE

Charan Manzil, Post Box No. 173

LUCKNOW-226001 (INDIA)

Date 14.9.89

(15) Dr. B.M. Gupta,
Consultant (Virologist),
Industrial Toxicology Research Institute,
Mahatma Gandhi Marg,
Lucknow.

Sub: DST Project entitled 'Development of Interferon Inducers and Antiviral Drugs for use in man' (from 1.6.80 to 31.3.85).

Sir,

With reference to your Letter No.COM/ITRC/89 dated 10.5.89 on the above subject, I am directed to inform you that your request for enhancement of honorarium sanctioned by DST vide their Letter No.HCS/DST/768/79 dated 9.6.80 as notified by this Office Memorandum of even number dated 22.1.81 (copies enclosed) has been considered by the competent authority and it is regretted that the same has not been acceded to.

Yours faithfully,

(H.C. Chhabra)
Administrative Officer

Encl.: As above.

B.M. Gupta

T.C.
Shukla
Adm.

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. No. of 1996

Dr. S.M. Gupta Applicant

Vs.

Union of India & Others Respondents

Annexure No. A-2

Dated: May 8, 1980.

For Prof. Ramalingaswami,

Kindly refer to your letter No. 13/14/79 BCD-2 dated September 28, 1979 addressed to Secretary, DST, regarding grant of funds for collaborative studies between CDRI, Lucknow and NIV, Pune on "Interferon Inducers" a copy of which was endorsed to us. The funds have been now earmarked for this project by DST under their programme in grants-in-aid. This is now at the final stage.

When the proposal was submitted in early 1979 it was suggested that the Principal Investigator, Dr. S.M. Gupta, FRC, Head, Division of Virology at CDRI in service will guide the scheme. Since Dr. Gupta will be retiring on superannuation on 31st December 1980, his full time service will now be available for the project. The facilities will continue to be provided by CDRI, but the financial commitments in respect of Dr. Gupta will have to be added to the estimates of the project. The present total emoluments of Dr. Gupta are Rs. 3150/- p.m. His salary will have to be fixed according to existing rules. If necessary this amount may be accommodated in the committed expenditure by eliminating the posts of Sr. Research Assistant/Jr. Research Associate. Accordingly the salary and wages as shown in Annexure I of the CDRI component of the scheme may not require any change except the change in staff. This position may kindly be made clear to the sponsoring authority while finalising the project.

With kind regards,

Yours sincerely,

(NITYA HAND)

Prof. M. Ramalingaswami, BSA,
Director-General,
Indian Council of Medical Research,
Ansari Nagar,
New Delhi-110016.

B M Gupta

RC
B Shukla
Adv

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. No. of 1990
Dr. B.M. Gupta Applicant

Vs.

Union of India & Others Respondents

Annexure No. A- 3

Dated: July 8, 1981.

Regd.

Director General,
Indian Council of Medical Research,
Medical Enclave,
Ansari Nagar,
New Delhi-110029.

Dear Sir,

I seek to appeal for revision in my current honorarium of Rs.1500/- p.m. which I am drawing as the Principal Investigator of the CDRI component of the ICMR sponsored DSI supported collaborative (CDRI-NIV) project on Interferon Inducers and Antiviral Drugs as per sanction conveyed by DSI in their letter No.FCS/DSI/763/769 dated 9.6.80 addressed to Director, CDRI, a copy of which has been endorsed to Dr. H.D. Dutta Banik, ADG, ICMR, New Delhi. Two six monthly reports of the progress of work done since the start of project (1.7.80) have already been sent to DSI and ICMR, which give a profile of the contributions so far made, the sense of direction of research and the shape of developments expected, and finally the evolving duties and responsibilities of the Principal Investigator.

2. At the time the project was being finalised, Director, CDRI in a letter addressed to DG, ICMR (a copy of which is enclosed) made a proposal that my proposed salary (honorarium) as the Principal Investigator be fixed on the basis of total emoluments (Rs.3,150/- p.m.) that I drew on the day (1.1.81) I relinquished on reaching superannuation charge of Assistant Director and Head, Division of Virology at CDRI. To give effect to this proposal Director, CDRI even suggested that any increase in expenditure that follows could be accommodated within the sanctioned budget (Rs.5,33,700-00Ps) by eliminating one post of Senior Research Associate.

contd.....2/.....

B.M. Gupta

*T.C.
B. Subramanian
Adv.*

B4

3. In view of the rising ^{Cost} of living and the need to attract best of talents in the country, both the DSI and KMR have of late revised upwards the rates of emoluments payable to Research Fellows and Research Associates (up to Rs. 1500/- p.m.). The new rates have become operative in the project under no v.o. 1.11.80 and the increased expenditure is being appropriated, as per sanction given, from funds already in the budget allotted for the project at COMX.

I earnestly hope that the aforesaid grounds I have stated for revision of my honorarium would be considered on its merits by ICAR and suitable enhancement in my honorarium be recommended accordingly. An early decision in the matter may please be communicated to me.

Thanking you,

Yours faithfully,

(B.M. GUPTA)

Encl: As above.

T. C.
 AB Shukla
 Adm

B.M. Gupta

In The Hon'ble Central Administrative Tribunal
Circuit Bench

~~In the High Court of Judicature at Allahabad~~

LUCKNOW BENCH, LUCKNOW

VAKALATNAMA

On behalf of Applicant

Dr. B. M. Gupta

Applicant

VERSUS

Union of India & Ors. Opp. parties

O.A. No.

of 1990

I/We the undersigned do hereby nominated and appoint Shri BRIJESH KUMAR SHUKLA,
(Advocate) and Shri Ajay Kumar Shukla

(Advocate) to

be counsel in the above matter, and for me/us and on my/our behalf to appear, plead act and answer in the above Court or any Appellate Court or any Court to which the business is transferred in the above matter, and to sign and file petitions, statements, accounts, exhibits, compromises or other documents whatsoever, in connection with the said matter arising therefrom, and also to apply for and receive all documents or copies of documents, depositions, etc., etc., and to apply for issue summons and other writs of subpoena and to apply for and get issued any arrest, attachment or other execution, warrant or order and to conduct any proceeding that may arise thereout; and to apply for and receive payment of any or all sums or submit the above matter to arbitration.

Provided however, that, if any part of the Advocate's fee remains unpaid before the first hearing of the case or if any hearing of the case be fixed beyond the limits of the town, then and in such an event my/our said advocate shall not be bound to appear before the court; Provided ALSO that if the case be dismissed by default, or if it be proceeded ex parte, the said advocate shall not be held responsible for the same. And all whatever my/our said advocate shall lawfully do, I do hereby agree to and shall in future ratify and confirm.

ACCEPTED :

1. B. Shukla Advocate
2. Ajay Kumar Shukla Advocate

Place—LUCKNOW.

Dated.....

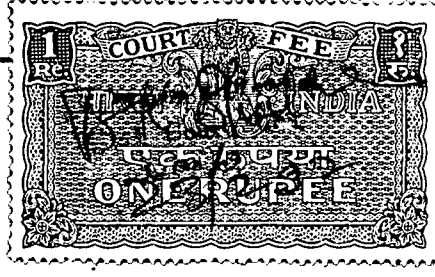
Signature : B. M. Gupta

Witness :

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In the Hon'ble Central Administrative Tribunal
Circuit Bench, Lko

Dr. B. M. Gupta

बनाम Union of India
Dothesh

प्रतिवादी रेस्पान्डेन्ट

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ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Brijesh Kumar Shukla

Advocate

वकील

महोदय

एडवोकेट

नाम अदास्त
नं० मुकद्दमा
नाम फरीकन

को अपना वकील नियुक्त करके (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरबी व जवाब देही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व नगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या बिपक्ष (फरीकसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर - युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी। मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी अपने परोकार को भेजता रहूंगा। अगर मुकद्दमा अदम पैरबी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

Accepted
B. Shukla
Advocate

हस्ताक्षर
Advocate
(D. Gupta)

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

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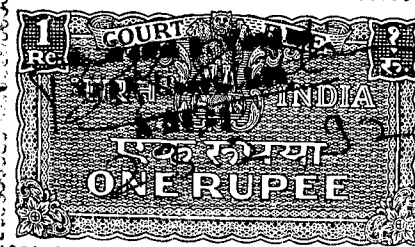
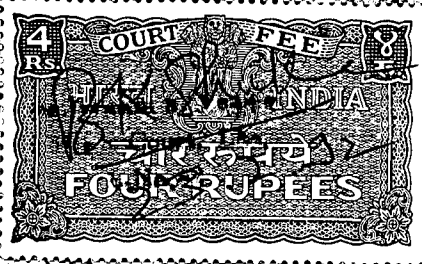
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मुद्दई (मुद्दालेह)



वकालतनामा

In the Honble Central Administrative Tribunal
Circuit Bench, Lucknow

Dr. B. M. Gupta

वनाम Union of India
& others

प्रतिवादी रेस्पान्डेन्ट

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ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Brigish Kumar Shukla

Advocate

वकील

महोदय

एडवोकेट

को अपना वकील नियुक्त करके (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर - युक्त (दस्खली) रसीद से लेवें या पंच नियुक्त करें वकील महोदय द्वारा की गई वह कायवाही हमको सर्वथा स्वीकार है और होगी। मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी अपने परोकार को भेजता रहूंगा। अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और संपन्न पर काम आवे।

Accepted
B. Shukla
Advocate

हस्ताक्षर Jayoti Sen

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

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(A38)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

Circuit Bench - Lucknow.

