

Central Administrative Tribunal

Lucknow Bench

INDEX SHEET

Cause Title of 1993

Name of the Parties DA 203/90 Applicant
Waqeel Ahmad
Versus

Respondents.
U.O.I.

Part A.E.C.

Sl. No.	Description of documents	Page
①	check list	A ₁ to A ₂
②	Order sheet	A ₃ to A ₇
③	Judgement 5-1-93	A ₈ to A ₁₀
④	Petition	A ₁₁ to A ₂₄
⑤	Annexure	A ₂₅ to A ₆₆
⑥	C.A.	A ₆₇ to A ₈₀
⑦	R.A.	A ₈₁ to A ₉₄

1 - Notice

B. File

Petition, Annexure, Bq 5 to B3 176

CA / RA.

File etc. sealed and destroyed

S.O. [Signature]

C. File

Office copy of notice, power - [Signature]

(A-2)

Particulars to be Examined

Endorsement as to result of examination

- 11. Are the application/duplicate copy/spare copies signed ?
- Are extra copies of the application with Annexures filed ?
- a) Identical with the Original ?
- b) Defective ?
- c) Wanting in Annexures Nos. _____ pages Nos _____ ?
- Are the file size envelopes bearing full addresses of the respondents been filed ?
- 14. Are the given address 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.

Ys

Ys

NO

Ys

Ys

NA

Ys

Ys

Ys

Ys

dinesh/

(A3)

7/1/91
D. R.

Both the parties are present today. R.A. has not been filed. Applicant to file rejoinder by 6/2/91

6.2.91
D. R.

Counter has already been filed.

Rejoinder to be filed by 19/3/91

19.3.91
D. R.

Applicant's side is present. Rejoinder has not been filed. Applicant to file rejoinder by 19.4.91. O.P.'s counsel R. S. Srivastava is also present today.

19.4.91
D. R.

Both the parties are present, Shri Amit Bose counsel for the petitioner desires to file R.A. by 12/7/91.

12.7.91
D. R.

Both the parties are present. Rejoinder has not been filed so far. Applicant desires to submit Rejoinder by 1/8/91.

(AS)

O.A. 203/90


1.8.91

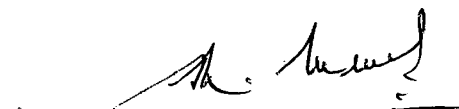
D.R.

Applicants are present and they file Rejoinder Affidavit today. C.A/R.A have been exchanged. Hence this case is to be listed before the Hon. Bench on 24/10/91 for final hearing. Department's side is present.

24.10.91 -

On the prayer of counsel for the both parties, case may be listed for hearing on 1.1.92


 (S. N. Prasad)
 Member Judge


 (Kausol Kumar)
 vice Chairman

1.1.92 -

No sitting case is advanced on 4.3.92 for hearing.

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH : LUCKNOW

ORDER SHEET NO. _____

O.A./T.A. No. 203/90

OFFICE REPORT / DATE / ORDER

Case is S.F.H.

19.12.92

Hon. Mr. K. Obayya - A.M.

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

16/10/92

16.12.92

On the request of the learned Counsel for the respondents who has reportedly undergone eye operation and is unable to attend the Court. The case is adjourned to 17.12.92 for hearing.

(DAS)

J.M.

A.M.

17.12.92

Joint Mr. Justice B.C. Mishra vs
Joint Mr. K. Obayya and

Adjournment application for illness has been received by S.L.H. Saran learned Counsel for respondent.

Adjourn to 18.12.92 for

hearing

Bm

ve

S.F.H.

21/12/92

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

J.A. NO. _____ 199 (L)

J.A. NO. 203/70 199 (TL)

Date of Decession _____

Rajendra Prasad (K. 203/70) Petitioner.

----- Advocate for the
Petitioner(s)

V E R S U S

Union of India & others Respondent.

----- Advocate for the
Respondents

C O R A

Hon'ble Mr. At the time of 10/10/70

Hon'ble Mr. K. S. Nayyar & A.M.

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

Vice-Chairman / Member

(A 3)

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

Original Application No. 203 of 1990

Vakeel Ahmad Khan and another Applicants

versus

Union of India & others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Adm. Member.

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

The applicants were appointed as Apprentice in the C.D.R.I and after 3 years, their apprenticeship came to an end though, for time being they were given yet another opportunity and that is why they prayed for a direction to the respondents to allow them to continue in service as casual workers with effect from 24.5.1990 with all consequential benefits of pay and allowances and to consider the applicants/ appointment against regular posts in terms of circulars issued by the C.S.I.R. dated 13.1.1981, 14.2.1983 and 30.3.90

2. In response to an advertisement for Graduate trainees in the C.D.R.I. the applicants, applied for the same and after having been declared successful in the interview they were appointed as Project trainee with effect from January, 1987. In the appointment letter it was provided that the course for apprenticeship will be for a period of one year and will be extended upto two years or till the duration of the scheme whichever is earlier. It is to be noticed that the apprentice

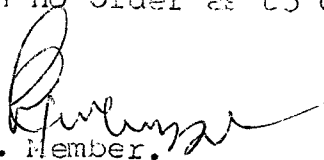
Aa

ship training in the Walter Reed Malaria Scheme and the required course was for specific period. One of the conditions of the appointment was that Central Civil Service (Classification Control and Appeal) Rules, and other rules or executive orders as may, from time to time be applicable to the servants of the Council shall apply to the extent to which they are applicable to the servants of C.D.R.I. The applicants were allowed to continue and orders were passed on 29.3.88 by the Controller of Administration, C.D.R.I. extending the period of of one year and this period was to expire on 12.1.89 and it was extended for further one year, ^{upto} 12.1.1990 and vide order dated 15.3.90 the applicant was appointed against the casual work for a period of three months on consolidated salary of Rs 900/- per month, whereafter the applicant No. 2 was not engaged. Like the applicant No. 2, the applicant No. 1 was also appointed and he was not allowed to work after ~~15.3.90~~ 23.5.1990 and he also claims regularisation in view of the circulars issued by the C.D.R.I, but instead of treating them regular, they were thrown out without following the provisions of Industrial Disputes Act which provides that the services terminated without following the provisions under the said rules, tantamounts to retrenchment.

