

AS

LUC KNOW

Chandra Bhushan

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Applicant

Vs.

Union of India &
Others.

• • • • •

Respondents

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

Hon. Mr. K. Obayya, A.M.

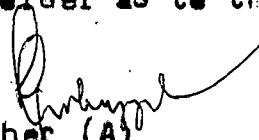
(By Hon. Mr. Justice U.C. Srivastava, V.C.)

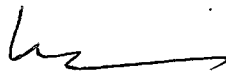
By means of this application the applicant has prayed that the order of the Director, Drug Research Institute, Lucknow, for holding the enquiry be quashed and the disciplinary authorities be directed not to conduct any disciplinary proceedings against the applicant on the basis of the memorandum issued to him and they may be further directed not to enforce the provisions of Bye-Law No.74 of the Bye-Laws of Council of Scientific & Industrial Research as contained in Annexure No.5 and the same may be declared ultravires of Article 191(a) of the Constitution of India and also article 14 & 16 of the Constitution.

2. From the reply filed by the respondents it appears that the enquiry has been concluded and the final order has not been passed and it is not a stage now any interference can be made though certain questions of law has been raised by the applicant. In case the enquiry goes against the applicant, he has got a right to challenge the validity of the Bye-laws, which he has challenged in this application and obviously that right cannot be taken away from him.

With these observations the application is dismissed.

No order as to the costs.


Member (A)


Vice-Chairman.

Dated: 29th March, 1993, Lucknow.

(tgk)

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing 5/12/90
Date of Receipt by Dept. 5/12/90
Deputy Registrar

Registration No. 337 of 1989

APPLICANT(S) Shri Chandra Bhushan

RESPONDENT(S) C. D. B. I

Particulars to be examined

Endorsement as to result of examination

1. Is the ~~appeal~~ ^{application} competent ?
2. a) Is the application in the prescribed form ?
b) Is the application in paper book form ?
c) Have six complete sets of the application been filed ?
3. a) Is the ~~appeal~~ ^{application} in time ?
b) If not, by how many days it is beyond time ?
c) Has sufficient case for not making the application in time, been filed ?
4. Has the document of authorisation/ Vakalatnama been filed ?
5. Is the application accompanied by B.D./Postal Order for Rs.50/-
6. Has the certified copy/copies of the order(s) against which the application is made been filed ?
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?
c) Are the documents referred to in (a) above neatly typed in double sapce ?
8. Has the index of documents been filed and paging done properly ?
9. Have the chronological details of representation made and the out come of such representation been indicated in the application?
10. Is the matter ~~raised~~ in the application pending before any court of Law or any other Bench of Tribunal?

yes

yes

yes

yes

yes

yes

yes

yes Postal order 50/-

Dated 5/12/90

yes

yes

yes

yes

yes

No

ACT

Particulars to be Examined

Endorsement as to result of examination

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

Two sets

yes

yes

x

N.A. fine respondents

yes

yes

N.A.

He - No y

yes

yes

yes

yes

orig R
5/10

Register 2
Put up on
22.10.90 before
the Honble Bench
for orders
21.10.90

334/90 (2)

AP

22.10.90

No sitting Adj to 6.11.90.

6.11.90

Hon. Mr. M. V. Pralhar - AM
" Mr. D. K. Agrawal - JM.

Due to resolution of Bar Association, case is Adj to 3.12.90.

3.12.90

No sitting adj. to 18.1.91

W
B.O.C.

18.1.91

No sitting adj. to 12.2.91

12.2.91

No sitting adj. to 5.3.91.

5/3/91

Hon. Mr. Justice K. Bhat, VC
Hon. Mr. A. B. Gouthi, AM.

The learned counsel for the applicant is not present although the case has been called twice. dist for admission on 2/4/91.

Am.

Am.

VC

VC

2.4.91

Hon. Mr. A. B. Gouthi - AM
Hon. Mr. S. N. Basra - JM.

On the request of Mr. A. Basra counsel for applicant case is adj. to 5.4.91.

OA 334/90

19(11)

6/9/91

Hon. Mr. D. K. Agrawal, Jm.
Hon. Mr. K. O'Bayge, Am.

None appears for the applicant.
Sri Hari Har Saran appears on behalf of the respondents. We have perused the petition and partly heard the learned counsel for the respondents. This claim petition is directed against an order of suspension dt. 18/6/57, chargesheet dt. 15/10-7-58, an order dt. 12/10/60 refusing the subsistence allowance of the applicant for reasons recorded therein, and the order dt. 3/5/90 refusing an outside i.e. Sri P. R. Singh to act as Defence Asstt. The claim petition in respect of first three relief, *prima facie* they appear to be barred by the [redacted] regarding relief No. 4, it has been [redacted] before us that Sri P. R. Singh is no more in service and that his termination order has become final vide judgement and order in T.A. No. 5/90 & T.A. No. 6/90 decided on 8/3/91 by a Bench of this Tribunal. Therefore taking into account the facts placed before us, we are of the opinion that Sri A. Bose, the learned counsel for the applicant may be provided an opportunity as to how this claim petition is liable to be admitted. List it for hearing on admission on 30/9/91.

Am.

Jm.

CA 334/90

28.1.92

Hon Mr Justice VC Savarbrick, VC
Hon Mr A. B. Grock, AM.

A2

Mr Harrison gave learned counsel
for respondents states that the reliefs
of the application are served
by time. Other reliefs have
gone in fruction.

None is present for applicant
O.A is dismissed for non-
prosecution.

✓

↓
AM

VC

Q

13-4-92

Hon Mr Justice VC Savarbrick, VC
Hon Mr A. B. Grock, AM.

Noted for 10/7/92
Mr Harrison
element in Grant Bick
5/5/92
Reminders
Advocate

Noted for 10/7/92

m.p. 289/92 is an application
for recall of the order dated 28-1-92
This is supported by an affidavit.
Cause shown is sufficient.
Order dated 28-1-92 is recalled.
O.A is restored to its original
number. Office to proceed.

✓

↓
AM

VC

Q

O.A. No. 334 of 90

Dated: 5.11.92

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

R.A. has not been filed so far. The same be filed within 2 weeks hereof. List this case for admission/hearing on 21.12.92.

J.M.

(rka)

21/12/92 - No setting aside to 2/2/93

OR

CA filed by 21/12/92
R.A. not filed

SFA

28/3/93

Dated: 8.2.1993

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

The applicant is present in person. No R.A. has been filed. The same be filed within 2 weeks ~~xxxxxx~~. List this case for admission/hearing on 29.3.1993.

J.M.

OR

CA filed by 21/12/92
R.A. not filed

SFA

28/3/93

74
O.A.No.334/90(L)

29th March, 1993.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, A.M.

As the pleadings are complete, the case is disposed of after hearing the Counsels for the parties. Judgement has been dictated in the open Court.


A.M.


V.C.

LUCKNOW BENCH, LUCKNOW

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL(~~XXXXXXXXXXXXXXXXXXXX~~)

O.A.No.334/90(L)

O.A.No.

OF 199

T.A.No.

29/3/93

Date of decision:_____

Chandra Bhushan

..... Petitioner

Amit Bose

..... Advocate for the petitioner.

Versus

U.O.I & Others

..... Respondents.

R.S.Srivastava

..... Advocates for the Respondent(s)

CORAM :-

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

The Hon'ble Mr. K. Obayya, A.M.

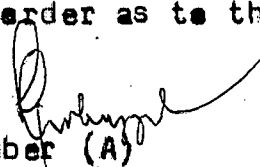
1. Whether Reporters of local papers may be allowed to see the judgment ? ✓
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the judgment ? ✓
4. Whether to be circulated to all other Benches ? ✓

NAQVI/12

Signature

With these observations the application is dismissed.

No order as to the costs.


Member (A)


Vice-Chairman.

Dated: 29th March, 1993, Lucknow.

(tgk)

#2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH
ALIAHABAD, CIRCUIT BENCH Lucknow

O.A.No. 334 of 1990 (L)

CHANDRAHUSHAN

Versus

....APPLICANT

Council of Scientific & Industrial Research
and others

...RESPONDENTS.

I N D E X

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15.	Postal order for Rs.50/- No. 615912	
16.	Power	

Place : Lucknow

Dated: 10 August, 1990


SIGNATURE OF APPLICANT

Noted for
22.10.90
for. P. Anitha

Amir Husein

Date of Filing 5.10.90

Date of Receipt by Post

Deputy Registrar (1)

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

O.A.No. 334 of 1990 (4)

CHANDRA KHUSHAN aged about 49 years son of late Gaya Prasad resident of and care of Shri Vijay Pratap Pandey, Village Devikhera Post office Badrukh District Lucknow at present posted as Security Guard (under suspension) Central Drug Research Institute, Lucknow.....APPLICANT

Versus

1. The Council of Scientific & Industrial Research, New Delhi through its Director General.
2. The Central Drug Research Institute, Lucknow through its Director.
3. Director Central Drug Research Institute, Lucknow.
4. Shri R.N.Wahal aged major son of not known at present posted as Controller of Administration, National Botanical Research Institute, Lucknow.....RESPONDENTS

DETAILS OF APPLICANTS :

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

The instant application under section 19 of the Central Administrative Tribunals Act 1985 is being filed by the applicant for challenging the order dated 18.6.87 passed by the Director, Central Drug Research Institute, Lucknow together with the Memorandum of charges dated 15/18.7.88 issued by the Director, Central Drug Research Institute, Lucknow, the order dated 12.10.88 passed by the Director, Central Drug Research Institute, Lucknow and the order dated 3.5.90 passed by Shri R.N.Wahal respondent No.4 hereto. True copies of these orders are annexed hereto as ANNEXURE NO.1,2,3 and 4 respectively.

Filed today
5/10

21/10/90

Shri R.N.Wahal

By the order contained in Annexure No.1 hereto the applicant has been placed under suspension purportedly in exercise of Rule 10(1) of the Central Civil Services (Classification, Control & Appeal) Rules, 1965.

By the Memorandum of charges contained in Annexure No.2 hereto and enquiry has been proposed to be conducted against the applicant under Rule 14 of the aforesaid rules and the applicant was required to submit his written statement of defence to the statements of imputations contained in Annexure No.II alongwith the concerned Memo.

By the order contained in Annexure No.3 hereto the subsistence allowance payable to the applicant has been reduced from 75% of his salary to 50% on the ground that the delay in enquiry was being caused by the applicant himself.

By the order contained in Annexure No.4 hereto the enquiry officer has refused to permit Shri Prem Raj Singh to assist the applicant in his defence.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATIONS :

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

4. FACTS OF THE CASE :

(1) That the applicant while serving as a Security Guard in the Central Drug Research Institute, Lucknow by means of the order dated 18.6.87 contained in Annexure No.1 was placed under suspension on the ground that an enquiry was contemplated against him.

2/11/87

Shri Prem Raj Singh

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(ii) That thereafter the Memorandum of charges dated 15/18.7.88 was issued against the applicant along with the imputations of misconduct. A perusal of the charges contained in Article 1 and 2 to the memo of charges would show that in Article 1 the imputation of misconduct against the applicant is that he attempted to molest one Smt. Mohini who is said to be the wife of Shrikishan a labourer belonging to M/S. D.M. Brothers, Lucknow the contractor engaged by the Institute in connection with some constructions work. Article 2 of the charges would show that the imputation of misconduct of certain incidence of negligence in performance of duty said to have been committed by the applicant on 11.5.83, 27.12.84, 20.3.86 and 7.11.86. Out of the above four incidences, in respect of the incident dated 11.5.83 and 27.12.84 it appears that warnings were issued to the applicant by the Institute by Memo dated 6.6.83 and 18.7.85. In both the imputations of misconduct has been charged with having contravened Rule 3(ii) of the Central Civil Services (Conduct) Rules.