O.A.No. 260/1990 (L).

Dr. B.M.Gupta.

... Applicant.

Versus

Union of India & Others.

... Opp.Parties.

Written Statement of Opposite Party No.3, Director,
Central Drug Research Institute against the Application.

I, V.P.Bakshi, aged about 56 years, Controller of Administration, Central Drug Research Institute, Lucknow, solemnly state as under:-

1. That the deponent is the Controller of Administration in the Central Drug Research Institute, Lucknow and is well conversant with the facts of the case. He has read the copy of the application to which this written statement is being filed and has understood its meaning.

2. That before giving Parawise reply to the application, it is necessary to raise following Preliminary objections:

3. That the applicant retired from service of the C.D.R.I. on 31.12.1980 and the Present application being in respect of the claim pertaining to the period when he was no more in service of the C.D.R.I. but was ^{in a DST Project} working under the Indian Council of Medical Research for an honorarium, the C.D.R.I. has been wrongly made a Party.

Filed today
21/2/91

Handwritten signature

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4. That after the applicant retired, the claim for remuneration for a period subsequent to retirement could not be made against C.D.R.I. as the applicant ceased to be in service of the Society and remuneration due from ^{any} other party, could not be ~~covered~~ covered by the definition of Service matters as defined in Clause 'Q' of Section 3 of the Administrative Tribunals Act, 1985.

5. That the application is also barred by time as would be explained in para-wise replies.

6. That the contents of paragraph 1 ~~xx~~ of the application in relation to the sending of the letter ~~xx~~ dated 14.9.1989, Annexure A-1 to the application are not disputed. It is, however, denied that the applicant was entitled to the emoluments of Rs. 3160/- per month.

7. That the contents of paragraph 2 of the application ~~do not~~ require any comments.

8. That the contents of Paragraph 3 of the application are denied. The applicant was being paid honorarium @ Rs. 1500/- per month with effect from 1.1.1981 and if the applicant had any grievance, the cause of action arose to him on that date. The Administrative Tribunals Act, 1985 came into force on 27th February, 1985. Under Sub-Section 2 of Section 21 of the Administrative Tribunals Act, the application should have been made within six months of coming into force of the Act. It may be menti-

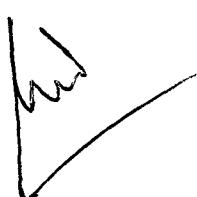
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that the representation Annexure A-3 by the applicant was addressed to the Director General, Indian Council of Medical Research and it was with a Prayer for revising of the honorarium. The first~~ly~~ representation to the C.D.R.I. was made four years after the Project had closed on 10.5.1989. The application, therefore, is barred by time.

9. That in regard to the contents of Paragraph 4(i) of the application, it is admitted that the Project entitled "Development of Interferon Inducer and Antiviral Drugs" used in man^{was} sanctioned by the Department of Science and Technology, Government of India" hereinafter referred to as D.S.T.. In that connection the D.S.T. issued a sanction letter dated 9th June, 1980. The sanction letter contained the budget allocation with detailed breakup and the manner in which the money allocated by them was to be spent by the C.D.R.I.. This letter indicated that an honorarium of Rs. 1500/- per month was to be paid to the Principal Investigator with effect from 1.1.1981 i.e. after his retirement from C.D.R.I.. A copy of this sanction letter of the D.S.T. is being filed as Annexure CA-1.

10. That the contents of Paragraph 4(ii) of the application donot require any comments.

11. That in reply to Paragraphs 4(iii) and 4(iv) of the application, it is only admitted that the Director, C.D.R.I. vide their letter dated 8.5.1980 had written to the Director General, I.C.M.R. that



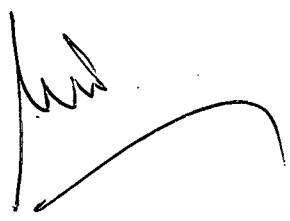
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the Present total emoluments of the applicant were Rs. 3,160/- per month and financial commitment in respect of Dr. Gupta were to be added to the estimates of the Project. It was also mentioned that the post of Senior Research Associates and Junior Research Associates could be eliminated to accommodate the above Proposal. The sanctioning authority i.e. Department of Science and Technology, Government of India did not apparently accept these recommendations routed through I.C.M.R. and as would be clear from Annexure CA-1, they only agreed to an honorarium of Rs. 1500/- per month after retirement of the applicant as per item 3⁽⁴⁾ of the sanction. It is also noteworthy that a copy of this letter was sent to Dr. E.M. Gupta also and once he started working in the capacity of Principal Investigator and accepted the honorarium of Rs. 1500/- per month, he cannot now claim a higher amount and is estopped from claiming the same.

12. That the contents of paragraph 4(v) of the application are denied. The letter of C.D.R.I. was only re-commendatory and it could not be said to be representing the Project Sanctioning Authority. The employment and payment of honorarium is a matter exclusively concerned with the D.S.T./I.C.M.R. and the applicant after his retirement. The C.D.R.I. does not come in ^{The} picture at all.

13. That the contents of paragraph 4(vi) of the application are denied. The employment of the applicant



after retirement as a Principal Investigator was not a re-employment under the C.S.I.R./C.D.R.I.. The honorarium budgetted in the Project out of the grant allocated by D.S.T. was paid to him in addition to his pension which the applicant was getting from C.D.R.I..

14. That the contents of Paragraph 4(vii) of the application are denied. The conditions of grant as laid down in the sanction of the D.S.T. dated 9.6.1980 do not permit the C.D.R.I. to utilize the unspent part of the grant for any other purpose and it was to be surrendered to the Government of India. The Proposal of protection of salary of Principal Investigator was not accepted by the Sanctioning Authority and, consequently nothing more than the honorarium of Rs. 1500/- per month could ^{be} paid by the C.D.R.I. to the applicant.

15. That the contents of paragraph 4(viii) of the application are not disputed.

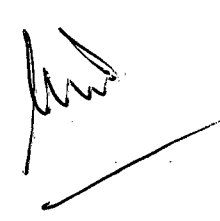
16. That the contents of paragraph 4(ix) of the application are not admitted as stated. The applicant wrote to the C.D.R.I. for the first time on 10.5.1989 as would be clear from Annexure A-1 filed by the applicant himself. The letter of the applicant dated 8th July, 1981 which is Annexure A-3 was addressed to the Director General, Indian Council of Medical Research and not to the C.D.R.I.. It would be clear therefore that the applicant knew fully well that the C.D.R.I. was not in the picture and the matter of his

/

honorarium after retirement was the matter of agreement between him and the I.C.M.R.. It appears that the letter to the C.D.R.I. dated 14.9.1989, ^{10-5-89 mentioned in} Annexure A-1 was written to elicit a reply in a negative to create new cause of action only. This was done when the Project had already ended four years earlier on 31.3.1985.

17. That in regard to the contents of Paragraph 4(x) of the application it is admitted that the applicant submitted a No Dues Certificate. There was no question of any promise having been given to him orally or in writing for payment of any emoluments on any assumed ~~enhanced~~ enhanced rate as claimed by him. The allegation in that respect is denied.