3. The respondents have resisted the claim of the applicants and have asserted that after 7.1.90, ^{No. 1} the applicant/ ceased to be a trainee of the C.S.I.R. and they were engaged for casual work for a fixed period of three ~~years~~ months and they have no right. It has been further stated that so far as ~~this~~ claim

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is concerned, it came to an end. The respondents stated that the applicant has claimed parity with other two persons namely Shru Susnil Kumar Bhatnagar and Smt. Madhuli Srivastava who were also engaged on contract basis and applied against the notified post of Technician Grade II and according to the respondents, they underwent the prescribed procedure and constitution of selection committee and the applicant did not apply for the said post and as such they cannot claim none of the parity. The scheme is still continuing and there appears to be no reason why the applicants be not taken back when they have gained experience and one after other the scheme is going on and the applicants' case be considered in case they fulfil the requisite qualification. The respondents were directed to consider the case of the applicant in any project, provided the similar other persons have been considered. This will be subject to availability of the vacancies. With these observations the application is disposed of with no order as to costs.


Adm. Member.


Vice Chairman.

Lucknow: dated 5.1.93.

Shakeel/-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW

CHANDI LINGH, LUCKNOW.

O.A.No. 203 of 1990 (L)

Wakeel Ahmad Khan and another Applicants

Versus

Council of Scientific & Industrial Research

New Delhi and others Respondents.

I N D E X

Sr.No.	Description of documents relied upon	Page No.
1.	Application <u>ANNEXURE NO.1</u>	1-14
2.	True copy of letter dated 17.12.86	15
3.	<u>Annexure No.2</u> True copy of letter dated 20/21 January 87	16
4.	<u>Annexure No.3</u> True copy of letter dated 2.1.87	17-19
5.	<u>Annexure No.4</u> True copy of order dated 29.3.83	20
6.	<u>Annexure No.5</u> True copy of order dated 1.3.89	21
7.	<u>Annexure No.6</u> True copy of order dated 15.3.90	22
8.	<u>Annexure No.7</u> True copy of order dated 17.12.86	23
9.	<u>Annexure No.8</u> True copy of order dated 2.1.1987	24-26
10.	<u>Annexure No.9</u> True copy of order dated 29.3.83	27
11.	<u>Annexure No.10</u> True copy of order dated 1.3.89	28
12.	<u>Annexure No.11</u> True copy of order dated 15.3.1990	29
13.	<u>Annexure No.12.</u> True copy of order/circular dated 13.1.81	30-38
14.	<u>ANNEXURE NO.13</u> True copy of Circular dated 14.2.83	39-40
15.	<u>Annexure No.14</u> True copy of Circular dated 30.3.90	41-42
16.	<u>Annexure No.15</u> True copy of Judgment dated _____	43-59

Almas Bhowan

(A 11)

✓ Deputy Registrar (57)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

CIRCUIT BENCH, LUCKNOW.

O.A.No. 203 of 1990 (42)

1. VAKEL AHMED, aged about 23 years son of Late Mukhtar Ahmad Khan resident of House No.482/Ka/.50 Bhandu Mohalla, Daliganj, Lucknow, at present posted as Casual Worker Central Drug Research Institute, Chhattar Manzil Lucknow
2. Vidya Bhushan Tiwari, aged about 25 years son of Shri Uma Shankar Nath Tiwari, resident of 281/40 Mawaiya, Lucknow at present posted as a Casual worker, Central Drug Research Institute Chhattar Manzil, Lucknow ... Applicants

Versus

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

DETAILS OF APPLICATION:

1. PARTICULARS OF ORDERS AGAINST WHICH THE APPLICATION IS MADE:
The applicants are filing the instant application under

*Filed today
S.P.
25/6/90*

*Noted for
27.6.90
Mukherjee
28.6.90
C/O Sri Amit Bose
AD.*

*Sharma
Sharma*

AD

(2)

under section 19 of the Central Administrative Tribunal Act 1985 challenging the action of the respondents hereto in not permitting them to work as Casual workers in the Central Drug Research Institute, Lucknow with effect from 23.5.1990 and also to issue a direction ~~to~~ to the respondents to immediately grant the applicants regular appointment in terms of the letter of the Council of Scientific & Industrial Research dated 31.1.1981, 14.2.1983 and 30.3.1990.

2. JURISDICTION OF THE TRIBUNAL

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

3. Limitation;

The applicants further declare that the application is within the limitation period prescribed in Section 21 of the Central Administrative Tribunals Act 1985.

4. FACTS OF THE CASE:

I) That ~~the instant~~ in response to an advertisement the applicant No. 1 applied for being appointed as a Graduate Trainee in the Central Drug Research Institute, Lucknow and by means of letter dated 17.12.1986 issued by the Section Officer Central Drug Research Institute Lucknow, the applicant No.1 was directed to attend the interview after engagement as a Graduate Trainee scheduled to be held in the Central Drug Research Institute Lucknow on 29.12.1986. A true copy of the concerned letter is annexed hereto as ANNEXURE NO.1.

Admission
Admission

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II) That having been declared successful on the aforesaid interview, by means of an order dated 20/21 January 1987, passed by the Section Officer Central Drug Research Institute, Lucknow the applicant No.1 was appointed as a Graduate Trainee with effect from 8.1.1987. A true copy of the said order is annexed hereto as ANNEXURE NO. 2.

III) That prior to the issuance of the aforesaid order, the applicant No.1 by means of a letter dated 2.1.1987 issued by the Administrative Officer (SG) Central Drug Research Institute, Lucknow was informed that the Director Central Drug Research Institute Lucknow had appointed him as a Graduate Trainee on terms and conditions mentioned in the said letter one of which was that he would receive an stipend of Rs.600/- per month during the course of the said training. A true copy of the concerned letter is annexed hereto as ANNEXURE NO.3.

IV) That a perusal of the letter dated 2.1.87 Annexure No.3 hereto would show to the Hon'ble Tribunal that it was stipulated therein that the course of apprenticeship of the applicant was to be initially for a period of one year, which could be further extended by one year or whereafter there would be no further extension.

V) That in pursuance of the aforesaid condition of the appointment of the applicant No.1 his term of appointment in pursuance of the order dated 20/21 January 1987 expired on 7.1.1983. Subsequently by means of an order dated 29.3.1983 passed by the Controller of Administration Central Drug Research Institute, Lucknow, the contract of appointment of the applicant No.1 hereto was further extended for a

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period of one year with effect from 13.1.1988. A true copy of the said order is annexed hereto as ANNEXURE NO. 4

VI) That the aforesaid period of one year of extension of the applicant was to expire on 12.1.1989, but, the said period was further extended for a further period of one year with effect from 8.1.1989 to 7.1.1990, By means of an order dated 1.3.1989 passed by the Controller of Administration Central Drug Research Institute, Lucknow. A true copy of the concerned order is annexed hereto as ANNEXURE NO. 5.