(iii) By the order dated 12.10.88 contained in Annexure 3 hereto the subsistence allowance of the applicant was reduced from 75% to 50% w.e.f. 1.10.88 on the ground that the applicant was himself responsible in the conduct of enquiry and by the order dated 3.5.90 the respondent no.4 hereto has refused to permit Shri Prem Raj Singh an employee of the Institute to assist the applicant for the purpose of his defence.

(iv) That it is pertinent to point out here that after the issue of Memo of charges on 15/18.7.88, it was only by means of an order dated 8.3.89 passed by the Director, Central Drug Research Institute, Lucknow that the respondent no.4 hereto was appointed as enquiry officer to enquire into the charges.

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levelled against the applicant. It is obvious from the above that prior to 8.3.89 no proceedings were conducted against the applicant in respect of the charges levelled against him and as such prior to that date there was no question of any delay occurring in the enquiry much less the delay being attributable to the applicant. It is difficult to understand as to how when the respondent no.4 hereto had not even appointed an Enquiry Officer it could be said that delay has occurred in the proceedings of the enquiry, and that that delay had occurred due to the applicant. Thus the order contained in Annexure 3 hereto reducing the amount of subsistence allowance payable to the applicant is not only arbitrary but also mala fide. A true copy of the order dated 8.3.89 is being filed hereto as ANNEXURE NO.5. That the applicant on receipt of the aforesaid order submitted an application dated 11.4.89 addressed to respondent No.3 hereto inviting his attention to the fact that according to the Judgment and order dated 24.2.84 passed by the Hon'ble High Court, Lucknow that it had been admitted by the respondents that the CCS rules did not apply to the employees of the institution and as such he requested that the various orders issued against him under the said rules may be withdrawn. That however by an office memorandum dated 29.5.89 issued by the Controller of Administration, CDR I, Lucknow the applicant was informed that the respondent No.3 hereto had considered the aforesaid application submitted by the applicant and was of the opinion that the enquiry is being conducted under the CCS(CGA) Rules and was in order. A true copy of the OM dated 29.5.89 is being filed hereto as ANNEXURE NO.6.

(v) That thereafter the respondent no. 4 hereto took up the enquiry against the applicant on 7.8.89 and on that date he requested the applicant to furnish the name of the employee of the CSIR whom he wanted to assist him to gether

Handwritten signatures and initials at the bottom of the page.

with the list of witnesses whom he wanted to examine in his defence as well as list of documents on which he wish to rely in his defence. A true copy of the daily order sheet dated 7.8.89 is annexed hereto as ANNEXURE NO.7. That in response of the aforesaid directions of the respondent no.4 hereto by means of letter dated 16.8.89 addressed to respondent no.4 hereto the applicant nominated Sri Prem Raj Singh an employee of the CDRI. A true ~~copy~~ copy of the letter dated 16.8.89 is being annexed hereto as ANNEXURE NO.8.

(vi) That however by means of the letter contained in Annexure No.4 hereto the respondent no.4 hereto refused to permit Sri Prem Raj Singh to assist the applicant in the enquiry on the ground that the letter of the applicant nominating Sri Prem Raj Singh as his defence assistant was referred to the Director, CDRI Lucknow by the respondent no.4 hereto who had intimated that "Since the inquiry would involve production of records etc. at CDRI and the entry ~~in the~~ of ~~Institute's interest~~, Sri Prem Raj Singh in CDRI has been prohibited in the Institute's interest, Sri Chandra Bhushan cannot be permitted ~~to~~ to engage Sri Singh as his Defence Assistant". However, it is not clear from the aforesaid order as to why the ~~at~~ a letter dated 16.8.89 submitted by the applicant was referred to the Director, CDRI as the matter of nomination of a defence assistant is purely a matter between the delinquent employee and the enquiry officer and no third person has any say in the matter even according to the CCA rules. In this connection it is pertinent to point here that Sri Prem Raj Singh was employed as an Upper Division Clerk in the CDRI Lucknow and on the basis of certain allegations of misconduct (for trade union activities) he was removed from service by means of an order dated 2.12.1980. Sri Prem Raj Singh raised an Industrial Dispute regarding the validity of the aforesaid order and a reference was made

2/8/89

Shri Prem Raj Singh

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regarding the validity of the said order by the State government to the Labour Court Lucknow. The labour court, Lucknow by its award dated 9.5.85 awarded reinstatement with continuity of service with 50% back wages to Shri Prem Raj Singh after setting aside the order of removal from his service. The respondents no.1 to 3 hereto filed a writ petition No.2022 of 1985 before the Hon'ble High Court, Lucknow Bench challenging ~~the award of~~ the award of the reinstatement given in favour of Shri Singh and the Hon'ble High Court has passed an order in the said writ petition directing the Institute to pay Shri Singh full wages which he was drawing on 2.12.1980 during the pendency of aforesaid writ petition. The aforesaid writ petition now stands transferred to this Hon'ble Tribunal in view of Section 29 of the Administrative Tribunal Act since the Government of India has issued a notification authorising this Hon'ble Tribunal to decide service disputes of the respondent No.1 hereto also. In view of the above it is apparent that Shri Singh even today continues to be an employee of the Institute and as such even according to CCA rules he has a right to defend Shri Chandra Bhushan the applicant.

(vii), That on receipt of the order contained in Annexure 4 hereto the applicant submitted an application dated 20.5.90 pressing that the aforesaid order was illegal and even against the CCA Rules. True copy of this application is being annexed hereto as ANNEXURE No.9. That in response to the application submitted by the applicant aforesaid, the respondent no.4 hereto by means of order dated 1.6.90 informed the applicant that it was not possible to allow him to take Shri Prem Raj Singh as his defence assistant as the Director, CDRI has refused permission to him. By the aforesaid application also, the applicant has

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letter also ~~through~~ the applicant was informed that the enquiry was hitherto been conducted in the premises of the NERI, Lucknow would be conducted in the premises of the CDRI. A true copy of the letter dated 1.6.90 is being annexed hereto as Annexure No. 9-A.

(vii) That on receipt of the aforesaid letter the applicant submitted an application dated ~~26.6.90~~ ^{25.6.90} that the applicant was not in a position to nominate any other defence assistant as he had no faith or confidence in any other person and in absence of Shri Singh to assist him the applicant would be contesting the enquiry without defending himself. In the aforesaid application the applicant also pointed out that if it was not possible to permit Shri Prem Raj Singh to assist him in case the enquiry was being conducted in the premises of the CDRI the said enquiry could be directed at any place where Shri Singh could be allowed to attend the enquiry. A true copy of the application dated 25.6.90 is enclosed as ANNEXURE No. 10. hereto. On 26.6.90 the respondent No. 4 hereto rejected the aforesaid application on the basis of his earlier order contained in Annexure No. 4 hereto without considering at all the various contentions raised by the applicant in his aforesaid application and fixed 12.7.90 for conducting the enquiry.

(viii) That from the aforesaid facts it is apparent that the respondent No. 4 hereto is bent upon denying the applicant a reasonable opportunity of defending himself by not permitting him to be assisted by Shri Prem Raj Singh solely on the ground that the enquiry is to be conducted in the premises of the CDRI where the entry of Shri Singh had been prohibited. It is submitted that the aforesaid ground taken by the enquiry officer in rejecting permission to the applicant to be assisted by Shri Prem Raj Singh is absolutely untenable as there is no rule or law under which an enquiry has to be conducted at that place only where the records of the enquiry are present or available. There is no prohibition under any law on the enquiry officer to conduct the enquiry at a place of his choice which

21/11/21

Dr. Ravi Kumar

may not be necessarily the premises of the CDRI. More so in view of the fact that the applicant would be deprived of a defence assistant of his choice if the enquiry is conducted in the premises of the Institute. Thus it is apparent that the action of respondent no.4 hereto in refusing the applicant to be assisted by Shri Prem Raj Singh is absolved illegal, arbitrary and without jurisdiction.

(ix) That it is relevant to point out here that the Central Drug Research Institute, Lucknow is a Unit of the Council of Scientific & Industrial Research, New Delhi which is society registered under the Societies Registration Act vide certificate of Registration dated 12.3.1942 issued by the Registrar of Joint Stock Company Delhi. A true copy of the concerned certificate of registration is annexed hereto as ANNEXURE NO.11.

(x) That it is also relevant here that the Council of Scientific & Industrial Research New Delhi has framed Bye Laws for the conduct of the affairs and under Bye Law No.74, the Central Civil Services (Classification, Control & Appeal) Rules and the Central Civil Services (Conduct) Rules applicable to the employees holding civil posts under the Government of India have been made applicable in respect of the employees of the Council of Scientific & Industrial Research as well as its units with necessary modification. The applicant is filing herewith a true copy of the Bye Law No.74 as ANNEXURE NO.12. hereto.

(xi) That it is further relevant to point out here that one Shri Sahajit Tewari a Junior Stenographer serving in the CSIR in respect of certain grievance in respect to his service conditions filed a writ petition No.43/72 before the Hon'ble Supreme Court of India and a Constitution bench of the Hon'ble Supreme Court of India vide his judgment and order dated 21.2.75 reported in 1975 Vol-1 Supreme Court Cases page 485 case to conclusion that the CSIR is an Autonomous body not in any manner under the control or supervision of the Government of India and as such it was not covered by the definition of the terms 'State' as contained in Article 12 of the Constitution of India, therefore, the writ petition filed was not maintainable and was dismissed.

*Not done
see*

(xii) That subsequently, a Bench of the 7 Hon'ble Judges of the Hon'ble Supreme Court of India in the case of Management of Sri Ram Institute for Industrial Research Versus its Workmen and Other connected matters was called upon to consider and interpret the term 'Industry' as defined under Section 2(j) of the Industrial Dispute Act and after an exhaustive discussion, the Hon'ble aforesaid Bench of the Hon'ble Supreme Court in its decision rendered on 21.2/7.4., 1973 exhaustively laid down tests to determine whether a particular Undertaking or organization was covered by the definition of the term 'Industry' or not and in order to consider a number of activities including the activities of research institutes and determine specifically as to whether each of the aforesaid activity was covered by the definition of the term 'Industry' or not. As regards a Research Institute, the Hon'ble Supreme Court came to the conclusion that though such Research Institutes are mainly run without any profit motive, they are covered by the definition of the term 'Industry'. The applicant is filing herewith.

(xiii) That it is also relevant to point out here that as a sequel to the decision of the Hon'ble Supreme Court in the Bangalore Water Supply case, Parliament stepped in and by means of the Industrial Dispute (Amendment) Act, 1982 (Act No. 46 of 1982) amended the definition of the term 'Industry' as contained in Section 2(j) and under clause 3 of the Amended Section 2(j) of the Industrial Dispute Act, Research Institutions were specifically excluded from the definition of the term 'Industry'.

(xiv) That though the aforesaid Amended Section 2(j) has not been enforced by the Government of India as yet, but the provisions of the said Section clearly indicate that the parliament also understood the judgement of the Hon'ble Supreme Court in the Bangalore Water Supply case to include within the definition of the term 'Industry' the Research Institutions also, In fact in

9/2/4/1

Miss Ganga

- 10 -

the statements of objects and Research for enactment of Act No. 46 of 1982, it has been specifically mentioned as under.