18. That the contents of paragraph 4(xi) of the application are denied. The C.D.R.I. was not the Sanctioning Authority of the Project and, consequently, no commitment in regard to the honorarium at a ^{higher} ~~higher~~ ^{-ed} rate than sanction/by the D.S.T. could be given by the C.D.R.I. with reference to the period after the retirement of the applicant. Annexure A-2 was only a re-commendation at the preliminary stage to the Sanctioning Authority. After the receipt of the Sanction, Annexure CA-1 the applicant worked without demur and continued to draw the honorarium every month. It appears that it was at the conclusion of the Scheme



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when some savings were forth coming that the applicant came out with an appeal of diverting the same while as from 1981 to 1985 he had been working and receiving the honorarium of Rs. 1500/- per month in addition to his pension.

19. That the contents of Paragraph 4(xii) of the application are denied. The applicant was neither engaged as a C.S.I.R. Scientist nor was re-employed on a post under the C.D.R.I.. He accepted to work as a Principal Investigator under the D.S.T. Scheme on the conditions as laid down in the sanction of the D.S.T.. This would be clear from the letter of the Administrative Officer dated 22.1.1981 which is being filed herewith as Annexure CA-2. There was no question of any violation of Service Rules of C.S.I.R..

20. That the contents of paragraph 4(xiii) of the application are not relevant to the matter in issue and hence not admitted as stated.

21. That the contents of Paragraph 4(xiv) of the application do not require any comments except that the non-recruitment of personnel if at all could not go to the benefit of the applicant. *Under the Terms and conditions of the grant service had to be considered to the Govt of India*

22. That the contents of paragraph 4(xv) of the application are not admitted as stated. It is admitted that the applicant was looking after the Project even before his retirement but it was after his retirement that he joined as a Whole Time Principal

[Signature]

Investigator on the terms and conditions of the Sanction letter, Annexure CA-1. It is wrong to state that the applicant was re-employed by the C.D.R.I..

23. That the contents of Paragraph 4(xvi) of the application are denied. He could only claim the honorarium of Rs. 1500/- per month and is not entitled to any other amount.


24. That the contents of Paragraph 4(xvii) of the application are admitted to the extent that the applicant had agreed to work as Principal Investigator in the Project sanctioned by the D.S.T. on the terms and conditions mentioned in the Sanction order, Annexure CA-1. Rest of the allegations are denied.

25. That the contents of Paragraph 4(xviii) of the application are denied. The C.D.R.I. has been wrongly made a Party in regard to a matter which pertains to a period subsequent to the retirement of the applicant from service of C.D.R.I..

26. That the contents of Paragraph 4(xix) of the application are denied. The applicant is not entitled to any amount or interest from the C.D.R.I..

27. That the contents of Paragraph 4(xx) of the application are denied.

28. That the contents of paragraph 5 and the grounds mentioned therein are denied.



Also

: 9 :

29. That the contents of Paragraph 6 of the application need no comments.

30. That the contents of Paragraph 7 of the application need no comments.

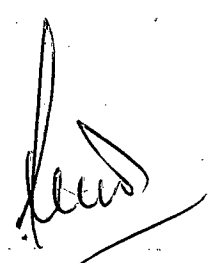
31. That the contents of Paragraph 8 of the application are denied. The applicant is not entitled to any relief. *The veracity of it is entitled to cast*

VERIFICATION

I, V.P. Bakshi, aged about 56 years, Controller of Administration, Central Drug Research Institute, Lucknow, do hereby verify that the contents of Paragraph Nos. 1 to 31 of this written statement are true to knowledge, based on record available in the office and belief. No part of it is false, so help me God.

Signed and verified this day of January, 1991 at Lucknow.

LUCKNOW: DATED:
January 20, 1991.



(V.P. BAKSHI)
CONTROLLER OF ADMINISTRATION
FOR OPPOSITE PARTY No. 3.

-10-
ADP
CAI

No. HCS/JST/768/79 Dr. B. M. Ghosh
Government of India
DEPARTMENT OF SCIENCE AND TECHNOLOGY

TECHNOLOGY BRANCH,
NEW DELHI RAULI ROAD,
NEW DELHI-110 070.

DATED 9 JUNE, 1980

The Director,
Central Drug Research Institute,
Chattar Manzil Palace,
Lucknow-226 001.

Subject: Funding of Research programme out of General Research Fund "Development of interferon inducers and antiviral drugs for use in man".

I am directed to refer to ICMR letter No. 30/14/70500-I dated 28.9.79 and to convey the sanction of the President to the approval of the project entitled "Development of interferon inducers and antiviral drugs for use in man" under the guidance of Dr. B. M. Ghosh, Assistant Director, Central Drug Research Institute, Lucknow at a total cost of Rs. 5,33,700/- (Rupees Five Lakh Thirty Three Thousand Seven Hundred Only). The items of expenditure which the total allocation of Rs. 5,33,700/- for a period of three years has been approved, are given below:-

1.	Staff Salary	Rs.	1,96,200/-
2.	Permanent Equipment	Rs.	2,70,000/- (as per list)
3.	Supplies & Materials	Rs.	30,000/- enclosed
4.	Contingencies.	Rs.	15,000/-
5.	Travel	Rs.	22,500/-
TOTAL		Rs.	5,33,700/-

The sanction of the President is also conveyed to the payment of a sum of Rs. 3,08,950/- (Rupees Three Lakh Eight Thousand Nine Hundred Fifty Only) as the first instalment of grant for the year 1980-81 as per detailed given below:-

1.	Staff Salary	Rs.	25,200/-
2.	Permanent Equipment	Rs.	2,70,000/- (as per list)
3.	Supplies & Materials	Rs.	7,500/- enclosed
4.	Contingencies.	Rs.	2,500/-
5.	Travel	Rs.	3,750/-
TOTAL		Rs.	3,08,950/-

Attn:

True copy

R. S. Sinha
Advocate

...2/-

6/6/80

3. The following staff has been agreed to for the duration of the project:-

S.No.	Designation of the Post	No. of Post	Lump-Sum-Salary
1.	Dr. Research Associate	Two	Rs. 1200/- p.m. fixed
2.	Dr. Research Fellow	Two	Rs. 450/- p.m. "
3.	Dr. Lab. Assistant	Two	Rs. 450/- p.m. "
✓ 4.	Honrarium to the PI from 1.1.81 (after PI's retirement)		Rs. 1500/- p.m. "

✓ 4. Sanction of the grant is subject to the conditions as detailed in Annexure-I.

5. On the basis of the terms and conditions given in Annexure-I, action is being taken for the drawal of sanctioned amount as the grant to you for the period mentioned in para-2, above.

6. The expenditure involved is debitable to Demand No. 99- Department of Science & Technology, Major Head-220 C-Scientific Services & Research C-2-Assistance for other Scientific Research C-2(1)-Assistance to other Scientific Bodies, C-2(1)(23)-General Research Fund (Non-Plan Expenditure) for the year 1980-81.

7. The sanction has been issued under the powers delegated to the Ministries and with the concurrence of Integrated Finance Division of Department of Science and Technology vide their Dy. No. 3548/IFD/80 dated 30.5.1980.

8. The undersigned has no reason to believe that grantee institution is involved in corrupt practices.

9. The amount in question will be drawn by the Drawing & Disbursing Officer of the Department of Science and Technology and will be disbursed to The Director, Central Drug Research Institute, LUCKNOW. 226 001.

10. The grantee is not required to execute a bond.

Yours faithfully,

[Signature]

(JOSEPH P JOHN)
PRINCIPAL SCIENTIFIC OFFICER.

Attested
True copy
R. S. S. S. S.
Advocate

[Signature]

-: 3 :-

forwarded for information and necessary action to:-

The Accountant General, Central Revenues, New Delhi.

The Accountant General, Central Revenues, (Special Cell),
New Delhi.

Integrated Finance Division, DST, New Delhi.

Copy with a spare copy to the Drawing & Disbursing Officer,
each Section, DST for making the necessary payment to
grantee.

The Pay & Accounts Officer, DST, New Delhi with spare copy.

Copy to Dr. N.D. Datta Banik, Assistant Director General,
Indian Council of Medical Research, Ansari Nagar, New
Delhi-110 016.

(You are requested to quote always our reference number
in all your future correspondence)

Dr. B.M. Gupta, Assistant Director, Central Drug Research
Institute, Chatter Manzil Palace, Lucknow-226 001.