VII) That in pursuance of the aforesaid order the period of contract of appointment of the applicant No. 1 expired on 7.1.1990 and thereafter by means of an order dated 15.3.1990 passed by the Administrative Officer Central Drug Research Institute, Lucknow, the applicant was appointed as a casual worker for a period of 3 months with effect from 8.2.1990 on a consolidated contractual sum of Rs. 900/= per month. A true copy of the concerned order is annexed hereto as ANNEXURE NO. 6.

VIII) That though it was stipulated in the aforesaid order itself that the applicant No. 1 would be relieved on the expiry of the period of his appointment on 7.5.1990 he was allowed to work in the Institute upto 23.5.1990 whereafter when he reported for duty on 24.5.1990 he was not permitted to work and was informed that in view of the expiry of period of his appointment and he having not been granted any extension thereafter, his contractual employment with the Institute had been terminated.

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IX) That similarly as applicant No.1, the applicant No.2 hereto also applied for the post of Graduate Trainee and by means of a letter dated 17.12.1986 issued by the section officer Central Drug Research Institute, Lucknow he was required to appear for an interview for selection for appointment on the said post. A true copy of the concerned letter is annexed hereto as ANNEXURE NO.7.

X) That having been declared successful at the concerned Interview, by means of an order dated 2.1.1987. the applicant No.2 was informed that he had been appointed as Graduate Trainee in the Walter Reed Malaria Scheme on the terms and conditions mentioned in the said letter one of which was that he would be paid stipended @ Rs.600/- per month and his post of apprenticeship will be for a period of one year which was likely to be extended for a further period of two years or till the duration of the scheme. A true copy of the concerned order is annexed hereto as ANNEXURE NO.8.

XI) That the applicant No.2 hereto having accepted the terms and conditions mentioned in the aforesaid appointment order, ~~by means of an order~~ dated 2.1.87 joined on the post and started working.

XII) That the period of apprenticeship prescribed in the aforesaid order dated 2.1.87 in respect of the applicant No.2 expired on 12.1.1988 whereafter by means of an order dated 29.3.1988 passed by the Controller of Administration, Central Drug Research Institute, Lucknow the tenure of appointment of the applicant No.2 was extended for a further period of one year w.e.f 13.1.88. A true copy

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 of the concerned order is annexed hereto as ANNEXURE NO. 9
 XIII) That the aforesaid extended period of tenure of
 appointment of the applicant No.2 expired on 12.1.1989
 whereafter by means of an order dated 1.3.1989 passed
 by the Controller of Administration, Central Drug
 Research Institute Lucknow the tenure of appointment
 of the applicant No.2 was further extended upto 12.1.1990
 with effect from 13.1.1989. A true copy of the concerned
 order is annexed hereto as ANNEXURE NO.10.

XIV) That after the expiry of the aforesaid
 extended period of tenure of appointment of the
 applicant No.2, by means of an order dated 15.3.1990
 passed by the Administrative Officer, Central Drug
 Research Institute Lucknow the applicant No.2 was
 engaged as a Casual worker for a period of 3 months
 with effect from 12.2.1990 on a consolidated salary of
 Rs.900/- per month. A true copy of the concerned
 order is annexed hereto as ANNEXURE NO. 11.

XV) That though as stipulated in the aforesaid order
 the period of contractual appointment of the applicant
 No.2 expired on 11.5.1990 but, the respondents No.2, 3 and 4
 hereto allowed the applicant No.2 to continue to serve
 as Casual worker upto 23.5.1990 whereafter when the said
 applicant reported for duties on 24.5.1990, he was
 not permitted to work on the ground that his contractual
 term of appointment had come to an end.

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XVI) That it is relevant to pointout here that as far back
 as in the year 1979, the Council of Scientific & Industrial
 Research constituted a committee for going into the
 question of amongst other things, the absorption of staff
 employed in externally funded projects/schemes and the

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said committee after conducting its meeting submitted a report which was accepted by the Governing Body of the Respondent Council in its meeting held on 30.3.1980 and one of the recommendations of the said committee which was accepted by the governing body was that the existing persons who had rendered three years continuous service in a scheme should be absorbed either against existing regular vacancies in identical regular posts or by creation of additional posts.

XVII) That the aforesaid recommendations of the committee together with the conditions under which the said recommendations were accepted by the governing body was circulated by the respondent council through its letter dated 13.1.1981 addressed to the Directors/Heads of all National Laboratories/Institutions/Research Organisations under the control of the Council. A true copy of the concerned letter is annexed hereto as ANNEXURE NO. 12.

XVIII) That by means of a further order/letter dated 14.2.1983, the Council again reiterated its earlier criteria that persons who had worked in a ~~XXXXXX~~ sponsored project/scheme become eligible for absorption on regular basis after putting in a regular length of service i.e. 3 years. A true copy of the concerned Circular letter is annexed hereto as ANNEXURE NO. 13.

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XIX)

That recently the respondent council has issued another Circular dated 30.3.1990 wherein it has again laid down that a committee should be constituted in each institute to take necessary steps for absorption of

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persons who had worked as Casual workers for certain period of time and also to send proposals for creation of additional posts for absorbing such casual workers who could not be absorbed on regular posts in the existing vacancies. A true copy of the concerned circular is annexed hereto as ANNEXURE NO. 14.

XX) That, however, despite the aforesaid facts and despite the fact that both the applicants have initially served as Graduate Apprentices ~~in~~ in the Walter Reed Malaria Scheme for more than 3 years they have till date not been considered for regular appointment against any existing vacancy in utter violation of the Circular issued by the respondent council from time to time as mentioned above.

XXI) That the applicants have come to know that a Bench of this Hon'ble Tribunal in quite similar circumstances in the case O. A. No. 145/1989(L) Smt. Madhuli Srivastava Versus Director Central Drug Research Institute, Lucknow and another and O. A. No. 160/1989 (L) Sushil Kumar Bhatnagar Versus Director General Council of Scientific and Industrial Research and others had quashed the termination orders in respect of the applicants in the said two applications and has also held that the applicants were entitled to be considered for appointment against regular posts in pursuance of the letters of the years 1981, and 1983. A true copy of the judgement concerned is annexed hereto as ANNEXURE NO. 15.