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

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

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

(xvi) That according to the Section 2(o) of the Industrial

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Employment (Standing Orders) Act 1956, the term 'Industrial Establishment' has been defined to mean amongst other things, an Industrial Establishment as defined in Clause (11) or Section 2 of Payment of Wages Act, 1936 and according to Section 2(11) an Industrial or other establishments means amongst other things while Clause (f) includes any workshop or other establishments in which articles are produced, adopted or manufactures with a view to their use, transport or sale.

(xvii) That in view of the aforesaid definitions and in view of the fact that the Central Drug Research Institute Lucknow on the basis of the Research work carried out therein, discovers formula on the basis of which life saving drugs can be manufactured and the said formula is then supplied to drug manufacturers throughout the country who in turn pay to the Central Drug Research Institute money in the form of Royalty Besides, the Central Drug Research Institute, Lucknow engages itself in offering solutions to the problems faced in manufacture of drugs by drug manufacturers and for that purpose of for consultancy programmes and extracts money for offering those consultancy services. Thus, the Central Drug Research Institute is squarely covered by the definition of the term 'Industrial Establishment' as contained in Section 2(11) of the Payment of Wages Act and consequently is also covered by the definition of the said term as contained in Section 2(e) of the Industrial Employment (Standing Orders) Act.

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

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been preadribed under the said Act, the Draft Standing orders as for as practicable has to be in conformity with the Model Standing Orders.

(xix) That Section 4 and 6 of the Industrial Employment (Standing Orders) Act provides for a detailed procedure before a certifying Officer certifies the Draft Standing orders, including, an opportunity of hearing in respect to the Draft Standing orders to the Trade Union of the Workman and where there is no Trade Union, to the workmen concerned, Section/ 6 provides for a right of appeal against a certified standing orders.

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

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

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Services (Temporary Service) Rules, Revised Rules, Civil Service Regulations as far as any Defence Services Classification, Control and appeal Rules or the Indian Railways Establishment or who are subject to any other rule or regulations which may be notified in this behalf by the appropriate Government.

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

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

(xxiv) That the respondents hereto cannot rely on the provisions of Sections 13-B of the Industrial Employment Standing Orders Act as the said provisions exclude from the applicability of the Act.

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Only two categories of persons, one in respect of the persons who are subject to the rules and regulations framed by the Government Of India in respect of employees holding a civil post under its control and ascondly in respect of employees for whom special rules of regulations have been framed and which rules and regulation have been specifically notified by the Government of India as being excluded from the provisions of the Act. Since, as ~~stated~~ already pointed out here in-above, the council of Scientific & Industrial Research is an Authnumous Body, not under the Control of the Government of India in any manner and not being covered by the definition of the term 'State' as contained in Article, 12 of the Constituions of India, the employees of the Council of Scientific & Industrial Research and its Units cannot be treated to be persons holding civil posts in connection with the affaire of the Government of India and as such cannot also be trested as persons to whom various rules and regulations framed by the Government of India ifso-facto applies by virtue of their being employees of the Government of India.

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

(xxv) That in view of the above, Bye-Law No.74 of the Bye Laws framed by the Council for Scientific and Industrial Research as contained is Annexure No.6 hereto is liable to be struck down as beign contrary to provisions of of Industrial Employees Standing Orders Act and a direction is liable to be issued to the respondent hereto to refrain from enforcing the provisions of Central Civil

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Services (Classification Control & Appeal) Rules 1965 and the Central Civil Services (Conduct) Rules against the employees of Council of Scientific and Industrial Research as well as its Units solely on the basis of Bye-Law No. 74.

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

(xxvii) That as already pointed out herein above, the applicant in being proceeded against departmentally on the ground that by driving official vehicle of the Institute in a rash and negligent manner he had violated Rule 3(1)(iii) of the Central Civil Service (Conduct) Rules. The said rule 3(1) is being reproduced as under:-

"3.(1) Every Government servant shall at all times :

(iii) do nothing which is unbecoming of a Government Servant."

(xxviii) That a perusal of the aforesaid rule would show to the Hon'ble Tribunal that it is absolutely vague in nature as it does not specify which not according to the rule making authority would amount to either not maintaining absolute integrity or not maintaining devotion to duty or an act unbecoming of a Govt. Servant (in the case of the employees of the Institute, unbecoming of an employee of the Institute). In view of the above and in-Law of the settled legal position that it is imperative for an employer be it Govt. of India or a private organisation like the respondent Council of its Units to specifically provision every act or omission which would constitute a misconduct and commission of which act or omission would

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subject an employee to disciplinary proceedings resulting in punishment. It is not open to any employee to frame a vague and indefinite provision and then on the basis of its own motion about the violation of such a provision, subject an employee to a disciplinary proceedings on the basis of an act or omission committed by such an employee and punish him.

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

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

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

4. (1) Every employee shall at all times:
(i) maintain absolute integrity;

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(ii) x x x

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

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

22. Rule 4 bears the heading ^{Censure} 'Canere'. Rule 6 bears the heading 'misconduct'. The draftmen of the 1975 Rules made a

clear distinction about what would constitute misconduct. A

general expectation of a certain decent behaviour in respect of employee keeping in view Corporation culture may be a moral or ethical expectation. Failure to keep to such high standard

of moral, ethical or decorous behaviour befitting an officer of the company ~~behaviour~~ by itself cannot constitute mis-

~~conduct~~ conduct unless the specific conduct falls in any of the enumerated misconduct in Rule 5. Any attempt to telescope

Rule into Rule 5 must be looked upon with apprehension

because Rule 4 is vague and of a general nature and what is unbecoming of a public servant may vary with individuals and expose employees to vagaries of subjective evaluation.

What in a given context would constitute conduct unbecoming of a public servant to be treated as misconduct would expose a grey area not amenable to objective evaluation. Where misconduct when proved entails penal consequences, it is obligatory on the employer to

specify and if necessary define it with precision and accuracy so that any ex post facto interpretation of some incident may not be

can(A)flagged as misconduct. It is not necessary to dilate on this point in view of a recent decision of this Court in Glaxo Laboratories

(1) Ltd. V. presiding Officer, Labour Court Meerut, where this Court

held that everything which is required to be prescribed has to be prescribed with precision and so argument can be entertained that

something not prescribed cannot be taken into account as varying what is prescribed. In short it cannot be left to the vagaries of man-

agement to say Ex-Post fact that some acts of commission or commission nowhere found to be enumerated in the relevant standing order is

nonetheless a misconduct not strictly falling within the enumerated

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misconduct in the relevant standing order but yet a misconduct for the purpose of imposing a penal Rule 4 styled as 'General' specifies a norm of behaviour but does not specify that the violation will constitute misconduct. In Rule 5, it is nowhere stated that anything violative of Rule 4 would be per se a misconduct. It would therefore appear that even if the facts alleged in two heads of charges are accepted as wholly proved, yet that would not constitute misconduct as prescribed in Rule 5 and no penalty can be imposed, for such conduct. It may as well be mentioned that Rule 25 which prescribes penalties specifically provides that any of the penalties therein mentioned can be imposed on an employee for misconduct committed by him.

Rule 4 does not specify a misconduct."

(xxx1) That the whole purpose of framing Central Civil Services (Conduct) Rules is to draw a code of conduct to be followed by a person employed by the Government and a perusal of the rules concerned would show to the Hon'ble Court that the rules have been framed in order to meet the special situations and circumstances under which a Government Servant serves the Govt. and these situations and circumstances are peculiar to Government servants alone and it is not correct to say that an employee of a private organisation like the respondent society also serves under the same situations and peculiar circumstances as a Government Servant. The aforemaid contention of the petitioner finds support from the fact that Article 309 of the Constitution of India under which the Central Civil Service (conduct) Rules have been framed empowers Legislature and in its absence President or the Governor to lay down service conditions of persons holding civil posts under the Union or State Government. There is no provision under the Constitution empowering a Legislature or any other authority to lay down terms and conditions of service of an employee of a private organisation like the respondent Society. The fact that the framer of the Constitution preferred to

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

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

(xxxiii) That on the one hand, the respondents/society has adopted the Central Civil Services (Conduct) Rules and Central Civil Services (Classification, Control and Appeal) Rules for its employees, on the other hand according to it, it is not obliged to comply with the provisions of Article 14 and 16 of the Constitution of India, as it is not covered by the definition of the term 'State' used in Article 12 of the Constitution of India as the said Articles are fundamental Rights guaranteed to a citizen only against actions of such Bodies which are covered by the definition of the term 'State' in Article 12. Thus, the right guaranteed to a Government Servant under article 14 and 16 are not extended to the employees of the respondent society and it is apparent that the provisions of Bye-Law No. 74 are in fact

arbitrary as by virtue of the said bye-laws the respondent

Society has adopted only those rules applicable to a Government

Chief Justice

Servant which relate to disciplinary proceedings and misconduct whereas the beneficial provisions of Article 14 and 16 relating to employment, promotion etc. have not been adopted by the respondent society. Besides, the respondent Society has also not made any provision in its Bye-Laws similar to Article 311 of the Constitution of India nor has it adopted the said provisions of the Constitution of India and as such whereas the employee of the respondent society is subject to the Central Civil Service (Conduct) Rules and the Central Civil Service (Classification, Control & Appeal) Rules but at the same time he can be dismissed by an authority subordinate to the Appointing Authority.

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

(xxxv). That the applicant in his capacity as Security Guard is covered under the definition of the term "workman" as contained in Section 2(s) of the Industrial Disputes Act as he is performing the duties which are purely technical in nature and he has no supervisory powers and has no control over any staff.

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(xxxvi) That in this connection as already pointed out herein-
above that the imputations of misconduct levelled against the
applicant contained in Article 2 to the memo of charges relates
to incidence which occurred in the year 1983, 1984 and 1985 and
1986 i.e. some 5 to 6 years prior to initiation to the
disciplinary proceedings. However, there is no explanation
anywhere by the respondents hereto as to why such stale and
remote incidents have been made the subject of the instant
enquiry, specially when the respondents were well aware of
the said incidence and had issued warnings in respect of the
two of the said incidences. In view of the above it is
obvious that the said incidence has been made the subject of
enquiry with malafide intention only in view to punish the
applicant somehow or the other since perhaps the respondents
are not confident of framing the charges of attempted the
molestation levelled against the applicant. The even otherwise
since in respect of the incidences dated 11.5.83 and 27.12.84
the applicant had been issued warnings vide memo dated 6.6.83
and 18.7.85. The respondents have no authority to conduct any
proceedings in respect of the said incidence as the proceedings
having been closed by issuance of the warning can not be
reopened under any circumstances.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

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

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enforced against the employees of the respondent society or its units.

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

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- (G) Because in a quite similar situation where an employee of project and Equipment Corporation of India Limited had been proceeded departmentally for having violated rule 4 of the project and Equipment Corporation of India, Limited (Conduct & Discipline and Appeal) Rules which are similar in nature to rule 3 of the Conduct Rules the Hon'ble Supreme Court of India in the case of A. L. Kalra Versus Project and Equipment Corporation of India Limited came to the conclusion that the provisions of Rule 4 are vague in nature and no employee could be proceeded against departmentally for having violated the said rules and any such act on the part of the employer was arbitrary.
- (H) Because the action of the respondents hereto in reducing the subsistence allowance payable to the applicant to 50% is illegal and arbitrary.
- (I) Because the action of respondents hereto in refusing to allow permission to Shri Prem Raj Singh as the defence assistant of the applicant is also arbitrary, illegal and without jurisdiction.
- (J) Because the petitioner/applicant has no other alternate, adequate and equally efficacious remedy except to file this application under Section 19 of the Central Administrative Tribunals Act.