Accounts Section, DST, New Delhi (2 copies),

Sanction Folder. (2 copies)

Office copy.

[Signature]

(JOSEPH P JOHN)

PRINCIPAL SCIENTIFIC OFFICER.

CENTRAL DRUG RESEARCH INSTITUTE

Chatter Manzil Palace,
Lucknow.

Dated: 14.7.1980.

No. 11(4)/20-Estt.

Copy ^{for} information and necessary action to:-

1. Accounts Section
2. Bill Section
3. Recruitment Cell
4. Sr. Purchase Officer
5. Sc.I/c, Information
6. Sc.I/c, Library
7. Sc.I/c, Virology Division

8. Sc.I/c

Allen
Truecopy
R. Somnath
Advocate

(R N WAHAL)
SECTION OFFICER

[Signature]
[Signature]

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Read year

LIST OF EQUIPMENTS.

Permanent Equipments.

- a. Binocular Res. Microscope
- b. REUCO
- c. Freeze drier
- d. Fermentor (30 Lit.)
- e. Cold Contrifuge Table model (Beckman)
- f. Homogenizer

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-14- 5/12 (AST)

DEPARTMENT OF SCIENCE & TECHNOLOGY
(GENERAL RESEARCH FUND)

TERMS & CONDITIONS OF THE GRANT

Approval of the research proposal and the grant being released is for the specific project sanctioned and should be exclusively spent on this project within the stipulated time. The Institute is not permitted to seek or utilise funds from any other organisation (Government, Semi-Government Autonomous or Private) for the work that is supported under this scheme. Any unspent part of the amount sanctioned would be surrendered to the Government of India and carry forward of funds to the next financial year for utilisation for the same project may be considered only with the specific approval of the Department of Science & Technology.

(ii) For permanent, semi-permanent assets acquired solely or mainly out of the grant, an audited record in the form of register in the prescribed proforma enclosed shall be maintained by the Institute. The term "assets" means (i) immovable property and (ii) movable property of a capital nature, where the value exceeds Rs.1,000/-. The grant will not be utilised for construction of any building unless specific provision is made for this purpose.

(iii) All the assets acquired from the grant will be the property of Government of India and should not without the prior sanction of the Department of Science & Technology be disposed off, or encumbered or utilised for purpose other than those for which the grant has been sanctioned.

(iv) At the conclusion of the project, the Government of India will be free to sell or otherwise dispose off assets which are the property of Government. The Institute shall render to Government necessary facilities for arranging the sale of these assets. The Govt. of India has the discretion to gift the assets to the Institute if it considers it appropriate.

(v) The Institute will furnish half-yearly progress report of the work on the project (with three copies) by 1st September/1st February each calendar year. In addition, appropriate persons may visit the Institute periodically for ascertaining the progress of work and resolving any difficulties that might be encountered in the course of implementation. During the progress of the project the Institute will provide all facilities to the scientists/specialists by way of accommodation, etc. On completion of the project 3 copies of a consolidated report of the work done on the subject shall be sent to the Financial Adviser, Department of Science & Technology, Technology Bhavan, New Mehrauli Road, New Delhi-110029.

Attested
True copy
Resubmitted
Advocate

Contd...2/-

(vi) The Institute is required to send to the Financial Adviser, Department of Science & Technology at the end of each financial year as well as at the time of seeking further instalments of the grant a list of assets referred to in para (ii) above.

(vii) The Institute will furnish to the Financial Adviser, Department of Science & Technology a statement of accounts along with the progress report, at the time of seeking further instalment of the grant.

(viii) The Institute will furnish to the Financial Adviser, Department of Science & Technology, utilisation certificate and an audited statement of accounts pertaining to the grant within six months following the end of each financial year.

(ix) The Comptroller and Auditor General of India at his discretion, shall have the right of access to the book and accounts of the Institute for the grant received from the Government.

(x) The Institute will maintain separate audited account for this project. It is found expedient to keep a part or whole of the grant in a bank account earning interest, the interest, thus earned, should be reported to the Department of Science & Technology. The interest thus earned will be treated as a credit to the Institute to be adjusted towards further instalment of the grant.

(xi) Sale proceeds, if any, as a result of the development of the project arising directly from funds granted under the scheme shall be remitted to the Government of India. The Government of India may at its discretion allow a portion of such receipts to be retained by the Institute.

(xii) The know-how generated from the project would be the property of the Government of India and any receipts by way of sale of know how royalty etc. shall accrue to the Government of India. The Government of India may, in its discretion, allow a portion of such receipts to be retained by the Institute.

(xiii) The Government of India will have the right to call for drawing specification and other data necessary to enable the transfer of know-how to other parties and the Institute should supply all the needed information at the request of the Financial Adviser, Department of Science & Technology.

Contd. 3/-

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Truecopy

Reshma

Advocate

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Contd. 3/-

Agreed

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Advocate

(xiv) The Institute may not entrust the implementation of the work for which the grant is being sanctioned to another institution and to divert the grant receipts as assistance to the latter institution. In case the Institute itself is not in a position to execute or complete the project, it may be required to refund forthwith the Government of India the entire amount of grants-in-aid received by it. In exceptional cases, this conditions may be relaxed by the Government of India.

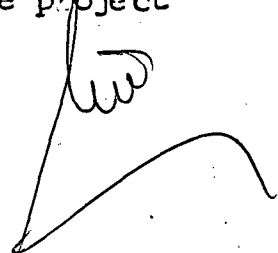
(xv) The staff that may be employed for the project by the Institution are not to be treated as employees of the Government of India and the employment of such staff at the time of completion or termination of the project, will not be the concern/responsibility of the Government of India. They will be subjected to administrative control and service rules as applicable (leave, TA and DA, etc.) of the Institute where the project is based. For the expeditious implementation of the Research Projects, the investigator incharge will take the assistance of the Institutes concerned in the process of selection and appointment of staff and payment to them. In case of any special posts, rates of pay may be decided by the Department of Science & Technology.

(xvi) The High Level Committee of Scientists reserves the right to terminate the grant at any stage if it is convinced that the grant has not been properly utilised or appropriate progress is not being made.

(xvii) The project will become operative with effect from the date on which the grant is received by the Institute. The date will be intimated by the Institute to the sanctioning authority.

(xviii) If the investigator to whom a grant for a project has been sanctioned, leaves the institution where the project is based, the investigator should submit a complete and detailed report of the work done by him on the project till the date of relief.

Attested
True copy
Resubmitted
Advocate



in the Central Board of Secondary Education
Central Board of Secondary Education

CENTRAL DRUG RESEARCH INSTITUTE

CA 260/80 (4)

Dr. B.M. Gupta vs. C.D.R.I. & others

Chatter Manzil Palace,
Lucknow.

No. 11/4/80-Bstt.

dated: 22nd January, 1981.

OFFICE MEMORANDUM

Amr CA 2

Sub: Funding of Research Programme on General
Research Fund "Development of Interferon inducer
and Antiviral drugs for use in man."

Having accepted the terms and conditions contained in the
letter No. HCS/DST/768/79 dated 9.6.1980 of Govt. of India, Department
of Science & Technology, Dr. B.M. Gupta, has taken over as Principal
Investigator of the Scheme "Development of Interferon inducers and
Antiviral drugs for use in man" w.e.f. 1.1.81 (forwards).

(Jogendra Pal Singh)
Administrative Officer

Dr. B.M. Gupta,
Principal Investigator.

Copy to:

1. Accounts Section
2. Bill Section
3. S.O. (R.I)
4. S.O. (G)
5. Sr. Stores & Purchase Officer
6. Stores Officer
7. S.O. I/c. - Information
8. S.O. I/c. - Library
9. S.O. I/c. - Virology
10. Receptionist
11. Security Officer
12. The Principal Scientific Officer,
Department of Science & Technology,
Technology Bhawan, New Tughlaq Road,
New Delhi.

Administrative Officer

1.8
27/1/81
Alleshu
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Recounting
Advocate

FF-16.7.91
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IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

O.A. No. 260 of 1990

Dr. B.M. GuptaPetitioner/Applicant

Vs.

Union of India & OthersOpposite Parties

REJOINDER REPLY TO THE WRITTEN STATEMENT OF O.P.No.3

I, B.M. Gupta, aged about 68 years, son of
Late Sri S. Gupta, resident of 162, Niralanagar,
Lucknow, do hereby solemnly affirm, and state
as under :

1. That I am the petitioner/applicant
in the above noted case, and as such I am fully
conversant with the facts and circumstances of the
case deposed hereinafter. I have gone through the
written statement of the Opposite Party No. 3,
and have understood the contents thereof.