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Shrivastava

XXII) That besides above, the Central Drug Research Institute, Lucknow is an 'Industry' within the meaning of the said term as contained in Section 2(j) of the

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Industrial Disputes Act as in view of the observations made by the Hon'ble Supreme Court of India in the case of Bangalore Water Supply and Severage Board Versus V. Rajappa, reported in 1978 (2) Supreme Court Cases(215) and the applicants were working as Graduate Trainee and subsequently as Casual workers are covered by the definition of the term 'workman' as contained in section 2(s) of the said Act as there duties were purely of technical nature and as such the applicants are entitled to all benefits available to them under the provisions of Industrial Dispute Act as well as the U.P. Industrial Dispute Act.

XXIII) That the termination of service for any reasons whatsoever, amounts to retrenchment within the meaning of the said term as contained in Section 2(oo) of the Industrial Dispute Act and under section 25-F of the said Act a workman who has worked continuously for a period of one year prior to the date of termination of his service cannot be retrenched without following conditions laid down in the said section, the conditions being payment of one month's salary or giving of notice for the said period in lieu thereof, 15 days wages for every completed year of service and notice in the prescribed form to the appropriate Govt. being sent.

XXIV) That the term continuous service has been defined in Section 25-B of the Industrial Dispute Act to mean continuous service for a period of 240 days in 12 Calender months preceding the date of termination of service. Thus, if a workman has worked for more than 240 days in the period of 12 calander months preceding the

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date of termination of service, his service cannot be terminated without following the procedure laid down in Section 25-F of the Industrial Dispute Act and if that is done, the termination of service would be null and void ab initio.

XXV) That in view of the above and in view of the fact that the applicants have continuously served without any break ever since their initial appointment in January 1987 till 23.5.1990, they have completed 240 days service and as such their services could not be terminated without complying with the provisions of Section 25-F of the Industrial Dispute Act which provisions having not been complied with by the respondents hereto, their action of terminating the services of the applicants is illegal and void ab initio.

XXVI) That termination of service in violation of Section 25-F of the Industrial Dispute Act amounts to depriving a person of his livelihood without following the procedure established by law, which amounts to violation of provisions of Article 21 of the Constitution of India as the term life used in the said Article has been interpreted by the Hon'ble Supreme Court to include right of livelihood also, and, as such the action of termination of services of the applicants in the instant case without following the procedure established by law is also violative of Article 21 of the Constitution of India.

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W. Sreenivasan

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS

A. Because the applicants having served for more than 3 year

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Malaria

in the Walter Reed/Scheme are entitled to be considered for regular appointment in terms of Circulars of the respondent council dated 13.1.81, 14.2.83 and 30.3.1990.

- B. Because the applicants having not been considered for regular appointment without any rhyme or reason the said action of the respondents hereto is arbitrary.
- C. Because ~~the~~ the quite similar circumstances, this Hon'ble Tribunal has enforced the circular mentioned herein above in OA No.145/89 and 160/89.
- D. Because the termination of service of the applicant with effect from 23.5.1990 amounts to retrenchment and since the provisions of Section 25-F of the Industrial Dispute Act having not been complied with prior to the termination, the said action of the respondents hereto is ab initio void and illegal.
- E. Because the applicants have no alternate, adequate and equally efficacious remedy available except to file this application in the Hon'ble Tribunal.

6. DETAILS OF REMEDIES EXHAUSTED:

Not applicable as the applicants have no remedy against the action of termination of service of the applicants.

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

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The applicants further declare that they 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 applicants pray for the following reliefs:

- i) a direction be issued to the respondents hereto to allow the applicants to continue in service as casual workers with effect from 24.5.1990 with all consequential benefits of pay and allowances including the arrears thereof; and,
- ii) direct the respondents hereto to immediately consider the applicants for appointment against regular posts in terms of Circulars issued by the Council of Scientific & Industrial Research dated 13.1.1981, 12.2.1983 and 30.3.90 as contained in ANNEXURES No. 12, 13 and 14 respectively, and;
- iii) grant any other relief deemed fit and proper in the circumstances of the case, including an order awarding costs of this application in favour of the applicants.

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9. INTERIM ORDER, IF ANY, PRAYED FOR.

Pending final decision on the application, the applicants most respectfully seek the following interim reliefs:

- i) a direction to be issued to the respondents to allow the applicants to continue in service and also pay them salary and allowances as casual worker or in the alternative pass any other suitable order deemed fit and proper.

10. IN THE EVENT OF APPLICATION BEING SENT BY REGISTERED POST IT MAY BE STATED WHETHER THE APPLICANTS DESIRE 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 THEM:

NOT APPLICABLE

11. PARTICULARS OF BANK DRAWT/POSTAL ORDER, FILED IN RESPECT OF THE APPLICATION FEE:

Postal order for Rs.50/- enclosed NO.

12. LIST OF ENCLOSURES:

1. Copy of letter dated 17.12.1986
2. Copy of letter dated 20/21 January 1987
3. Copy of letter dated 2.1.87
4. Copy of order dated 29.3.88
5. Copy of order dated 1.3.1989
6. Copy of order dated 15.3.90
7. Copy of letter dated 17.12.86
8. Copy of order dated 2.1.1987
9. Copy of order dated 29.3.88

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Sharma
Sharma

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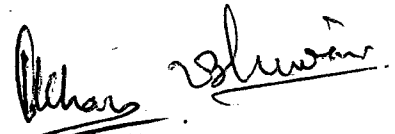
(14)

- 10. Copy of order dated 1.3.1989
- 11. Copy of order dated 15.3.1990
- 12. Copy of Circular letter dated 13.1.81
- 13. Copy of Circular letter dated 14.2.1983
- 14. Copy of Circular letter dated 30.3.90
- 15. Copy of judgement and order of the Hon'ble Tribunal
- 16. Postal Order for Rs.50/-

VERIFICATION

I, _____ son of _____
Smti _____, aged about _____ years
 resident of _____
 Lucknow, do hereby verify that the contents of
 paragraphs 1 to _____
 are true to my knowledge, of those of paras _____
 are believed to be true on legal advice and
 that I have not suppressed any material fact.