6. DETAILS OF REMEDIES EXHAUSTED :

Not applicable, as the applicant has no remedy against the Impugned Memo Contained in Annexure No.2 hereto specially in view of the fact that he is challenging the validity of Bye-Law No.74 which relief cannot be granted to him by any authority other than this Hon'ble Tribunal. As regards the order contained in Annexure No.1,3 and 4 hereto, the applicant cannot avail of any remedy in view of the fact that if the impugned memo contained in Annexure No.2,3 and 4 hereto is quashed the order contained in Annexure No.1,3 and 4 would be

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required to be quashed as a consequent thereto.

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

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

8. RELIEFS SOUGHT :

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

- i) the impugned orders dated 18.6.87, 12.10.88 passed by the Director, Central Drug Research Institute, Lucknow as contained in Annexure No.1 & 3, together with the order dated 3.5.90 issued by respondent no.4 hereto and impugned memo dated 15/17.7.88 issued by the Director, Central Drug Research Institute Lucknow as contained in Annexure No.4 and 2 hereto be quashed and the respondents hereto be directed not to conduct any disciplinary proceedings against the applicant on the basis of the impugned memo contained in Annexure no.2 hereto
- ii) The respondents be directed not to enforce the provisions of Bye-Law No.74 of the Bye Laws of Council of Scientific & Industrial Research as contained in Annexure No.5 against its employees after declaring the same to be ultravires of Article 191(a) of the Constitution of India and also article 14 and 16 of the Constitution; after declaring the same to be ultravires of Industrial Employment (Standing Orders) Act ; and
- iii) Any other relief deemed fit and proper in the circumstances of the case, including an order awarding costs of this petition.

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9. INTERIM ORDERS IF ANY PRAYED FOR :

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

The respondents be restricted from conducting any disciplinary proceedings against the applicant on the basis of the impugned ~~xxx~~ memo charges dated 15/18.7.88 issued against the applicant by the Director Central Drug Research Institute Lucknow as contained in Annexure No.2 hereto or in the alternate pass any other suitable interim order deemed fit and proper in the circumstances of the case.

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

NOT APPLICABLE.

11. PARTICULARS OF BANK DRAFT/POSTAL ORDER FILED BY THE APPLICANT IN RESPECT OF THE APPLICATION FEE.

POSTAL ORDER FOR Rs.50/- attached.

12. LIST OF ENCLOSURES : x ~~xxxxxxx~~ (True copies):

1. Order dated 18.6.87
2. Order dated 15/18.7.88
3. Order dated 12.10.88
4. Order dated 3.5.90
5. Order dated 8.3.89
6. Memo dated 29.5.89
7. Order sheet dated 7.8.89
8. Letter dated 16.8.89
9. Application dated 20.5.90
10. Application dated 25.6.90
11. Certificate of registration
12. Bye law No.74
13. Postal order

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VERIFICATION

I Chandra Bhushan aged about 49 years son of late
 Gaya Prasad care of Shri Vijay Pratap Pandey, Village
 Devikhera Post Office Badrukh District Lucknow at present
 posted as Security Guard, Central Drug Research Institute,
 Lucknow do hereby verify that the contents of paragraphs
 1 to 2(x), 6 & 7 are to my knowledge, of
 those of paragraphs 4(x) to 4(xxxv) & 5 are believed
 to be true on legal advice and that I have not suppressed
 any material fact.

Chandra Bhushan

Dated: 1990

SIGNATURE OF THE APPLICANT

Place : Lucknow

To

The Registrar

*T. C.
 Dist. Secy
 Secy.*

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

O.A.No. of 1990

CHANDRA BHUSHAN

.... APPLICANT

Versus

Council of Scientific & Industrial Research
and others

...RESPONDENT.

ANNEXURE NO.1

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

Chattar Manzil Palace,
Lucknow.

No.10(78)/87-vig

dated: the 18th June, 1987

ORDER

WHEREAS a disciplinary proceeding against Sri Chandra
Bhusan, Security Guard, is contemplated.

NOW, therefore, the undersigned, in exercise of the powers
conferred by sub-rule(1) of Rule 10 of the Central Civil Ser-
vices (Classification, Control & Appeal) Rules, 1965, as made
applicable to the employees of the Council of Scientific &
Industrial Research, hereby places the said Sri Chandra Bhusan
under suspension with immediated effect.

It is further ordered that during the period that this
order shall remain in force the headquarters of Sri Chandra
Bhusan, Security Guard, shall be Lucknow and the said Sri Chandra
Bhusan shall not leave the headquarters without obtaining the
previous permission of the undersigned.

(M.M.DHAR)
DIRECTOR

To:

Sri Chandra Bhusan,
Security Guard, CDRI,
Through: Security Officer, CDRI
Lucknow.

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

O.R. No.

of 1980

CHANDRA BHUSHAN

....APPLICANT

Versus

Council of Scientific & Industrial Research
and others

....RESPONDENT.

ANNEXURE NO.2

REGISTERED / AD

CENTRAL DRUG RESEARCH INSTITUTE

(Council of Scientific & Industrial Research)

Chattar Manzil Palace,

Lucknow

No.10(78)/87-Vig.

Dated: 15/18th July, 1988.

M E M O R A N D U M

The undersigned proposes to hold an inquiry against Shri Chandra Bhushan, Security Guard (Under Suspension). CDRI, under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 as made applicable to the employees of C.S.I.R.

The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A

statement of imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which and a list of witnesses by whom the articles of charges are proposed to be sustained are also enclosed (Annexure-III & IV).

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

3. He is informed that an inquiry will be held only in respect of those articles of charges as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Shri Chandra Bhushan is further informed that if he does not submit his written statement of defence on or before the date

Dr. P. K. Das

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specified in para 2 above or does not appear in person before the inquiry authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965, or the orders/directions issued in pursuance of the said rules, the inquiring authority may hold the inquiry against him ex parte.

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

6. The receipt of this Memorandum may be acknowledged.

DIRECTOR
CENTRAL DRUG RESEARCH INSTITUTE
LUCKNOW

Encl: As above.

To.

Shri Chandra Bhushan,
Security Guard (U/S), CDRI,
C/o Shri Vijay Pratap Pandey,
Village - Devikhera,
Post Office - Badrukh,
Distt. - Lucknow.

Not here
due

रिजिस्ट्रार

Statement of articles of charge framed against Shri Chandra Bhushan, Security Guard(U/SO, C.D.R.I. Lucknow.

ARTICLE - I

That the said Shri Chandra Bhushan, while working as Security Guard in CDRI, Lucknow has committed serious misconduct in the course of his official duties at the Animal House Security Post. At about 0100 hours on 28.5.87, he abandoned his duty post and approached the temporary cottage of contractor's labourer Shri Kishan and tried to molest his sleeping wife Smt. Mohini by physically removing her hand from her chest. He also threatened her and other labourers with dire consequences in case the incident was reported to higher authorities. Shri Chandra Bhushan has thus committed an act unbecoming of a Council servant and has thereby contravened sub-rule 1(iii) of Rule 3 of the C.C.S. (conduct) Rules, 1964 as made applicable to the employees of C.S.I.R.

ARTICLE - II

That during the period from 24th March, 1981 to 18th June, 1987 and while functioning in the aforesaid office, the said Shri Chandra Bhushan has committed misconduct inasmuch as he has been habitually found derelicting his duties on several occasions. Despite directions issued to him from time to time, Shri Chandra Bhushan abandoned his duty post and was found sleeping on 25.4.83, 27.12.84 and 20.3.86. On last such occasion, during the night shift duty commencing on 7th Nov '86, Shri Chandra Bhushan abandoned his duty post behind the main Chatter Manzil and was found sleeping between 0230 hours to 0430 hours on 8.11.86 inside Jeep No. UTD 9941 parked in the main portico of the building. Shri Chandra Bhushan has thus failed to maintain devotion to duty contravening thereby rule 3(1)(ii) of the CCS (conduct) Rules, 1964, as made applicable to the employees of CSIR.

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Statement of imputation of misconduct or misbehaviour in support of articles of charge framed against Shri Chandra Bhushan, Security Guard (U/SO, C.D.R.I., Lucknow).

ARTICLE - I

Shri Chandra Bhushan, Security Guard was detailed at Animal House Security post on night shift duty 2200 hours on 27th May, 1987. In connection with the construction work of the new building of the Animal House of the Institute, the Contractor M/S. D.M. Brothers, Lucknow had arranged for the temporary dwelling of his labourers within the Institute campus by the side of the construction work. At about 0100 hrs. on 28th May, 1987, Shri Chandra Bhushan left his Security post and went near the hutment where Smt. Mohini wife of Shri Kishan Labourer was sleeping. Shri Chandra Bhushan tried to molest Smt. Mohini by removing her hand from her chest. She woke up and started crying for help. On hearing cries of Smt. Mohini, her husband Shri Kishan who was sleeping at some distance in the lawn and other co-workers woke up and rushed towards the crying woman. Shri Chandra Bhushan ran away. Shri Chandra Bhushan who had wearing a baniyan and an underwear proceeded to west gate security post, where he took out his khakhi uniform from the locker. Later, clad in khakhi uniform, Shri Chandra Bhushan went to the labourers' camp area to collect his civilian shirt and pant which he had left earlier in the lawn near the Cafeteria building. Smt. Mohini recognised him and her husband Shri Kishan and other labourers tried to check Shri Chandra Bhushan. They reported that Shri Chandra Bhushan threatened them with dire consequences in case the incident was reported to higher authorities. Shri Chandra Bhushan has thus indulged in an act unbecoming of a council employee and has thus contravened sub-rule (1) (iii) of Rule 3 of the CCS (conduct) Rules, 1964, as made applicable to the employees of CSIR.

4/5/87
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ARTICLE -II

While working as Security Guard in the institute w.e.f. 24th March. 1981, Shri Chandra Bhushan has been found habitually lacking in devotion to duty on several occasions. The details of such instance are given below:-

- i) He was found sleeping in the Cabin at the main gate of New Campus of the Institute during his duty hours from 1400 to 2200 hrs. on 25th April, 83 and his explanation was called vide O.M.NO. 8/20/70-Estt. dt. 11.5.83.
- ii) He was again found sleeping while on duty at the Animal House Security post on 27.12.84 and asked to explain his conduct vide O.M.8/20/70-Estt. dt. 4.1.85.
- iii) He was found sleeping once again while on duty commencing from 0230 hours to 0430 hrs. on 20th March. 1986 and was warned to be careful in future vide Memo No. 8/20/70-Estt. dt. 2.4.86.
- iv) He was found missing from his duty post at the backside of the Chatter Manzil during duty hours commencing from 2200 hours on 7.11.85 and caught sleeping inside Jeep NoUTD-9941 parked in the main portico of the building. He was called to explain vide O.M.NO.8/20/70-Estt. dt. 17.12. 86.