2. That the contents of para 1 of the written
statement need no comments.

3. That in reply to para 2 of the written

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statement, it is stated that the same are being replied as under.

4. That in reply to para 3 of the written statement, it is stated that as already stated in para 4 (i&ii) of the application, the Indian Council of Medical Research (I.C.M.R.) were the sponsors, and the Department of Science and Technology was the body which provided the funds. The project was mooted, initiated and administered by Central Drug Research Institute (C.D.R.I.) administration when the applicant was in service of the C.D.R.I. But later on, after the applicant's retirement, he was asked to continue the project. It would be worthwhile to clear that the word 'honorarium' has recently been written by the Opposite Parties, as on this point alone a lot of correspondence was made, and only to meet out the required expenses and payment of applicant it was decided not to appoint research associates so that the payment be made to the applicant equivalent to his last pay drawn. It would not be out of place to mention here that the answering respondent has annexed annexure No. CA-1 to his reply, in which the details of funds have been given. There in the first head, the word 'salary' has been mentioned, against which Rs. 1,96,200/- were sanctioned. Later on, in the 2nd page of the same, it has been mentioned that the Principal Investigator i.e. applicant will get Rs.1500/- per month

D.M. Gupta

ASD

-3-

as honorarium, whereas on the heading given above, the word 'lump sum salary' has been used. This shows that the amount, which was being given to the applicant was definitely a fixed salary and not honorarium. The word 'honorarium' has recently been used. In the same it has been mentioned that after the retirement of the applicant, meaning thereby that the project was very much continuing from the tenure of service of the applicant. It is further submitted that the answering respondent has denied his own liability, whereas the answering respondent is under a legal obligation to pay the arrears of salary to the petitioner, as the grant was received by the answering respondent, and they have paid less amount, whereas for the purpose of completing deficit, one post of Senior Research Assistant was kept vacant, so that the amount sanctioned against that post be adjusted towards the salary of the applicant. Therefore, the answering respondent is very much a proper party, and the immediate control was of the answering respondent, and still remaining funds are with the answering respondent. The amount which is with the answering respondent is the same which was to be paid to the applicant.

B. L. Gupta

-3-

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5. That in reply to para 4 of the written statement, it is stated that the contents of the para under reply are misconceived, misleading and wrong, and are denied. In reply thereto it is stated that the matter in dispute is very much the consequence of service, and as such the petition is maintainable. Rest of the contents have already been replied in the above paras of this reply. It is further submitted that it was the Director of C.D.R.I., who submitted the research proposal to the sponsorer, I.C.M.R. as early as 1979. Later on, the Director, C.D.R.I. received the funds from the Department of Science and Technology directly for the execution of the project at and under the supervision of C.D.R.I. It was the Director, C.D.R.I., who a month prior to the start of the project took firm decision to appoint the applicant as Principal Investigator of the project. The said charge was taken over by the applicant by the orders of Director, C.D.R.I. in June 1980 w.e.f. 9-6-80 in addition to his regular duties and work.

6. That the contents of para 5 of the written

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statement are wrong, hence denied. The application is very much in time, which is evident from the perusal of the application as well as its annexures, because the matter was under consideration till 14-9-89.

7. That the contents of para 6 of the written statement need no comments except to say that the application is well in time and the applicant is very much entitled to the emoluments of Rs.3160/- per month, which is equivalent to his last pay drawn.

8. That the contents of para 7 of the written statement need no comments.

9. That the contents of para 8 of the written statement are wrong as alleged, hence denied. In reply thereto it is stated that the applicant had been continuously writing and praying to the sponsors I.C.M.R and Department of Science and Technology since 1981 on the strength of the C.D.R.I. administration's recommendation during the progress of the project and thereafter, but there was no categorical reply as to

B.M. Gupta

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clearing the dues, or refusing to do so. Therefore, cause of action did not arise until receipt of the impugned letter, dated 14-9-89, which has been annexed as Annexure No. A-1 to the application.

In fact, it was the duty of the C.D.R.I. administration to write and remind all concerned to ensure that the commitments made to the applicant were fulfilled as per the letter of the then Director, C.D.R.I., dated May 8, 1980. Unfortunately, however, as the C.D.R.I. administration was not forthcoming in discharging its obligations, the applicant had no alternative but to take initiative himself. When all his efforts failed in getting his dues, he finally wrote to C.D.R.I.

10. That the contents of para 9 of the written statement need no comments, but it is further stated that once again it may be noted that the Department of Science and Technology was the grantor of funds to C.D.R.I. and to that effect could draw up a plan for expenditure to be followed. However, the applicant is not concerned with the financial technicalities of the grantor's plans. What mattered to him was that his employer, Director, C.D.R.I. had assured him protection of his

B. M. Gupta

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pay as indicated in Annexure No. A-2 of the application i.e. letter dated 8th May 1980 of the Director, C.D.R.I.

11. That the contents of para 10 of the written statement need no comments.

12. That the contents of para 11 of the written statement are wrong, misleading and misconceived, hence denied as alleged. In reply thereto, it is stated that the applicant is not bound by the sanction letter of the grantor i.e. Department of Science and Technology.

He is concerned only with the express assurance in writing and otherwise of his employer i.e. C.D.R.I. administration, who had ample time to categorically state that the applicant's salary would not be protected.

B. V. Gupta

13. That the contents of para 12 of the written statement are wrong, hence denied. In reply thereto, it is stated that the decision to start the project was taken by C.D.R.I. as early as in 1979. The applicant took over as Principal Investigator of the project on the basis of the assurances as indicated in the said letter of Director, dated 8th May 1980 after the funds were made

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available to C.D.R.I. administration, who remained incharge of the financial, administrative and technical aspects of the project. Therefore, C.D.R.I. was very much in the picture right from 1979 onwards till the termination of the project.

14. That the contentions of para 13 of the written statement are wrong, hence denied. In reply thereto, it is stated that the applicant had been engaged as the Principal Investigator designate of the project since 1979 (see letter dated 8-5-80. Annexure A-2), and he continued to work in the same capacity in the project, which was being controlled and run by C.D.R.I. since June 1980 till its termination in March 1985. Therefore, the applicant continued to be in active service of C.D.R.I. till the conclusion of the project.

B.4. Gupta

15. That the contents of para 14 of the written statement are wrong, hence denied. In reply thereto, it is stated that the employer, C.D.R.I. administration ^a filed to communicate before 31-12-80 to the applicant ^h that his salary would not be protected after his superannuation. Whereas, savings had been generated

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for the intent purpose of paying the difference of remuneration to the applicant as envisaged in the letter of the Director, C.D.R.I., dated 8-5-80 by eliminating the posts of Senior Research Associate/Junior Research Associate, but the C.D.R.I. administration failed to fulfil the commitments made to the applicant. Department of Science and Technology does not appear to have raised any objection towards elimination of the said posts after considering the circumstances for doing so.

16. That the contents of para 15 of the written statement need no comments.

17. That in reply to paras 16 and 17 of the written statement, it is stated that many of the contentions of the para under reply have been replied in the preceding paras of this rejoinder reply.

However, it is further submitted that the date of submission of no dues certificate was 14-12-87, which shows that though the project had concluded in March 1985, all matters pertaining to the project had not been closed for good. The applicant had every hopes

B. M. Gupta

AGY

-10-

of obtaining his due amount from his employer C.D.R.I. which had been promised/assured by the Director, C.D.R.I. as clearly understood in his letter, dated 8-5-80 to the sponsors (I.C.M.R.) and the subsequent action taken by him in eliminating the post of Senior Research Associate/Junior Research Associate. All doubts about commitments made by the employer i.e. Director, C.D.R.I. are put at rest by his letter and subsequent follow up actions as stated hereinbefore(the then Director, C.D.R.I. Dr. Nitya Wand may be approached by the answering respondent to confirm the actual position of the facts and circumstances), and if this Hon'ble Court thinks it to be proper, he may be summoned before this Hon'ble Court to verify the contentions of the applicant. Anything contrary to it is denied.