Date :


 Signature of the applicants

Place: Lucknow

To

The Registrar,

ANNEX. 1
15
125

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

Chattar Manzil Palace
Lucknow

No.5(63)/77-Estt.I.

Dated: 17.12.86

OFFICE MEMORANDUM

Subject :- Interview for Graduate Trainee

Sh. V. A. Khan is directed to attend the interview for engagement as Graduate Trainee in the Central Drug Research Institute at 1.30 P.M. on 29th December 1986, on a stipend of Rs.600/-p.m.(fixed). He/She should bring with him/her Original Certificates and testimonials etc. for verification at the time of interview.

No T.A. will be admissible for attending this interview.

To

Sharma
SECTION OFFICER

Palta

3. Sh. Vakeel Ahmad Khan
C/o Mohd. Naim Khan
482 ka/50 ka,
Iradat Nagar, Daliganj
Lucknow

T. C.
Sharma
Sharma

Sharma
Sharma

ब अदालत श्रीमान C. A. T. Altabad महोदय

धादी R.L. (मुद्दे) का प्रतिवादी (मुद्दाअलेह)

VARIL AHMADEKLAN

वकालतनामा

C. A. No.

21980



A26

Varil Ahmao Ishaqवादी (मुद्दे)

बनाम C. S. T. R. and others

प्रतिवादी (मुद्दालेह)

नं० मुकद्दमा सन् 19 १ पेशी की ता० 31. 5. 19१० ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से

Sri Anil Bose एडवोकेट

32/32 Gandhi Nagar (Chitawafur) बकील महोदय Lucknow

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रूपया वसूल करें या सुलहनामा या इकबाल दावा तथा दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रूपया जमा करें या हमारी या विपक्ष [फरीकसानी] का दाखिल किया रूपया अपने या हमारे हस्ताक्षर-युक्त [दस्तखती] रसीद से लें या पंच नियुक्त करें - वकील महोदय द्वारा की गई यह 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 मुकद्दमा अदम पैरवी में एक तरफा घेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी घेरी वकील पर न होगी इस लिए यह वकालतनामा लिख दिया है कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

Signature

साक्षी [गवाह] साक्षी [गवाह]

दिनांक 31. महीना 5. सन् 19१०

नाम अदालत	:	:	:
नाम मुकद्दमा	:	:	:
नाम फरीकेन	:	:	:

Accepted
Anil Bose
31/5/10

CENTRAL DRUG RESEARCH INSTITUTE

Chattar Manzil
Palace, Lucknow.

No. 8/10/87-Estt. II

Dated: 20/10/87
21

OFFICE MEMORANDUM

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

Having accepted the terms and conditions communicated to him/herself vide O.M. No. 5(63)/77-Estt. I dt. 2.1.87 Mr./Sh./~~Miss~~ Vakool Ahmad Khan has joined the post of Graduate Trainee with effect from the forenoon/afternoon of 3.1.87.

M. A. Khan
22/10/87
SECTION OFFICER

Sh. Vakool Ahmad Khan,

Graduate Trainee

P. D. Division.

Copy to :-

1. Accounts Section - The Medical Certificate from the appropriate authority has been obtained.
2. Bill Section - His/her date of birth is
3. Sc. I/c., P. D. Division
4. Sc. I/c., Information
5. Sc. I/c., Library
6. D.A. Recruitment.
7. Section Officer (General).
8. D.A. Pension & 3/4 Recd

SECTION OFFICER

*Alhas
Wahid*

*T. C.
Must have
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16. In case, you had migrated to India from Pakistan after 18.7.1948, your appointment will be subject to production of Indian Citizenship Issued by your favour under the provisions of Section 5(i)(a) of the Citizenship Act, 1956, at the time of reporting for duty.

17. If any information or declaration given by you proves to be false or if you are found to have willfully suppressed any material information, you will be liable to removal from service and such other action as may be deemed necessary.

If you are willing to accept the offer of engagement on the aforesaid terms and conditions, you should report yourself for duty to the undersigned immediately together with the aforesaid documents duly completed in all respects.

Yours faithfully,

PLC
(P.L.CHAMBRA)

ADMINISTRATIVE OFFICER (SG)

PLC

✓ Shri Vidya Bhushan Nath Tiwari

Copy to:-

- (1) Accounts Section.
- (2) Bill Section.
- (3) S.O(E.II)-alongwith the application.
- (4) Sc.I/c(Information)
- (5) Sc.I/c(Library)
- (7) Sc.I/c
- (8) Sc.I/c(Record)
8. File No.5(171)/83-Estt.I.

Arza
Arza

T.C.
Arza
Arza

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Ann. No. 4

Central Drug Research Institute
(Council of Scientific & Industrial Research)

Chhatar Manzil Palace,
Lucknow-226001

No. 5(11)/83-Estt. II (Vol. II) Dated 29.03.88

Office Memorandum.

Sub:- Extension of tenure in respect of Graduate Trainees working in the ~~1980-81~~ Graduate Training Scheme tenable at C. D. R. I. Lucknow.

The Director, Central Drug Research Institute, Lucknow, has been pleased to approve the extension of tenure in respect of Sri Vakeel Ahmad Khan, Graduate Trainee working in Graduate Training Scheme tenable at CDRI, Lucknow w.e.f. 8th January 1988 for a period of one year on the existing terms and conditions.

The expenditure will be met from the grant of Graduate Training Scheme.

(V. P. Bakshi)
Controller of Administration.

Sri Vakeel Ahmad Khan,
Graduate Trainee,
P. D. Division,
CDRI, Lucknow.

Copy to :-

1. Accounts Section
2. Bill Section.
3. S.O. (E-II)
4. Sc. I/c (P.D. Divn.)
5. Sc. I/c (Information).
6. Sc. I/c (Library).
7. Sc. I/c (Record).

Controller of Administration.

Chhatar
Manzil

T. e.
Dist. Sec.
Ann.

(A31) 21
A.M. No 5

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

Chatter Manzil Palace,
Lucknow.

No: 5(63)/77-Eott.I.

Dated: 01.03.1909

OFFICE MEMORANDUM

**Subject:- Engagement of Science Graduate and
Diploma Holders in P.D. Division
under Graduate Training Scheme.**

In continuation of this office O.M. of even number dated 25.00.08, on the above subject, the Director, Central Drug Research Institute has been pleased to approve as a special case the extension of tenure of the following Graduate Trainees for the third year U.O.P. the dates shown against them on the existing terms and conditions.