In spite of the various directives issued to him from time to time to desist from such practice and discharge his duties properly, vide O.M.NO.8/20/70-Estt. dt. 25.11.82, 6.6.6.83 and 18.7.8 Shri Chandra Bhushan has failed to improve his conduct and maintain devotion to duty. He has thus been found lacking in devotion to duty and has thereby contravened Rule 3(ii) of CCS (conduct) Rules 1964, as made ~~applicable to the employees of~~ applicable to the employees of C.S.I.R.

Page 3 of 4

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List of documents by which the articles of charge framed against
Shri Chandra Bhushan Security Guard (U/S) CDRI. Lucknow are
proposed to be sustained.

1. Report dated 11.6.87 from Shri R.S. Deswal, Security Officer, CDRI.
- ~~2. Recorded statement of Shri Kishan,~~
2. Joint Statement of Smt. Mohini, Smt. Premi, Smt. Dukham and other Labourers.
3. Recorded statement of Shri Kishan, Labourer.
4. Recorded statement of Sh. Kanhaiya Lal dt.6.6.87.
5. Recorded statement of Sh. Ram Shanker dt.4.6.87.
6. Recorded statement of Sh. Dilip Singh dt.6.6.87.
7. Recorded statement of Sh. Ram Avadh Pathak, dt.05.06.87.
8. Recorded statement of Sh. Bankim Chandra Ghosh dt.11.6.87.
9. O.M.NO.8/20/70-Estt. dated 25.11.82 issued to Shri Chandra Bhushan, Security Guard.
10. O.M.NO.8/20/70-Estt. dt.11.5.83 issued to Shri Chandra Bhushan, Security guard.
11. O.M. No.8/20/70-Estt. dt.6.6.83 issued to Shri Chandra Bhushan, Security Guard.
12. O.M.No.8/20/70-Estt. dt.4.1.85 issued to Shri Chandra Bhushan Security Guard.
13. O.M.No.8/20/70-Estt. dt.18.7.85 issued to Shri Chandra Bhushan, Security Guard.
14. Memo No.8/20/70-Estt. dt.2.4.86 issued to Shri Chandra Bhushan, Security Guard.
15. O.M.No.8/20/70-Estt. dt.17.12.86 issued to Shri Chandra Bhushan, Security Guard.

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List of witnesses by whom the articles of charge framed against Shri Chandra Bhushan, Security Guard (U/S), CDRI, Lucknow are proposed to be sustained.

1. Smt. Mohini, Labourer.
2. Shri Kishan, Labourer.
3. Shri R.S. Deswal, Security Officer, CDRI.
4. Shri Ram Shankar, Watchman, CDRI.
5. Shri Kamhaiya Lal, Watchman, CDRI.
6. Shri Ram Avadh Pathak, Watchman, CDRI.
7. Shri B.C. Ghosh, Watchman, CDRI.
8. Shri Dilip Singh, Watchman, CDRI.
9. Shri Devendra Agarwal, Contractor, M/S. D.M. Brothers, Ram Tirth Marg, Narhi, Lucknow &
10. Shri Mahendra Agarwal, Contractor, M/S. D.M. Brothers, Ram Tirth Marg, Narhi, Lucknow.

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Shri Kishan
Smt. Mohini

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

O.A.No. of 1990

CHANDRA BHUSHANAPPLICANT
Versus

Council of Scientific & Industrial Research
and othersRESPONDENTW.

ANNEXURE NO.3

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

Chattar Manzil Palace,

LUCKNOW

Dated: 12.10.1988

No.10(78)/87-vig.

O R D E R

Shri Chandra Bhushan, Security Guard (u/s), CDRI, who was placed under suspension with effect from 18th June, 1987 was allowed to draw subsistence allowance, for the first three months of the period of his suspension as mentioned in O.M. of even number dated 25th June, 1987.

2. Having regard to the circumstances of the case and since the period of suspension has prolonged for reasons which are directly attributable to Shri Chandra Bhushan, it has been decided that the amount of subsistence allowance admissible to Shri Chandra Bhushan shall be decreased to an amount equal to 50% of the amount of subsistence allowance originally sanctioned and referred to in para 1 above w.e.f. 1st Oct., 88 until further orders.

3. In addition to the subsistence allowance, Shri Chandra Bhushan will also be entitled to draw dearness allowance on the basis of the amount of subsistence allowance, which he was in receipt of on the date of his suspension.

The payment of subsistence allowance will be in accordance with F.R.53(1)(a)(ii) and subject to the conditions laid down in F.R.53 and other rules/instructions governing these payments.

DIRECTOR
CENTRAL DRUG RESEARCH INSTITUTE
LUCKNOW

Shri Chandra Bhushan,
Security Guard (u/s), CDRI,
C/o Sri Vijay Pratap Pandey,
Vill: Devikhera, P.O. Badrukh,
Distt. Lucknow.

Handwritten signature

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IN THE GENERAL ADMINISTRATIVE TRIBUNAL,
ADDITIONAL BENCH ALIAHABAD, CIRCUIT BENCH
LUCKNOW

O.A.No.

of 1990

CHANDRA BHUSHAN

....APPLICANT

Versus

Council of Scientific & Industrial Research
and others

....RESPONDENTW.

ANNEXURE NO.4

REGISTERED / A.D.

NATIONAL BOTANICAL RESEARCH INSTITUTE

(Council of Scientific & Industrial Research)

No.COA/VIG./89

Dated: 3.5.1990

To

Shri Chandra Bhushan,
Security Guard(under suspension),
Central Drug Research Institute,
C/O Sri Vijai Pratap Pandey,
P.O. Badrukn
LUCKNOW

Sub: Departmental enquiry into the charges framed against Shri
Chandra Bhushan- appointment of Defence Assistant.

Sir,

With reference to your letter No.Nil,dated 16th August,1989
on the above subject nominating Shri Prem Raj Singh,UDC,CDRI as
your Defence Assistant to defend you, I am to inform you that
Director,Central Drug Research Institute, to whom a reference
was made in the matter has intimated as follows:

"Since the inquiry would involve production or records etc.
at CDRI and the entry of Shri P.R.Singh in CDRI has been
prohibited in the Institute's interest, Shri Chandra Bhushan
cannot be permitted to engage Shri Singh as his Defence
Assistant."

In view of above you may kindly nominate another CSIR
employee from whom you wish to take assistance as your Defence
Assistant. Further,as already asked on 7.8.89 vide Dally Order
Sheet of that date,kindly furnish the following:

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- 1)Alist of witnesses with their complete addresses,he
proposes to be examined on his behalf.

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- 2) A list indicating the relevance of the documents, required by him to be produced by CDRI, and
- 3) A list of documents he himself proposes to furnish in his defence.

The above information may kindly be furnished latest by 21st May, 1990 to enable the undersigned to proceed in the matter further.

The next date of hearing will be fixed on receipt of the above information.

yours faithfully,

(R.N.WAHAL)

CONTROLLER OF ADMINISTRATION
INQUIRING AUTHORITY

7/12/90

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Central Administrative Tribunal, Allahabad 240.

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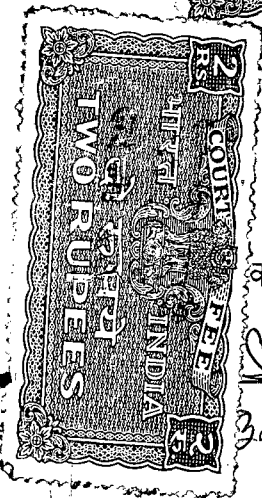
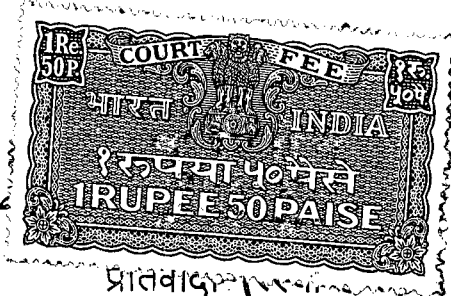
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Chandra Bhushan

वकालतनामा

O. A. No.

1990



Chandra Bhushan

C. S. I. R. and others

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कदमा में अपनी ओर से श्री

वकील

Sri Amit Bose

32/33 Chandra Nagar (Chhatrapati Park) महोदय
Lucknow एडवोकेट

को अपना वकील नियुक्त करके (इकरार) करता हूं और लिखे देता हूं इस मुकदमा 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 मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (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 हूं कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को भेजता रहूंगा। अगर मुकदमा 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 समय पर काम आवे।

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

O.M.NO.

of 1990

CHANDRA BHUSHAN

....APPLICANT

Versus

Council of Scientific & Industrial Research

and others

....RESPONDENTW.

ANNEXURE NO.5

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

Chattar Manzil Palace,
Lucknow.

No.10(78)/87-vig

, Dated: 8th March, 1989.

ORDER

WHEREAS an inquiry under Rule 14 of the central Civil Services(Classification, Control & Appeal) Rules, 1965 as made applicable to the employees of the CSIR, is being held against Shri Chandra Bhushan, Security Guard(under suspension), CDRI.

AND WHEREAS the undersigned considers that an Inquiry Officer should be appointed to enquire into the charge framed against him.

NOW THEREFORE, the undersigned, in exercise of the powers conferred by sub-rule (2) of the said rule hereby appoints Shri R.N.Wahal, Controller of Administration, National Botanical Research Institute, Lucknow as Inquiry Officer to inquire into the charges framed against the said Shri Chandra Bhushan.

(B. N. DHAWAN)

DIRECTOR

Shri Chandra Bhushan,
Security Guard(U/S, CDRI,
C/o Sri Vijay Pratap Pandey,
Village-Devikhers,
P. O. Badrukh,
Distt. Lucknow.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ADDITIONAL BENCH ALIHAHAD, CIRCUIT BENCH
LUCKNOW

O.M.NO.

of 1990

Versus

Council of Scientific & Industrial Research
and others

....RESPONDENTW.

ANNEXURE NO. 6

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

Chatter Manzil Palace,
LUCKNOW.

No. 10 (78)/87-vig.

Dated: 29.05.1989

OFFICE MEMORANDUM

With reference to his letter dated 11.04.1989 addressed to Director, CDRI (by name), Shri Chandra Bhushan is informed that his letter has been considered by the Director. He is, however, informed that the proceedings against him are being conducted under the C.C.S. (C.C.&A.) Rules, 1965 as made applicable to the employees of CSIR & are in order.

He is directed not to delay the progress in the conduct of disciplinary proceedings and he should present himself before the Inquiry Officer on the appointed date & time.

(V.P. BAKSHI)
CONTROLLER OF ADMINISTRATION

Shri Chandra Bhushan,
Security Guard(U/S), CDRI,
C/o Sh. Vijay Pratap Panday,
Vill: Davikhare PO: Badrukh,
Distt - Lucknow.

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

O.M.NO.
CHANDRA BHUSHAN

of 1990

....APPLICANT

Versus

Council of Scientific & Industrial Research
and others.RESPONDENT.

ANNEXURE NO.7

NATIONAL BOTANICAL RESEARCH INSTITUTE, LUCKNOW

Dated: 7.8.1989

DAILY ORDER SHEET

Sub: Proceedings of Departmental Inquiry into the charges framed
against Shri Chandra Bhushan, Security Guard, CDRI
(under suspension).

Shri Chandra Bhushan, Security Guard, CDRI (under suspension),
delinquent official and Shri P.M. Ram, the Presenting Officer
were present.