18. That the contents of para 18 of the written statement are denied. In reply thereto, it is stated that C.D.R.I. may or may not be the sanctioning authority of the project, but it was certainly the appointing authority of the applicant. As such C.D.R.I. is fully responsible for fulfilment of its commitments

Dr. N. Wand

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to him to protect his salary after his retirement, and it is only on account of this commitment made by the Director, C.D.R.I. that the applicant decided to continue with the project work rather than look for alternative assignment elsewhere.

It is denied that the applicant continued to work without demure as stated. As a dedicated scientist and conscientious worker, the applicant was immersed in his research project in good faith under the impression that the administration was taking up the matter of protecting his salary with appropriate authorities.

In the para under reply, the C.D.R.I. is obviously trying to misguide the Hon'ble Tribunal by stating that 'the applicant came out with an appeal' only after the conclusion of the scheme. The fact is that the applicant had been continuously reminding the sponsors(I.C.M.R.) and through them the grantors(D.S.T.) since July 1981. As stated in the earlier paragraph of this reply, these reminders were in fact the responsibility of the employer i.e. C.D.R.I, which the applicant had to discharge due to

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the callousness of the C.D.R.I's administration in doing its duties in proper manner. Some of the copies of correspondence viz. 3-10-81, 27-³~~10~~-89 and 26-4-89 of I.C.M.R to D.S.T. and dated 19-4-88 from the applicant to Additional Director General, I.C.M.R. are being enclosed herewith as Annexure No. R-1, R-2, R-3 and R-4 to this reply.

19. That the contents of para 19 of the written statement are not ~~true~~, hence denied. In reply thereto, it is stated that the applicant was named Principal Investigator designate as early as in 1979, and took over as Principal Investigator of the project as per the recommendation of his employer, Director, C.D.R.I. in June 1980. The terms and conditions as contained in the letter from D.S.T. (768/79) and the earlier commitment of the Director, C.D.R.I. made clear to the sponsors that emoluments payable to the applicant would be equivalent to the salary drawn by him at the time of his retirement. These two documents together form the terms and conditions of service, which the applicant accepted. The Commitment of the Director, C.D.R.I.

B. M. Gupta

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is also a term and condition of the service which was not denied before the commencement of the Project. It is further pointed out that the Director, Central Drug Research Institute's order contained in the letter dated 8-5-1980 clearly shows that the applicant continued working as the Principal Investigator from June 1980 to March 1985 uninterrupted even after his superannuation from the post of Assistant Director, C.D.R.I. It was the Director, C.D.R.I. who after receiving the funds from the Director of Science & Technology held it in the accounts of the Department of C.D.R.I. It was the Director, C.D.R.I. who used to pay the salary of the applicant from month to month through cheques; therefore, he is the employer and responsible for all the acts done by him or on behalf of anybody else.

The commitment of the Director, C.D.R.I. has not been denied by the answering respondent in the counter reply. The applicant was serving in the C.D.R.I. in the Project from June, 1980 to March, 1985 without any break in the same. It is, therefore, wrong to say that the applicant was not the Scientist of C.D.R.I. or Council of Science & Technology.

B. Y. Gupta

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It is further pointed out that the ~~applicant~~
Director, C.D.R.I. was the authority who sanctioned
all the tour programmes, leave applications,
purchase of apparatus and chemicals. The result of
the research carried out by the applicant namely
6 MFA and Anti viral drugs against Japanese Encephali-
tis formed the subject matter of agreement between
the Director, C.D.R.I. and the Chairman, Hindustan
Antibiotics for mass production of medical evalua-
tion. In the above project the applicant was simply
a witness whereas he was not a party to the agreement
between the Director, C.D.R.I. and the Chairman,
Hindustan Antibiotics.

20. That the contents of para 20 of the counter reply
are wrong, hence denied and in reply thereto it is
stated that the contents of para 4(xiii) are very
much relevant. It is further submitted that 6 MFA
and ~~Anti-viral~~ product which was the out come of the
Project was the central basis of agreement between
the Director, C.D.R.I. (Employer) and the Chairman
Hindustan Antibiotics, Poona for mass production
and International distribution.

It must be noted that the Director, C.D.R.I.
cannot enter into agreement with anyone unless the
product involved is the outcome of the research

B.M. Gupta

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effort of C.D.R.I. itself and not of any other Institute of Society .

21. That the contents of para 21 of the counter reply are wrong, hence denied and in reply thereto it is stated that the when the matter of salary of the applicant arose and there was shortage of funds, then only it was decided at the end of the answering respondent not to recruit other research associates so that the applicant's salary may be given equivalent to the last pay drawn by him by diverting the amount which was payable to the research associates.

The two documents, one from the Director, C.D.R.I. and other from the Department of Science & Technology together formed the terms and conditions of the Project's service for which the Director , C.D.R.I. made it clear to the sponsors that he would make staff strength adjustment ~~xxx~~ to pay the applicant's emoluments without asking for any further money / funds. This authority is vested in the Director, C.D.R.I. as per C.S.I.R. Rules.

22. That the contents of para 22 of the counter reply are wrong as alleged and in reply thereto it is stated that the petitioner continued to work on the Project from June, 1980 to March, 1985 without any interruption. He very well continued as an employee

M. Gupta -

A20

of the C.D.R.I. as long as the Project lasted.

The applicant worked with full time engagement

from 1-1-1981 for the Project with which he was

associated as the Principal Investigator since

the inception of the same in June, 1980. There was

no fresh agreement for the Project. The rest of the

contents have already been replied in the preceding

paras of this Reply as well as in the application.

23. That the contents of para 23 of the counter reply are wrong, hence denied and in reply thereto it is stated that the applicant is very much entitled to get the salary equivalent to his last pay drawn. The terms and conditions as well as the claim of the applicant has already been stated in the preceding paras of this Reply and in the original Application.

24. That the contents of para 24 of the counter reply are partially wrong, hence denied and in reply thereto it is stated that the applicant never agreed to work on the basis of honorarium of Rs.1500/- per month, that is why correspondence was made by the Director, C.D.R.I. to the Department of Science &

B. M. Gupta

Technology for not recruiting the research associates. The same was written to the Department of Science & Technology only to meet out the salary of the applicant equivalent to the last pay drawn. The rest of the contents of para 4(xvii) of the Original Application are reiterated.

25. That the contents of para 25 of the counter reply are wrong, hence denied and in reply thereto it is stated that the Central Drug & Research Institute has correctly been made a party in the instant matter because the C.D.R.I. is the employer of the applicant. Whenever any Project is carried out by the C.D.R.I. on the basis of any agreement made between the C.D.R.I. ^{and} ~~or~~ any other Department or Society then in such cases the C.D.R.I. is mainly responsible towards the employees who work on the Project. The Controller of office Administration, C.D.R.I. (Respondent) has in reply to the applicant's application has naively stated in the beginning of paragraph why the C.D.R.I. has been made a party in the instant case before this Hon'ble Tribunal. No doubt the same has been done to

B. M. Gupta

(A32)

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mislead the Hon'ble Tribunal. It is necessary to demolish the naivety to enable the Hon'ble Tribunal to decide the responsibility of C.D.R.I. to pay Rs.33,915/- to the applicant being the amount less paid to the applicant by the C.D.R.I. for the services rendered by the applicant in the Project in the capacity of Principal Investigator. The fact that the applicant was the employee of the C.D.R.I. can be confirmed from the preceding para of this reply as well as from the original application filed by the applicant before this Hon'ble Tribunal.

26. That the contents of para 26 of the counter reply are wrong, hence denied and in reply thereto it is stated that the contents of para 4(xix) of the O.A. are reiterated.

27. That the contents of para 27 of the counter reply are wrong, hence denied, and in reply thereto it is stated that the answering respondent is very much under ~~an~~ a legal obligation to pay the arrears of salary to the applicant alongwith interest.

B. N. Gupta

(432)

mislead the Hon'ble Tribunal. It is necessary to demolish the naivety to enable the Hon'ble Tribunal to decide the responsibility of C.D.R.I. to pay Rs.33,915/- to the applicant being the amount less paid to the applicant by the C.D.R.I. for the services rendered by the applicant in the Project in the capacity of Principal Investigator. The fact that the applicant was the employee of the C.D.R.I. can be confirmed from the preceding para of this reply as well as from the original application filed by the applicant before this Hon'ble Tribunal.