<u>Sl.No.</u>	<u>Name</u>	<u>Date of extension</u>	<u>Funding.</u>
1.	Shri Vakil Ahmad Khan	08.01.09 to 07.01.90	CDRI Grants
2.	Shri Deepak Guloti	19.01.89 to 10.01.90	-do-
3.	Shri V.B. Towari	13.01.89 to 12.01.90	-do-

This period will in no case be extended in future.

(Signature)
(V.P. BAKSHI)
CONTROLLER OF ADMINISTRATION

Copy to:-

1. Individuals concerned (3)
2. E.II. Section (3)
3. Bill Section
4. Accounts Section
5. P.D. Division
6. Library
7. Information
8. Record

(Signature)
(Signature)

T.e.
(Signature)
(Signature)

22
A 32
ANNEX NO 6

CENTRAL DRUG RESEARCH INSTITUTE
(Council of Scientific and Industrial Research)
Ghatter Manzil Palace,
Lucknow-226001.

No. S(AS)/77-5000.1.

Dated: 10.03.00

From,

The Director,
Central Drug Research Institute,
LUCKNOW.

Shri V.B.D. Tewari
P.O. Division

Subject:- Engagement on Contractual basis in the Scheme
tenable at CDRI, Lucknow.

Sir/Madam,

The Director, Central Drug Research Institute, has been pleased to offer you an engagement in this Institute as Casual Worker on a purely Contractual basis for a period of three months w.e.f.

12.02.00

The engagement is under the P.O. Contingent
(Name of the Scheme)

During the period of engagement you shall be paid a Contractual sum of Rs. 200/- (Rupees Two Hundred) only per month.

You shall be automatically relieved from this Contractual engagement on expiry of three months on 11.05.00.

No other benefits will accrue to you during the period of this Contractual engagement in CDRI.

No further extension will be given.

Yours faithfully,

[Signature]
ADMINISTRATIVE OFFICER

Copy to:-

1. Accounts Section
2. Bill Section
3. Head of Div./Sec. - With the request that the acceptance of the offer may be got noted by Sh. V.B.D. Tewari on spare copy enclosed here-with and the paper sent to S.O. (E.I.)

P.O. Division

S. No. S(AS)/77-5000.1.

along with photocopy
of the approval

T.C.
Shri P. D. Tewari
Amm.

(A33)

ARE REV. No. 7
UPC

23

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

Chattar Manzil Palace
Lucknow

No.5(63)/77-Estt.I.

Dated: 17.12.86

OFFICE MEMORANDUM

Subject :- Interview for Graduate Trainee

Sh. V. B. N. Tiwari is directed to attend the interview for engagement as Graduate Trainee in the Central Drug Research Institute at 1.30 P.M. on 29th December 1986, on a stipend of Rs.600/-p.m.(fixed). He/She should bring with him/her Original Certificates and testimonials etc. for verification at the time of interview.

No T.A. will be admissible for attending this interview.

To

S. S. S. S.
SECTION OFFICER

S. S. S. S.

2. Sh. V. B. N. Tiwari
C/o Shri Radhey Shyam Tiwari
H.No.281/40 Mawaiya,
Lucknow-4.

S. S. S. S.
Shyam

T. C.
Shyam

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ANNEX. NO 8

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

Chattar Manzil
Palace, Lucknow

No.5(63)/77-Ecct.1.

Dated: 2.1.57

From

The Director,
Central Drug Research Institute,
Lucknow

To
Sari Vakeel Ahmad Khan
C/o Shri. Ahmad Khan
482 ka,
Iradat Daliganj
Lucknow

Sub:- Engagement of Science Graduates and Diploma Holders
in P.D.Division under Graduate Training Scheme.

Dear Sir/Madam,

On the recommendations of the Selection Committee which met on 29.12.56, the Director, Central Drug Research Institute has been pleased to appoint you as Graduate Trainee in the C.D.R.I., Lucknow on the following terms and conditions of service :-

- 1- The course of apprenticeship will be for a period of one year in the first instance and may be extended by another year after which there would be no further extension.
2. You will be paid a stipend of Rs.600/- p.m. fixed (inclusive of all allowances) during the course of training. You will not be entitled for admission to CSIR Contributory Provident Fund and the period of your training will not entitled you to any C.P.F. benefit or pension in the case you are absorbed in the Institute later on regular basis.
3. Grant of leave during apprenticeship will be governed by Supplementary Rules 292 which reads as under :-
 - (a) On Medical Certificate, leave salary equivalent to half-pay for period not exceeding one month any year of apprenticeship.
 - (b) Extra-ordinary leave under Rule 33(3) of CCS. (Leave Rules) 1972.

NOTE : Casual leave will also be admissible to apprentices as in the case of other staff.

- (a) No T.A will be admissible either for joining the course of apprenticeship or at its termination.
- (b) For journey during the currency of the apprenticeship one single rail fare of the appropriate class on the basis of the rate of apprenticeship plus the actual cost of road travel limited to the mileage allowance admissible on that basis for journey on tour plus D.A. for haltag.

.....2.

Handwritten signatures and initials

T.C
Amit Patel
Amit Patel

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17. If any information or declaration given by you proves to be false or if you are found to have wilfully suppressed any material information, you will be liable to removal from service and such other action as may be deemed necessary.

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

Yours faithfully

(P.L. CHHABRA)
ADMINISTRATIVE OFFICER(SG)

Shri Vakeel Ahmad K. in

Copy to :-

- 1. Accounts Section Appointment has been made vice
- 2. Bill Section Km. Anupma
- 3. S.O.(E-II) alongwith the application
- 4. Scientist-in-charge, P.D. Division
- 5. Scientist-in-charge, Information
- 6. Scientist-in-charge, Library

W. S. W.

7. C
W. S. W.

A-36

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APPROX. No 8

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

Chatter Manzil Palace,
Lucknow-226001

No.5(171)/83-Estt.I(Vol.II)

Dated: 29.03.88

OFFICE MEMORANDUM

Sub:- Extension of tenure in respect of Graduate Apprentice working in the Walter Reed Malaria Project tenable at C.D.R.I., Lucknow.

The Director, Central Drug Research Institute, Lucknow, has been pleased to approve the extension of tenure in respect of Shri Vidya Bhushan Nath Tewari, Graduate Apprentice working in the Walter Reed Malaria Project tenable at CDRI, Lucknow w.e.f. 13th January, 1988 for a period of one year on the existing terms and conditions.