Shri Chandra Bhushan was asked to state whether he accepts the
charges incorporated in the charge-sheet issued to him by Director,
CDRI vide his Memorandum No. 10(78)/87 -vig., dated 15th/18th July 1988.

Shri Chandra Bhushan denied the charges levelled against him.

Shri Chandra Bhushan was asked to intimate/furnish the
following to enable the Inquiry Officer to proceed with the
inquiry at the earliest:

1. Name of CSIR employee, if any from whom he wishes to take
assistance as his defence assistant.
2. A list of witnesses with their complete addresses, he
proposes to be examined on his behalf.
3. A list indicating the relevance of the documents, required
by him to be produced by CDRI, and
4. A list of documents he himself proposes to furnish in
his defence.

Shri Chandra Bhushan was directed to furnish the above mentio-
ned information latest by 22nd August, 1989 to the undersigned
so that further hearing in the case may start. The next
date of hearing will be fixed on receipt of this information.
The presenting Officer was also directed to be ready with the
production witnesses on the next date of hearing which will
be intimated after 22nd August, 1989.

Charged Officer

Presenting Officer

Inquiry Officer

20/2/89

Dr. P. K. Singh

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ADDITIONAL BENCH ALIAHABAD, CIRCUIT BENCH
LUCKNOW

O.M.NO.

of 1990

CHANDRA BHUSHAN

....APPLICANT

Versus

Council of Scientific & Industrial Research
and others

....RESPONDENT E.

ANNEXURE NO. 8

From:

Chandra Bhushan
c/o Vijai Pratap Pandey
Vill: Devikhera,
P.O. Badrukh
Lucknow

To :

Shri R.N.Wahal
Inquiry Officer/
Controller of Administration
National Botanical Research Institute
Rana Pratap Marg
Lucknow

Subject: Appointment of Defence Assistant

Sir,

As desired by you on 7-8-89

I hereby nominate Shri Prem Raj Singh, Upper
Division Cler, CDRI (B, 6, CSIR, Colony, Niralanagar,
Lucknow-226007) as my defence Assistant to defend me.

Rest of the matter as desired by you
will be replied by my Defence Assistant.

(Chandra Bhushan)
Watchmen/Security
Guard, CDRI

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

O.M.NO. of 1990

CHANDRA BHUSHAN

....APPLICANT

Versus

Council of Scientific & Industrial Research
and others

....RESPONDENT.

ANNEXURE NO. A

Shri R.N.Wahal
Controller of Administration (Inquiring Authority)
National Botanical Research Institute,
Lucknow

Sub: Departmental enquiry - Chandra Bhushan

Sir,

After about nine months vide your letter No.CCA/VIG/89 dated 3.5.1990 I have been informed that the Director, CDRI has intimated that I can not be permitted to engage Prem Raj Singh as my defence assistant to defend me in the above enquiry.

In this connection I would like to reproduce below the relevant rules of the CCS(CCA) Rules 1965 regarding nomination of defence assistant.

"Rule 14(8)(a) : The Government servant may take the assistant of any other Government Servant to present the case on his behalf but may not engage a legal practitioner for the purpose unless the presenting Officer appointed by the disciplinary is a legal practitioner, or the disciplinary authority, having regard to the circumstances of the case, so permits".

In view of above the Director, CDRI has no authority to ask not to engage the defence assistant of my choice. Neither he or any other authority except mentioned in Rule 35 of CCS(CCA) Rules has powers to interpretation of any of the rules. I, therefore, reiterate to nominate
Your faithfully,

defence assistant as intimated to you.

Dated: 20.5.90

(Chandra Bhushan)

G/OSri Vijai Pratap Pandey

Vill: Devkhare PO: Badrukh, Lucknow

Copy for information & N.A. to:

1. Dr. B.N.Dhawan, Director, CDRI, Lucknow
2. Shri Prem Raj Singh, B6, CSIR Colony, Niralanagar, Lucknow along with the letter of the Inq. Officer under reference in original for taking up the matter with the authority on my behalf as my Defence Assistant.

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

O.A.NO. of 1990

CHANDRA BHUSHAN

....APPLICANT

Versus
Council of Scientific & Industrial Research
and others

....RESPONDENTS

ANNEXURE NO.9-A

NATIONAL BOTANICAL RESEARCH INSTITUTE
(Council of Scientific & Industrial Research)

No. COA/VIG./89

Rana Pratap Marg,

Date. 1st June, 1990

Lucknow-226001 (India)

To

Shri Chandra Bhushan,
Security Guard (under suspension),
Central Drug Research Institute,
C/O Shri Vijai Pratap Pandey,
Vill.: Devikhera
P.O. Badrukh
LUCKNOW

SubsDepartmental enquiry into the charges framed against

Shri Chandra Bhushan-appointment of Defence Assistant.

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Sir,

With reference to your letter dated 20th May, 1990 I am to inform you that in terms of Govt. of India's instructions NO.15 under Rule 14 of the CCS CCA Rules, 1965, I, as the Enquiry Officer of the case took initiative of informing the controlling authority of Shri P.R. Singh about your nominating Sri P.R. Singh as your Defence Assistant. As the controlling authority of Shri P.R. Singh viz. Director, Central Drug Research Institute, Lucknow has shown his inability to permit him to act as your Defence Assistant and has informed me the same, I requested you vide my letter of even number dated 3rd May, 1990 to nominate another Defence Assistant which you failed to do.

In view of the above I once again give you opportunity to nominate another CSIR employee from whom you wish to take assistance as your Defence Assistant. Further, kindly furnish the following:

- 1) A list of witnesses with their complete addresses, he proposes to be examined on his behalf.
- 2) A list indicating the relevance of the documents, required by him to be produced by CDRI and

11 June 1990
Sd/-
Sd/-

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- 3) A list ~~index~~ of documents he himself proposes to furnish in his defence.

The above information may kindly be furnished at your earliest but not later than the date of next hearing i.e. Tuesday, the 26th June, 1990.

Next hearing of the case will be held in the Conference Room of CDRI Guest House at 11.00 A.M. on Tuesday, the 26th June, 1990. You should present yourself alongwith the information as requested above, failing which inquiry will be held ex-parte.

Yours faithfully,

(R.N.WAHAL)
CONTROLLER OF ADMINISTRATION
INQUIRING AUTHORITY

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

O.M.NO.

of 1990

CHANDRA BHUSHAN

...APPLICANT

Versus

Council of Scientific & Industrial Research
and others

...RESPONDENT.

ANNEXURE NO. 3 / c

Shri R.N. Wahal
Controller of Administration
Inquiring ~~at~~ Authority
National Botanical Research Institute
Rana Pratap Marg
Lucknow

Sub: Departmental enquiry into the charges framed against Chandra
Bhushan- appointment of defence assistant.

Sir,

I was very surprised and pained to receive your letter NO.CQA/
VIG/89 dated 1st June, 1990 due to your insistence in not permitting
Shri Prem Raj Singh to defend me on untenable grounds. I was also
surprised to know that the venue of the enquiry viz. upto now was the
NBRI campus has been shifted to the CDRI campus which to me appears
to be a deliberate attempt on your part in collusion with the
Director, CDRI, Lucknow to find out some ground for preventing Shri
Prem Raj Singh from attending the enquiry and defending me.

Though in your above letter you have asked me to nominate some
other defence assistant but I am not at all in a position to do so as
I have neither any faith nor any confidence in any body else except
Shri Prem Raj Singh that he would defend me in the manner I want and
with due intelligence and as such in absence of permission to Shri
Prem Raj Singh to defend me I am not in a position to defend myself
at all. In such a situation the only course is open to me is to attend
the enquiry without defending myself at all in absence of Shri Prem
Raj Singh and I shall not be able to defend me in absence of Shri
Prem Raj Singh as Defence Assistant.

If you feel it difficult to permit Shri Prem Raj Singh to defend
me if the enquiry is conducted in the CDRI campus it is open to you
to conduct it either in the NBRI campus or any other place which is
convenient to you where there can be no hindrance to Shri Prem Raj
Singh attending the enquiry as my defence assistant in the interest
of principles of natural justice to me.

Hoping for an early reply in the matter.

Thanking you,

Your faithfully,

Dated: 25.6.90

(Chandra Bhushan)
Security Guard- CDRI
C/o Shri Vijai Pratap Pandey
Village: Devikhera P.O. Badrukh
LUCKNOW

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Handwritten signature/initials

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ADDITIONAL BENCH ALLAHABAD, CIRUIT BENCH
LUCKNOW

46
1754

O.M.NO.

of 1990

CHANDRA BHUSHAN

...APPLICANT

Versus

Council of Scientific & Industrial Research
and others

...RESPONDENTE.

ANNEXURE No.11

Certificate of Registration of Societies

Act XXI of 1860

No. X of 1941-1942

I hereto certify that The Council of
Scientific and Industrial Research has this day
been registered under the Societies Registration
Act, XXI of 1860.

Given under my hand at Delhi this
Twelfth day of March one thousand nine hundred
and Forty two.

Fee Rs. 50/- paid.

SEAL

Sd/-
Registrar of Joint Stock Companies,
DELHI.

Dr. P. S. Rao
Secy

4/2/42

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ADDITIONAL BENCH ALLAHABAD, CIRUIT BENCH
LUCKNOW

O.M.NO.

of 1990

CHANDRA BHUSHAN

...APPLICANT

Versus

Council of Scientific & Industrial Research

and others

...RESPONDENTE.

ANNEXURE No.12

Conditions of Service of Officers and staff of the Society

BYE-LAW 74

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

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

Dr. B. B. B.

21/11/11

47
Ass

A 56

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH, ALLAHABAD

CIRCUIT BENCH, LUCKNOW

M. P. No. 289/92

O.A.No.334/90(L)

Chandra Bhushan

....

Applicant

Versus

C.S.I.R. and others

....

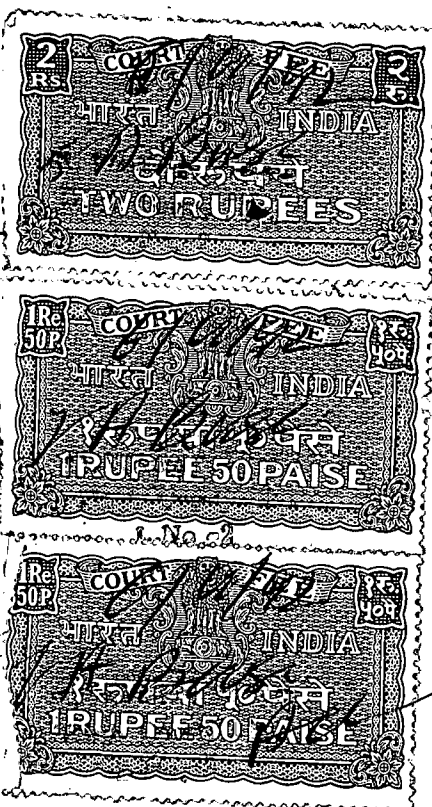
Respondents

APPLICATION FOR RECALL OF THE ORDER
DATED 28.1.1992.

This humble application of the above named

applicant most respectfully sheweth as under:

That for the facts, circumstances and reasons contained in the accompanying affidavit it is most respectfully prayed that the Hon'ble Tribunal may be pleased to recall its order dated 28.1.92 and after restoring the application to its original number, hear and dispose of the same on merits.