26. That the contents of para 26 of the counter reply are wrong, hence denied and in reply thereto it is stated that the contents of para 4(xix) of the O.A. are reiterated.
27. That the contents of para 27 of the counter reply are wrong, hence denied, and in reply thereto it is stated that the answering respondent is very much under ~~an~~ a legal obligation to pay the arrears of salary to the applicant alongwith interest.

B. N. Gupta

28. That the contents of para 28 of the counter reply are wrong, hence denied and in reply thereto ~~the~~ ~~xxxxx~~ it is stated that the Grounds taken in para 5 of the Application are very much sustainable in the eye of law and are full of merits.
29. That the contents of para 29 of the counter reply need no comments.
30. That the contents of para 30 of the counter reply need no comments.
31. That the contents of para 31 of the counter reply are wrong, hence denied as stated and in reply thereto it is stated that the applicant is very much entitled to get the relief as prayed for in para 8 of the Original Application filed before this Hon'ble Tribunal. The original application deserves to be allowed in view of the facts and circumstances mentioned in the instant Rejoinder Reply as well as in the Original Application .
32. That a letter dated 22-4-1981 is being annexed as Annexure ~~PR-1~~⁵ which was written by Sri Nitya Nand, Director C.D.R.I. which clearly shows that the

B.M. Gupta

APL

applicant was under the direct control of the Director, C.D.R.I. Another letter No.11(4)/80/Estt. dated 18-1-1985 written by Administrative Officer is being enclosed herewith in which extension of the term has been asked which also ~~xxxx~~ confirms the fact that the applicant was under the control of the Director, C.D.R.I. and the Director, C.D.R.I. was the employee of the applicant. True copy of the said letter dated 18-1-1985 is being filed herewith as Annexure AR-6 to this rejoinder reply. A statement of Grant showing the post sanction towards the Project and the amount is being enclosed herewith as Annexure No. AR-7 to this rejoinder reply which clearly shows ~~that~~ and confirms the fact that the post of Research associates were not filled only with a view to cover ~~up~~ up the amount payable to the applicant that is equivalent to the last pay drawn. ~~That~~ Another thing which can be confirmed by this Annexures is that the amount sanctioned for the payment to the Scientists was given under the Head 'Salaries'. This also certifies that the applicant was serving on the basis and on the

B.M. Gupta

assurance about his remuneration that he would be paid the amount equivalent to the past pay drawn by him.

B. M. Gupta

Dated Lucknow :

Applicant.

10-7-1991.

Verification

I, Dr. B.M. Gupta, aged about 68 years, son of late Sri S. Gupta, resident of C-162, Nirala Nagar, Lucknow, do hereby verify that the contents of paras 1 to 32 of this rejoinder reply are true to my personal knowledge and I have not suppressed any material facts. So help me God.

Dated Lucknow.

10-7-1991;

B. M. Gupta
Applicant.

through

B. K. Shukla
(B. K. Shukla)
Advocate,

Dr. B. M. Gupta

Applicant,

Union of India & others

Opposite parties

Annexure No R 1

A78

Phones: 667136

Telegrams: SCIENTIFIC
Telex: 031-3807



भारतीय आयुर्विज्ञान अनुसंधान परिषद्

(BHARATIYA AYURVEDJANA ANUSANDHANA PARISHADA)

INDIAN COUNCIL OF MEDICAL RESEARCH

ANSARI NAGAR, POST BOX 4508
NEW DELHI-110029

No. 30/14/79-EOD-I

Dated, the 3rd October, 1981

To

The Secretary,
Department of Science & Technology,
Technology Bhavan,
New Mehrauli Road,
New Delhi-110029.

Subject: Funding of research programme out of General Research Fund
"Development of interferon Inducers and antiviral drugs for
use in man."

Sir,

With reference to your letter No.HCS/DST/768/79 dated, the 9th June, 1980 on the subject mentioned above, I am directed to refer to this office letter of even number dated the 3rd/5th August, 1981 forwarding therewith a copy of Dr. B.M. Gupta's letter No.VIR/DST/F-27/81 dated 8th July, 1981 who is Principal Investigator of the above mentioned project, with the recommendation for revision of his honorarium and subsequent reminder of even number dated 3rd September, 1981.

It is requested that the action taken in the matter may kindly be intimated enabling this office to inform the same to Dr. Gupta.

Yours faithfully,

for Director-General

Copies forwarded for information to:-

1. Dr. B.M. Gupta, Principal Investigator, Interferon Project (D.S.T.), Virology Division, Central Drug Research Institute, Chatter Manzil, Lucknow-226004.
2. Shri Joseph P. John, Principal Scientific Officer, Department of Science & Technology, Technology Bhavan, New Mehrauli Road, New Delhi-110029.

B. M. Gupta
for Director-General

In the Central Administrative Tribunal, Circuit Bench
Lucknow

O A No. 260 of 1990

Dr. B. M. Gupta

Applicant

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Union of India & others

vs

Opposite parties

Annexure No R 2

667136 653980
652794 652895

तार: सांख्यिक
Grams: SCIENTIFIC
टैलेग्राम:
Telex: 031-63067



भारतीय आयुर्विज्ञान अनुसंधान परिषद
INDIAN COUNCIL OF MEDICAL RESEARCH

अन्सारी नगर, पोस्ट बॉक्स 4508, नई दिल्ली-110 029
ANSARI NAGAR, POST BOX 4508, NEW DELHI-110 029

No. 30/14/73-ECN-I

Dated, the
27/3/88

To

The Secretary
Deptt. of Science & Technology
Technology Bhavan
New Mohrauli Road,
New Delhi-110029.

Subject: Funding of research programmes out of General Research
Fund Development of information inducers and antiviral
drugs for use in man.

Sir,

Please refer to your letter No. HCS/DST/768/79, dated 25th June, 1980 and this office letters of even no., dated 1st/4th August 1981, 3rd Sept., 1981, 3rd Oct., 1981 and 28th Feb., 1982 regarding payment of honorarium to Dr. B.M. Gupta, Principal Investigator Interferon project (IST).

It is requested that you action in the matter may please be intimated enabling this office to inform the same to Dr. Gupta.

Yours faithfully,

S. P. Singh 27/3/88

for Director-General.

Copy to forwarded for information to Dr. B.M. Gupta, Principal Industrial Toxicology Research Centre Mahatma Gandhi Marg Lucknow-226001. with reference to this letter No. Gm/ITR/dated 21.12.87.

B. M. Gupta

In the Central Administrative Tribunal, Circuit Bench
Lucknow

O A No. 260 of 1990

Dr. B. M. Gupta

Applicant

(A28)

vs

Union of India & others

opposite parties

Annexure No R 3

136 653980
94 652895

सार: सांख्यिक
Grams: SCIENTIFIC
टेलीग्राम:
Telex: 031-63067



भारतीय आयुर्विज्ञान अनुसंधान परिषद
INDIAN COUNCIL OF MEDICAL RESEARCH

अन्सारी नगर, पोस्ट बॉक्स 4508, नई दिल्ली-110 029
ANSARI NAGAR, POST BOX 4508, NEW DELHI-110 029

0.30/14/79--EED-I Vol II

Dated, the

26 APR 1989

The Secretary
Deptt. of Science & Technology
Technology Bhavan,
New Mehrauli Road,
NEW DELHI-110029.

Subject:- Funding of research programme out of General Research
Fund Development of information Inducers and antiviral
drugs for use in men.

....

Ir,

Please refer to your letter No.HCS/DST/768/79, dated 9th
me, 1989 and this office letters of even No.dated 3rd/5th
August 1981, 3rd Sept.1981, 3rd Oct. 1981 and 28th Feb. 1989
and 27.3.1989 regarding payment of honorarium to Dr. B.M.
Gupta, Principal Investigator interferon project (DST).

It is requested that the action in the matter may please
be intimated enabling this office to inform the same to
Dr. B.M. Gupta.

Yours faithfully,

S. P. Singh 25/4/89
(S.P.SINGH)
Admn.Officer
for Director-General.

Copy To Dr.B.M.Gupta, Principal, Toxicology Research Centre,
Mahatma Gandhi Marg, Lucknow-226001 with reference to
this letter No.Gen/ITRE/dated 22.12.1988.

B.M. Gupta

In the Central Administrative Tribunal, Circuit Bench
Lucknow

O A No. 260 of 1990

Dr. B. M. Gupta

vs

Union of India & others

Applicant,

Opposite parties.