The expenditure will be met from the grant of Walter Reed Malaria Project.

(V.P. Bakshi)
Controller of Administration

Shri VBN Tewari,
Graduate Apprentice,
P.D. Division,
CDRI, Lucknow.

Copy to:-

- (1) Accounts Section
- (2) Bill Section
- (3) S.O(E.II)
- (4) Sc.I/c(P.D.Div),
- (5) Sc.I/c(Information)
- (6) Sc.I/c(Library)
- (7) Sc.I/c(Record)

CONTROLLER OF ADMINISTRATION

Ally
Bhushan

Shri V. N. Tewari

T. e.
Dist. Insp.
Secy.

(737) ANON. No 1024

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

Chatter Manzil Palace,
Lucknow.

No: 5(63)/77-Eott.I.

Dated: 01.03.1909

OFFICE MEMORANDUM

**Subject:- Engagement of Science Graduate and
Diploma Holders in P.D. Division
under Graduate Training Scheme.**

In continuation of this office O.M. of even number dated 25.00.00, on the above subject, the Director, Central Drug Research Institute has been pleased to approve as a special case the extension of tenure of the following Graduate Trainees for the third year w.o.p. the dates shown against them on the existing terms and conditions.

<u>Sl. No.</u>	<u>Name</u>	<u>Date of extension</u>	<u>Funding.</u>
1.	Shri Vokool Ahmad Khan	08.01.09 to 07.01.90	CDRI Grants
2.	Shri Doopak Gulati	19.01.89 to 10.01.90	-do-
3.	Shri V. B. Towari	13.01.89 to 12.01.90	-do-

This period will in no case be extended in future.

(V.P. BAKSHI)
CONTROLLER OF ADMINISTRATION

Copy to:-

1. Individuals concerned (3)
2. E.II. Section (3)
3. Bill Section
4. Accounts Section
5. P.D. Division
6. Library
7. Information
8. Record

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T. C.
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ANNEX-11

CENTRAL DRUG RESEARCH INSTITUTE
(Council of Scientific and Industrial Research)
Chattar Manzil Palace,
Lucknow-226001.

No. 5(63)/77-Estt.I.

Dated: 15.03.90

From,

The Director,
Central Drug Research Institute,
Lucknow.

To,

Shri V.A.Khan
P.D.Division

Subject:- Engagement on Contractual basis in the Scheme
tenable at CDRI, Lucknow.

Sir/Madam,

The Director, Central Drug Research Institute, has been pleased to offer you an engagement in this Institute as Casual worker on a purely Contractual basis for a period of three months w.e.f. 08.02.90.

The engagement is under the P-4 contingencies
(Name of the Scheme) _____.

During the period of engagement you shall be paid a Contractual sum of Rs. 900/-p.m. (Rupees Nine hundred) only per month.

You shall be automatically relieved from this Contractual engagement on expiry of three months on 07.05.90.

No other benefits will accrue to you during the period of this Contractual engagement in CDRI.

Yours faithfully,

[Signature]

ADMINISTRATIVE OFFICER

[Signature]

[Handwritten signature]

Copy to:-

- 1. Accounts Section
- 2. Bill Section
- 3. Head of Div./Sec. - With the request that the acceptance of the offer may be got noted by Sh. V.A.Khan (2 copies) on spare copy enclosed here-
with and the paper sent to S.O.(E.I.)

P.D.Division

4. File No. 5(48)/90.Estt.I.

alongwith photocopy of the approval

T.C.
[Handwritten signature]

A39

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ANNEX. 100

Copy of CSIR letter No.16(150)/68-E.II(Pt.II)dated 13.1.1981 addressed to the Directors/Heads of all the National Laboratories/Institute/Research Associations.

SUB. Report of the Committee constituted to look into the question of linking of the technical assistance programmes with overall plans and resources and absorption of staff employed in externally funded project/schemes.

.....

I am directed to invite your kind attention to this office letter No.4/3/78-CTE, dated 8.6.79 regarding the constitution of a Committee to look into the question of linking of the technical assistance programmes with overall plans and resources and absorption of staff employed in externally funded projects/schemes and to state that the Report of the Committee was placed for consideration of the Governing Body at its meeting held on 30.9.1980.

The Governing Body has approved of the report of the Committee subject to certain modifications as proposed by the Director-General, SIR. The salient features of Governing Body's decision are reproduced below :-

1. The sponsored projects/schemes under different categories should be accepted/undertaken on a selective basis i.e. (i) these should be in consonance with the approved objectives, goals and charter of the Laboratory/Institute; (ii) be in the areas/fields of the regular activities of the Institute; (iii) form part of the total plans of the Laboratory; (iv) be included in the Annual/Five Year Plan of the Institute; and (v) be of a major benefit to the country.
2. The projects should not serve merely as data bases for more advanced countries or provide a chance for dumping obsolete plants/technology in India and retard our growth. These should not also become a tool of diverting the Institute away from its approved priorities by lure of equipment etc. Where equipment is capital intensive, one should normally not look for the acquisition of such equipment through sponsored schemes, but CSIR should take up the responsibility for this. There could be special situations where there are clear advantages of using a scheme for this purpose.
3. Such projects/schemes should first be cleared by the Research Advisory Council of the concerned Laboratory/Institute from the viewpoint of scientific merit/national relevance. Thereafter, these would be discussed with CSIR Headquarters, the new point for such discussions being the planning division. After the projects/schemes are cleared by the CSIR, the same would be placed before the Executive Committee of the concerned Laboratory for approval.

Cher
Shwari

J. C. Bose
10/9/80
Shwari

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- 4. The Work relating to these projects should, as far as possible, be managed with the regular staff instead of making them a vehicle for additional manpower. The Laboratories/ Institutes should themselves have inherent capability to provide the major inputs for infrastructure to take on the sponsored scheme and the incremental staff should be minimal. While planning to take up sponsored schemes, adequate thought should be given to aspects relating to the building up of staff as also for tapering it off when the scheme gets completed.
- 5. The prescribed procedure, as applicable for regular posts/staff, should be followed both for creating additional posts and recruiting additional staff, if any, required for UNDP, PL-480 and other Bilateral projects. It should be ensured that while making recruitment for schemes/projects posts, there should be no dilution of quality. The staff recruited for such projects will be treated as temporary CSIR staff.