Filed today

AMT

10/4/92

Lucknow, dated
March 92

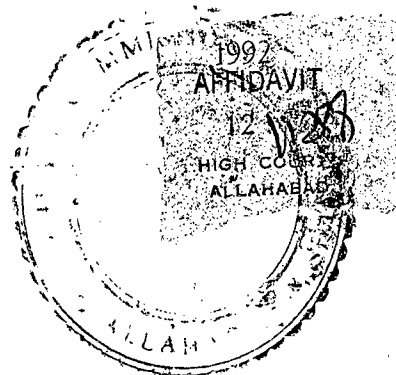
Amit Bose

(AMIT BOSE)
Advocate

Counsel for the applicant

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

O.A.No. 334/90(L)



Chandra Bhushan ... Applicant

Versus

Council of Scientific & Industrial
 Research and others Respondents

AFFIDAVIT

IN SUPPORT OF APPLICATION FOR RECALL OF THE ORDER

DATED 28.1.1992



I, Chandra Bhushan, aged about 49 years
 son of Late Gaya Prasad care of Shri Vijai Pratap
 Pandey, village Devi Khera, Post Office Badrukha
 District Lucknow, the deponent do hereby make
 oath and state as under:

1. That the deponent is the applicant himself
 in the above mentioned O.A. and as such he is

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ASB

(2)

fully conversant with the facts deposed to herein after.

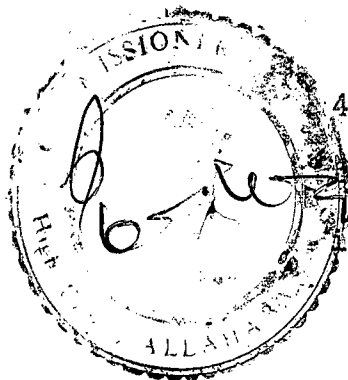
2. That the deponent has filed aforesaid application before this Hon'ble Tribunal challenging the orders dated 18.6.1987, 12.10.1988 3.5.1990 and 15/17-7-1988 as contained in Annexures No.1,2,3 and 4 to the aforesaid application.

3. That the aforesaid application was fixed for admission before this Hon'ble Tribunal on 28.1.1992 on which date the counsel for the applicant Shri Amit Bose, Advocate owing to be busy in arguing cases before the Hon'ble High Court Allahabad, Lucknow Bench, could not appear before the Hon'ble Tribunal when the aforesaid case was taken up for orders and the same was dismissed for non-prosecution.

4. That the lapse on the part of the counsel for the applicant is neither deliberate nor intentional and the same is liable to be condoned.

5. That the counsel for the deponent received a copy of the order passed by this Hon'ble Tribunal on 28.1.1992 only on 19.2.1992 and as such the application for restoration is being filed now.

6. That in view of the aforesaid facts, circumstances and reasons, it is necessary in the ends of justice to the deponent that the



102742/11

(3)

Hon'ble Tribunal may be pleased to recall its order dated 28.1.1992 and after restoring the same aforesaid application to its original number hear and dispose off the same, on merits.

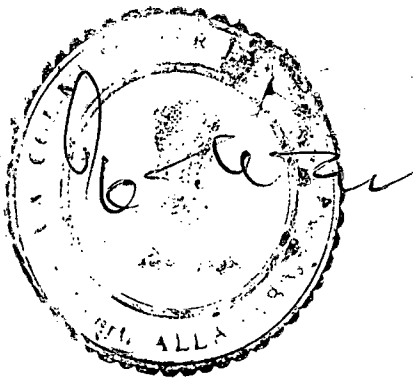
Lucknow, dated

6 April 92

[Signature]
Deponent

VERIFICATION

I, the above named deponent do hereby verify that the contents of paragraphs 1 to 6 of this affidavit are true to my knowledge. No part of this affidavit is false and nothing material has been concealed. So help me God.



[Signature]
Deponent

I identify the deponent who has signed before me.

[Signature]
(AMIT BOSE) Advocate

Solemnly affirmed before me on 6-4-92 at 12-48 a.m./p.m. by the deponent who is identified by Shri Amit Bose, Advocate

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

[Signature]
M. B. ANAND
JUDGE COMMISSIONER
Allahabad Bench Lucknow

12-4-92
6-4-92

A60

C/A

Central Administrative Tribunal

Lucknow Bench

O.A.No. 334 of 1990 (L)

Chandra Bhushan

.....

Applicant.

-Vs-

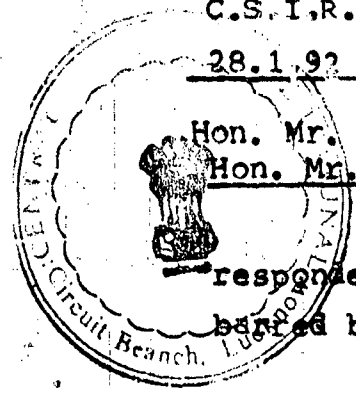
C.S.I.R. and others

.....

Respondents.

28.1.92

Hon. Mr. Justice U.C.Srivastava V.C.
Hon. Mr. A.B. Gorthi A.M.



Sri Harihar Saran Learned counsel for the respondents states that the relief of the application are barred by time. Other reliefs have become infructuous.

None is present for applicant. O.A. is dismissed for non prosecution.

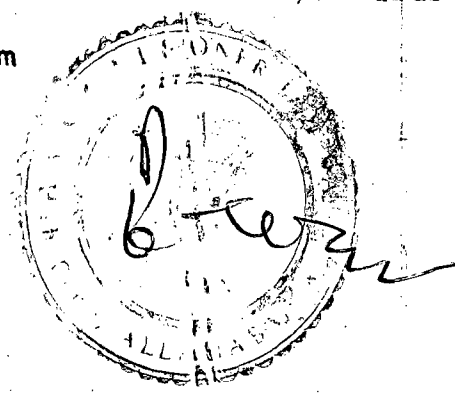
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Sd/
A.M.

Sd/
V.C.

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Vkm



et
[Signature]
Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow

A61

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH, ALLAHABAD

CIRCUIT BENCH, LUCKNOW.

M.P. No. 729/91 (L)

O.A. No. 334 of 1990

Chandra Bhushan

.....

Applicant

Versus

Council of Scientific & Industrial

Research and others

...

Opposite Parties

APPLICATION FOR RECALL OF THE ORDER

DATED 11.11.1990 DISMISSING THE ABOVE

APPLICATION IN DEFAULT OF THE APPLICANT.

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

That for the facts, circumstances and reasons mentioned in the accompanying affidavit, it is most respectfully prayed that the Hon'ble Court may be pleased to recall its order dated 11.11.1991 and after restoring the application to its original number, hear the same and dispose of the same on merits.

Lucknow, dated
10v. 1991

(Amit Bose)
Advocate
Counsel for the applicant.

A62

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH, ALLAHABAD

CIRCUIT BENCH, LUCKNOW.

O. A. No. 334/90

Chandra Bhushan

....

Petitioner/Applicant

Versus

Council of Scientific & Industrial

Research and others

....

Respondents

AFFIDAVIT

I, Chandra Bhushan, aged about 49 years son of Late Gaya Prasad, c/o Shri Vijai Pratap Pandey, resident of village Devikhera, Post Office Badrukh, District Lucknow, the deponent do hereby make oath and state as under:

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

2. That the above mentioned application was fixed for admission before the Bench of the Hon'ble Tribunal on 11.11.1991. However, when the above mentioned

application was called out for being heard for the purposes of admission, the Counsel for the applicant Shri Amit Bose Advocate, was busy arguing a case in the Hon'ble High Court, Allahabad, Lucknow Bench, Lucknow and as such he could not appear when the above application was called out with the result that the same has been dismissed in default of the applicant.

3. That the lapse on the part of the counsel for the applicant is neither deliberate nor intentional as such it may be condoned.

4. That in view of the above facts, circumstances and reasons, it is necessary in the ends of justice to the applicant that the Tribunal may be pleased to recall its order dt. 11.11.91 and restore the application to its original No. and hear and dispose of the same on merits.

Deponent

Lucknow, dated
Nov. 91

VERIFICATION

I, the above named deponent do hereby verify that the contents of paragraphs 1 to 4 of this affidavit are true to my personal knowledge. No part of this affidavit is false and nothing material has been concealed. So help me God.

Deponent

I identify the deponent who has signed before me.

(Amit Bose) Advocate

Solemnly affirmed before me on

at a.m./p.m. by the deponent who is
identified by Shri Amit Bose, Advocate.

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

164

Central Administrative Tribunal
Circuit Bench, Lucknow.

O.A.No.334/90(L)

Chendra Bhushan

Applicant

Versus

C.S.I.R. & Others

Respondents.

Dated: 11.11.91

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

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



None for applicant. The application is
dismissed for want of prosecution.

Sd/

Sd/

J.M.

A.M.

*checked
OK
19/11/91*

// True Copy //

AKM

19/11/91

Secretary

Central Administrative Tribunal

Circuit Bench

Lucknow

AGS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

(LUCKNOW BENCH)

O.A. No. 334/90 (L) .

Chandra Bhushan.

...APPLICANT.

Versus

C.S.I.R. & others.

... OPP.PARTIES.

Counter/Written statement of opposite parties
no. 1, 2 & 3.

1. That the deponent is the Senior Controller of Administration, Central Drugs Research Institute, U.P. Lucknow and is authorised to file this Counter/Written Statement. He has gone through the contents of the application and has understood its meaning.

2. That the contents of paragraph 1 of the application do not require any comments as the contents of the orders shall be clear from the Annexures 1, 2, 3 and 4.

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

4. That the contents of paragraph 3 of the application are not admitted. The present application is barred by time and is not maintainable. Annexure No.1 is the suspension order passed on 18.6.1987, Annexure No.2 is the memo of charge sheet dated 18.7.1988, Annexure no.3 is the order decreasing the subsistence allowance by 50% dated 12.10.1988 and Annexure No.4 ^{is} order denying ~~defence assistance~~ representation by P.R.Singh is dated 3.5.1990. So far as the relief claimed for quashing Annexure Nos. 1, 2, and 3 are barred by time.

*File today
12/10/92*

fin

: 2 :

5. That the contents of paragraphs 4(i), 4(ii) and 4(iii) do not require any comments. It may be submitted in this respect that Sri Prem Raj Singh has ceased to be an employee of the C.S.I.R.. He was dismissed from service and his application for setting aside the dismissal order has also been dismissed by this Hon'ble Tribunal. No one can be represented in disciplinary proceedings by a person who is not an employee of the C.S.I.R..

6. That with regards to the contents of paragraph 4(iv) of the application, it is admitted that Sri R.N.Wahal was appointed as Enquiry Officer on 8.3.1989. It is denied that the subsistence allowance was reduced arbitrarily. The applicant was given ^{repeated} full opportunity to furnish his reply to the charge sheet which he did not do and, consequently, he was responsible for delaying the proceedings and it was on that account that on a periodical review that his subsistence allowance was reduced as he was delaying the proceedings.

7. That the contents of paragraph 4(v) of the application do not require any comments.

8. That with regard to the contents of paragraph 4(vi) of the application, it is admitted that the Enquiry Officer did not permit engagement of Sri P.R. Singh as defence assistant. It is not admitted that the Enquiry Officer had no power to seek advice of the disciplinary authority. Sri P.R.Singh had been dismissed from service and he had approached the Court for



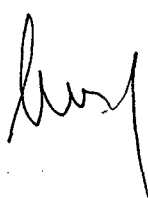
: 3 :

setting aside the dismissal order. It was under the orders of the Hon'ble High Court that he was being paid pending decision of the case. The Tribunal received the case by transfer from the Hon'ble High Court in the year 1990 and the Hon'ble Tribunal dismissed the case of Sri P.R.Singh on March 8, 1991. During the pendency of the case the entry of Sri P.R. Singh in the Institute Premises was prohibited. Sri P.R.Singh consequently could not be allowed to act as Defence Assistant.