Annexure No R 4

ADP

Telegram "INTOXI"

Telephone : 72016 (R)

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

DIRECTOR: DR. P.K.RAY, Ph.D.D.Sc.

MAHATMA GANDHI MARG,
POST BOX NO.80,
LUCKNOW-226001
U.P. INDIA.

Dr. B.M.GUPTA,
M.S., Ph.D., FCAI, FNA
Consultant Virologist
Interferon Project
Unit for Environmental
Microbiology, Immunobiology and
Preventive Toxicity (Gheru Complex)

Former Head, Division of Virology
and Principal Investigator
Interferon Project (DST) Central
Drug Res. Institute (CSIR)
LUCKNOW - 226001 (U.P.)

/REGISTERED/

No. Con/ITAC/88

Ref.No.CON/ITRC/88

Date:- 19th April, 1988.

Dear Dr. Mukherjee,

This has reference to discussion I had with you
in your Office last week and ^{also} last month, in regard to
honorarium payable to me under the ICMR sponsored DST Funded
Project entitled "Development of interferon Induces and
antiviral drugs for use in men" operating at CDRI (August
1980 - December 31st, 1984)

I am enclosing two reference letters, one from
Director, CDRI (Dr. Nitya Nand) dated May 8, 1980, asking ICMR
to protect my honorarium level according to the last pay
drawn for which CDRI had made provision in the budget by
eliminating the post of Sr. Research Associate/Jr. Research
Associate. Director-General, ICMR, vide their letter No.
30/14/79-ECD-I dated the 3rd October, 1981, endorsed the
recommendation of Director, CDRI and communicated this to

....2....

B. M. Gupta

Adm
28/4/88

Secretary, DST in their letter under reference.

I shall be grateful if you will kindly expedite action from your end under intimation to me and to Director, CDRI so that the outstanding balance of money w.e.f. 1.1.81 to 31st December, 1984, may please be paid to me out of DST Project Fund lying at CDRI (grantee).

Thanking you,

Yours faithfully,

B. M. Gupta

(B.M. Gupta)

9/c

Dr. Deepali Mukherjee,
Asst. Director General,
ECDI, Indian Council of Medical Research,
Ansari Nagar,
P.B.No.4508,
New Delhi-110029.

Encl: a/a.

B. M. Gupta

In the Hon'ble Central Administrative Tribunal

CIRCUIT BENCH, Lucknow

O.A. No. 260 of 1990.

B. M. Gupta

vs. Union of India & others.

ANNEXURE No. ~~RR-1~~ R-5

No. VIR/f 12/DST/81.

Date: 22 April 1981.

Dr. Joseph P. John
Principal Scientific Officer
Department of Science & Technology
Technology Bhavan
New Mehrauli Road
New Delhi- 110 016.

Rejd

Your Ref No. HCS/DST/768/79/9-6-80.

Dear Dr. John,

I am forwarding two half yearly progress reports (in triplicate) relating to the sanctioned project entitled "Development of Interferon Inducers and Antiviral Drugs for Use in Man", which has been operating at CDRI under the guidance of Dr. B.M.Gupta, Principal Investigator, since July 1980.

Kindly acknowledge receipt,

Yours sincerely,

Nitya Anand

(Nitya Anand,)

Encl: as above

Y/c

B.M. Gupta

8
25/4

In the Hon'ble Central Administrative Tribunal,
CIRCUIT BENCH, Lucknow.

OA No. 260 of 1990.

Dr. B.M. Gupta Vs. Union of India & Others

CENTRAL DRUG RESEARCH INSTITUTE

(Council of Scientific & Industrial Research)

ANNEXURE No. R-6

Chatt

Luc

No 11(4)/SO-Estt.

Dated 8-1-1985

OFFICE MEMORANDUM

Subject:- Extension of terms of Interference

It has been decided that the term of Interference Project be extended for a period of three months from 1.1.1985. The Department of Science and Technology is being approached for approval of continuance of the project for the said period.

During the extended period, the work of the project will be looked after by Dr. L.M. Singh, Head of Virology Division and Dr. B.M. Gupta, ex Principal Investigator of the scheme will devote his time to the writing of the Project Report and will not be involved in any laboratory work. For this purpose Dr. Gupta will use the library and the secretarial facilities available in the Division of Virology. Accordingly Dr. Gupta will hand over the charge of the laboratory to Dr. L.M. Singh, Head of the Virology Division. Dr. Singh will continue the work on 6-MFA as HAL, PUNE, is ordered to prepare one kg of this material in the DST scheme. The material would be needed to be checked for its activity and to be supplied to VLP, standardised and supplied to the Division of Experimental Medicine & Toxicology for sub-acute and some more biological studies.

(P.L. CHATTERJEE)

ADMINISTRATIVE SECRETARY (S.G.)

Copy for information and necessary action to:-

1. Dr. B.M. Gupta, Principal Investigator.
 2. Dr. L.M. Singh, Head of the Virology Division.
 3. Sec I/C Information Division.
 4. Accounts Section
 5. Bill Section
- As the funds are available under the scheme, salary of the staff may be released pending approval of DST for continuation of the scheme upto 31.3.1985.

B. M. Gupta

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH, LUCKNOW

M. P. NO. 169 OF 1992

O. A. 260/90

1. Debashis Gupta aged about 26 years, son of late Dr. B.M.Gupta, resident of C-162, Nirala Nagar, Lucknow.
2. Smt. Jayati Sen aged about 39 years, wife of Commander A. K. Sen, daughter of Late B.M. Gupta, resident of 23-Nofra, Kolaba, Bombay.
3. Smt. Aditi Gupta aged about 32 years wife of Sri S.S.Gupta, d/o Late B.M.Gupta, resident of Blossoms Co-operative Housing Society, Military Road, Marol, Andheri (East), Bombay.

... Applicants

Inre:

O. A. No. 260 of 1990

Dr. B. M. Gupta ... Applicant

Vs.

Union of India & others. ... Opp. Parties.

APPLICATION FOR SUBSTITUTION OF THE
PETITIONER/APPLICANT

I, Debashis Gupta, aged about 26 years, son of late Dr. B.M.Gupta, resident of C-162, Nirala Nagar, Lucknow, do hereby solemnly affirm and state

De Gupta
23/2/92

Filed today

25/2/92

2.

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as under:-

1. That I am applicant no. 1 in the above noted Original Application and pairokar of applicant no. 2 and 3 and as such I am fully conversant with the facts and circumstances mentioned hereinafter.
2. That late Dr. B.M. Gupta had filed the above noted O.A. No. 260 of 1990 before the Hon'ble Tribunal.
3. That during the pendency of the above-noted petition, he died on 24.1.1992 leaving behind his one son i.e. the applicant no.1 and two daughters i.e. applicant no.2 & 3, as mentioned above.
4. That it is important to mention here that there are only three legal heirs as mentioned above, of the late Dr. B.M.Gupta, as such in the interest of justice it is desired thatⁱⁿ the above mentioned petition all the three applicants may be substituted as legal heirs of the petitioner/ applicant, late Dr. B.M.Gupta after deliting his name from the array of the parties.
5. That it is important to mention that the claim of the applicant Dr. B.M.Gupta (late) is still surviving, as such in the ends of justice, the

B. Gupta
23/2/92

3.

prayer for substitution is being made before
this Hon'ble Tribunal.

P R A Y E R

WHEREFORE, it is most respectfully prayed
that this Hon'ble Tribunal may graciously be
pleased to issue suitable order for delisting the
name of Dr. B.M.Gupta as petitioner/applicant
in the above noted Original Application No. 260
of 1990 and may further be pleased to direct
that the applicants of this application being
legal heirs of late Dr. B.M.Gupta, be substituted
at his place as the applicant no. 1,2,&3 as
mentioned above.

Such further order which may be deemed fit
and proper in the circumstances of the case, be
also passed.

LUCKNOW

Debashish Gupta
(DEBASHISH GUPTA)

DATED: 23-2-92

VERIFICATION

I, the above named applicant no.1, do
hereby verify that the contents of paras 1 to 5
of this application are true to my personal
knowledge.

Signed and verified this 23rd day Feb/1992 at

Lucknow.

Lucknow/Dated 23-2-92

Debashish Gupta
DEBASHISH GUPTA

THROUGH *B.K. Shukla*
B.K. SHUKLA, ADVOCATE
COUNSEL FOR THE APPLICANT