9. That the contents of paragraph 4(vii) of the application are denied. The enquiry was to be held by the C.D.R.I. as the records required for the purposes of enquiry would be available at the C.D.R.I.. Any how Sri Prem Raj Singh having ceased to be an employee could not be permitted to represent the applicant.

10. That the contents of paragraphs 4(vii) (repeated) and 4(viii) of the application are not admitted as stated. There was no motive in rejecting the prayer of the applicant for having Sri P.R.Singh as Defence Assistant. There were valid grounds as already mentioned in the preceding paragraphs for not permitting Sri Prem Raj Singh as Defence Assistant. It is denied that the order refusing the applicant to be assisted by Sri Prem Raj Singh was illegal, arbitrary or without jurisdiction.

11. That the contents of paragraph 4(ix) of the application do not require any comments.

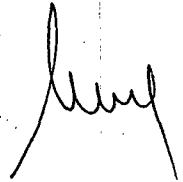


: 4 :

12. That the contents of paragraph 4(x) of the application are not admitted as stated. The present bye-laws do not have bye-law 74 as stated. The bye-laws were revised in the year 1989 and the present bye-law 12 corresponds to the old bye-law 74.

13. That the contents of paragraph 4(xi) of the application are not disputed as the contents of the decision of the case of Sabha Jeet Tewari would be clear from the judgment of that case. However, it may be mentioned that the Hon'ble Supreme Court held that the C.S.I.R. did not come within the definition of word 'State'.

14. That the contents of paragraph 4(xii) of the application are not admitted as stated. In the case of Bangalore Water Supply and Sewerage Board Versus A. Rajappa - 1978 SCC (L&S) 215, the Hon'ble Supreme Court did discuss the scope of the definition of 'Industry' as contained in Industrial Disputes Act in Section 2(J) and observed that the definition was of wide ^{import} ~~amplitude~~ and absence of profit motive or hardship to any class, cannot narrow down the definition. The matter, however, as to whether the C.S.I.R. is an Industry or not, was not before their Lordships. ~~The applicant has only filed extracts of paragraphs 112 and 113 of the case.~~ It would be necessary to peruse the whole judgment and it would show that in regard to Research Institutes there was a difference of opinion between the Judges in that case. So far as the Textile Research Institute was concerned, it was held to be an Industry under the special circumstance.



: 5 :

in which the Research was to be carried on. The research was in connection with Textile Trade and Industry and Allied Industries. The costs of maintaining the Association was made partly by the members who benefited directly by research. It was rendering material service to a number of Mills with a view to secure greater efficiency and reduction of costs and the Association was organised and arranged in a manner in which a Trade or Business is generally organised. It was on the consideration of these factors that the Association was held to be an 'Industry'. In the case of C.S.I.R. it is submitted that it is purely a Research Organisation. It does not carry on any manufacture nor did it carry on any trade or business. The matter as to whether the C.S.I.R. is an Industry or not, came up directly for consideration before the Central Administrative Tribunal, Ernakulam in the case of M.Parameswaran Pillai Versus Chief Administration, C.S. I.R. and after consideration of the law on the subject including the case of Bangalore Water Supply and Severage Board Versus A.Rajappa, came to the conclusion that the C.S.I.R. cannot be held to be an 'Industry'. The case is reported in (1989) 10 Administrative Tribunals' Cases at page 849. Further the Madras High Court (1976 Lab. I.C. 1388) in the case of N.Karappannan Versus The Additional Registrar of Trade Union, Madras & others also held that C.S.I.R. is not 'Industry'. Clearly therefore, the C.S.I.R. is not an 'Industry'.

15. That the contents of paragraphs 4(xiii) and 4(iv) of the application are not admitted as stated. The

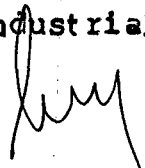


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Industrial Dispute Amendment Act, 1982 (Act No.46 of 1982) was enacted not because the Parliament was of the view that Research Institutes are Industries but on account of the observations of the Hon'ble Supreme Court that the legislature should stop in with a Comprehensive Bill to clear up the term and remove the doubts and set at rest once and for all the controversy that crops up from time to time in relation to the meaning of term 'Industry'. On the other hand the intention of the legislature is clear from the new definition of the word 'Industry' where Research Industries and some other Bodies have been excluded by Special mention from the definition of 'Industry'.

16. That the contents of paragraph 4(xv) of the application are denied.

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




: 7 :

as the term 'Industrial and other Establishments' is of a much wider import than the term 'Industrial Establishment'. It is clear that even in the definition of 'Industrial and other Establishment' in the payment of Wages Act, the C.S.I.R. or its units cannot be covered. Sub-Clauses (a) to (e) are definitely not applicable and so far as Clause (f) concerned, it is as follows:

"Clause 'f' Workshop or other Establishments, in which the articles are produced, adopted or manufactures with a view to their use transport or sales."

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

18. That the contents of paragraph 4(xvii) of the application are not admitted. As already explained in the preceding paragraphs, the C.S.I.R. does not carry on any activity by way of Trade or Business and it is not an Industrial Establishment as defined in the Industrial Employment (Standing Orders) Act. It is a purely Research Institute and its activities are research oriented and to undertake Research Projects of National Priority. Even receipt of Royalty on processes which is quite insignificant will not amount to an economic venture or change the main & dominant purposes.




19. That the contents of paragraphs 4(xviii), 4(xix) and 4(xx) of the application refer to the provisions of the Industrial Employment (Standing Orders) Act and the same would be clear from the statute itself. It is however, submitted that these provisions are not applicable to the C.S.I.R.. The applicant had joined services and continued knowing-ful well the conditions of service and he is ^{bound} Bound by the same.

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

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

22. That the contents of paragraph 4(xxiii) of the application are denied. As the Industrial Employment




: 9 :

(Standing Orders) Act is not applicable to the C.S.I.R. the question of Model Standing Orders being applicable does not arise. The employees are employees of C.S.I.R. which is a Society registered under the Societies Registration Act and, consequently, they are bound by the Bye-laws framed by the Society.

23. That the contents of paragraph 4(xxiv) of the application are denied. Though it is denied that the Industrial Employment (Standing Orders) Act applies to the C.S.I.R. but if for argument sake it is considered to be applicable then the C.S.I.R. is protected under Section 13-B.

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

25. That the contents of paragraph 4(xxvi) of the application are denied. As already submitted the Industrial Employment (Standing Orders) Act does not apply to the C.S.I.R.. Old bye-law 74 corresponds to bye-law 12 of the revised Bye-laws by virtue of which the Central Civil Services (Classification, Control and Appeal) Rules and the Central Civil Services (Conduct) Rules are made applicable to the employees of C.S.I.R. with modifications. The applicant has been rightly proceeded against as he has violated the Central Civil Services (Conduct) Rules as applicable to the C.S.I.R..



26. That the contents of paragraphs 4(xxvii), 4(xxviii) and 4(xxix) of the application are denied. There is no vagueness or indefiniteness in the Central Civil Services (Conduct) Rules. The charge against the applicant was not only of negligent driving. He was also charged for having made an attempt to molest a lady labourer and for absence from duty and there has been no arbitrary and colourable exercise of power by the C.S.I.R.. Violation of Conduct Rule is ^{per se} a misconduct and employee is liable to be punished where misconduct is proved.

27. That the contents of paragraph 4(xxx) of the application are not admitted as stated. The facts of the case of A.L.Kalara in respect of misconducts provided by Rules therein were different and they cannot be made applicable to the case of the applicant. However, the contents of this paragraph referred to precedent and they can be replied too with reference to particular cases and facts which were before their Lordships. They are not applicable to the facts of the present case and the Rules under consideration.

28. That the contents of paragraph 4(xxxi) of the application are not admitted as stated. The registered Society can adopt any Rules framed by the Government with suitable modifications to suit the circumstances of the Society.

29. That the contents of paragraph 4(xxxii) of the application are denied. Private Organisation can adopt

[Signature]

Rules framed by the Government and make them terms and conditions of the employment of its employees.


30. That the contents of paragraph 4 (xxxiii) of the application are not admitted as stated. The Government Rules not only in respect of the disciplinary proceedings but also other matters have been adopted with modifications by the C.S.I.R..

31. That the contents of paragraph 4 (xxxiv) of the application do not require any comments except that the Rules adopted under bye-laws become ^{ce} the part of contract and it binds the employees.

32. That the contents of paragraph 4 (xxxv) of the application are denied. The applicant is not covered by the definition of Workmen. Moreover, the Industrial Dispute Act is not applicable.

33. That the contents of paragraph 4 (xxxvi) of the application are denied. The question of using ~~State~~ ^{state} incidents in the charge sheet does not arise when those incidents indicate the present incidents showing failure ~~of~~ to perform duties. They indicate the continued failure to perform duty properly.

34. That the contents of paragraph 5 of the application including the grounds mentioned therein are denied. The orders passed were justified and there was no illegality or violation of any Rules or provisions of any Act or the Constitution.



: 12 :

35. That the contents of paragraph 6 of the application are not admitted. The applicant should have availed of departmental remedy against his being subjected to disciplinary proceedings and reduction of subsistence allowance.

36. That the contents of paragraph 7 of the application need no comments.

37. That the contents of paragraph 8 of the application are denied. The applicant is not entitled to any reliefs as already mentioned.


38. That the contents of paragraph 9 of the application are not admitted. The applicant is not entitled to any interim relief. The pleas raised by the applicant can be judged after the departmental proceedings ^{conclude} and the application in the first instance is premature. Moreover reliefs in respect of Annexures no. 1, 2, 3 and 4 are barred by time and as P.R. Singh has already ^{been} dismissed the relief against the rejection of the application regarding representation through P.R. Singh is infrectuous.

39. That the contents of paragraph 10 of the application need no comments.

40. That the contents of paragraph 11 of the application need no comments.

41. That the contents of paragraph 12 of the application need no comments.

LUCKNOW: DATED:
August 14th, 1992.

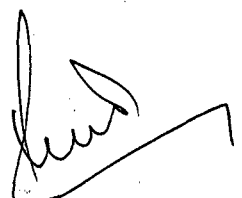

(V.P. BAKSHI)
SENIOR CONTROLLER OF ADMINISTRATION
FOR O.P.NOS. 1, 2 & 3.

V E R I F I C A T I O N

I, V.P.Bakshi, Senior Controller of Administration, C.D.R.I., Chatter Manzil, Lucknow, do hereby ~~xxx~~ verify that the contents of paragraphs 1 to 41 of this Counter/ written statement are true to my knowledge based on record available in the office. No part of it is false and nothing material has been concealed. So help me God.

Signed and verified this 14th day of August, 1992 at Lucknow.

LUCKNOW: DATED:
August 14th, 1992.


(V.P.BAKSHI)
SENIOR CONTROLLER OF ADMN.
FOR OPPOSITE PARTIES NO.1, 2 & 3.
(Deponent)

I identify the deponent, named above, who has signed before me.

LUCKNOW: DATED:
August 14th, 1992.


(HARI HAR SARAN)
ADVOCATE.