In sponsored projects, however, the recruitment should be on behalf of the sponsor for a fixed period for the duration of scheme only and it should be so made clear in the appointment letter of the candidate besides stipulating therein that the appointment is not a CSIR appointment, ~~is~~ temporary or otherwise, and does not entitle the incumbent to any claim, implicit or explicit, on an CSIR post.

Alkhan
Chisari

For timebound sponsored projects to start within 6 months of the agreement, the Labs./ Instts. would be authorised to make adhoc appointments to various posts through local Selection Committees, without, however, diluting the qualifications and other prescribed standards.

The regular staff applying for the posts in such sponsored projects, if selected, could function/ that position, which may be higher, but purely temporarily, and revert to their substantive (regular) post on completion of the project.

- 6. The staff recruited for schemes by following the prescribed recruitment procedure, should not be required to undergo this procedure afresh for their appointment/absorption on regular side in identical posts. On such absorption their scheme service will be taken into account for purposes of entitlement to various service benefits in CSIR such as Leave, Study Leave etc.

T.C.
Amit Patel
Ami

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(3)

- 7. The staff earlier appointed in the sponsored projects/schemes, PL-480 schemes etc., who have since been absorbed on the regular side in the same Lab./Instt. in which the scheme was under operation, will be entitled to count their service rendered under the scheme in an identical post for purpose of assessment for promotion to the next higher grade. The advantage of assessment on this basis will, however, be available with effect from 1.10.80 or the date of completing the prescribed number of qualifying years for assessment, whichever is later.
- 8. The existing persons who have rendered three years continuous service in a scheme should be absorbed either against existing regular vacancies in identical posts or by creation of additional posts (by following prescribed procedure) if the work load in the Laboratory/Institute so demands. The supernumerary posts could be created to absorb the staff employed in such projects/schemes, initially being a one time effort only. The Laboratories/Institutes should not recruit further staff until all such staff is absorbed.
- 9. The grant made for such projects ~~w~~ should be treated as an ad hoc grant to the Institute and the same should clearly figure in the overall "Income - Expenditure" and "Assets - Liabilities" statements of the Institute.
- 10. More opportunities should be given to younger scientists to visit abroad for training etc. in the schemes sponsored by U.N.D.P. etc.

A copy of the report of the Committee is enclosed for your information, guidance and necessary action.

The earlier guidelines regarding the appointment (including service conditions) of staff for schemes/projects sponsored/financed by non-CSIR bodies (both Indian and Foreign) and taken up at the Laboratories/Institutes, which are not in accord with the above decisions, will stand superseded to the extent indicated in the above paras.

Alkay
Sharma

T.C.
Dr. J. D. Datta

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REPORT OF THE COMMITTEE CONSTITUTED TO LOOK INTO THE QUESTION OF LINKING OF THE TECHNICAL ASSISTANCE PROGRAMMES WITH OVERALL PLANS AND RESOURCES AND ABSORPTION OF STAFF EMPLOYED IN EXTERNALLY FUNDED PROJECTS/SCHEMES.

1. This Committee was appointed by the Director-General CSIR in pursuance of the recommendations of the 29th Conference of Directors held at CFTRI, Mysore on 2-3.6.78. Chairman and the meetings held are appended (Appendices I, II & III respectively).

2. The Committee was provided with the relevant documents by the CSIR Secretariat. The List of these is given in letter No.16(150)/68-E.II(Pt.II) dated 29/30.6.1979 from the Chief (Administration) (Appendix IV).

3. The Committee did not invite any suggestions, as the Directors could forward their suggestions to this Committee as indicated to them in Council's letter No.4/3/78-CTE, dated 8.6.1979 communicating the constitution of the Committee. Some suggestions were received from some of the Directors of the National Laboratories. These were duly considered by the Committee. Some representations made by the 'Scheme personnel' regarding their service conditions put up to the Committee, were also considered.

4. The Committee hold a preliminary discussion in its meeting hold at Hyderabad on 28.8.1979 and also went through the various orders already existing on the subject. In its final meeting held on 12.3.1980, the Committee reviewed the existing procedures/practices prevailing in CSIR and also in other organisations like ICAR vis a vis the scope and the need for taking up projects funded by outside agencies.

Based on the discussions held in the above two meetings, the Committee makes the following recommendations :

1.0 Criteria of Project Selection

- 1.1. It should be in consonance with the approved objectives and goals of the Institute as enumerated in its Charter.
- 1.2. The project to be undertaken should be in area/field of the regular activities of the Institute.
- 1.3. It should form a part of the planned growth of the Institute and should result in an increase in the general level of capability of the Institute in its line of growth.
- 1.4. It should be a part of the Annual/Five Year Plan of the Institute or should first be included in such plan before being put up for further processing.

Sharma
Sharma

F. C.
10/1/79
Sharma2

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(2)

1.5. It should be of major benefit to the country.

2.0 Approvals before an approach is made to the Govt. of India/Funding agencies etc.

2.1. It should have the approval of the Institute's Research Advisory Council (RAC) and Executive Committee (E.C.):

2.2. It should be discussed with Chief (Planning), Chief, (Adm.) and Chief (Finance) before seeking approval of E.C. to (a) ensure and certify proper counterpart budget provision and (b) to avoid unnecessary duplication of the capabilities existing in one or the other CSIR Institutes.

3.0. Objectives which such projects should not serve.

3.1 Such projects should not become a vehicle of augmentation of manpower in the Laboratory by the backdoor. The UNDP projects, Bilateral projects, and other sponsored projects should not be used as a vehicle for additional manpower and the work relating to these projects should as far as possible be managed with the regular staff.

3.2. Projects should not serve merely as data bases for more advanced countries or provide a chance for dumping obsolete plants/technology in India and retard our growth.

3.3. Projects should not become a tool of diverting the Institute into by-lanes a way from the main path of its approved priorities by lure of equipment etc.

4.0 Recruitment of additional staff, service conditions and service benefits etc. of such project staff.

4.1. Any grant to meet expenditure in such projects should be classified as an adhoc grant to CSIR/Institute.

4.2. As an obvious corollary to this, additional staff, if any, recruited under such projects will be treated as temporary CSIR staff and their methods of recruitment, service conditions and benefits will be automatically regulated accordingly.

4.3. The additional staff, if any required, for such projects will be required to be justified in the usual manner and posts will have to be got created by following the prescribed procedure.

5.0 Suggested solution of problems relating to existing staff in such projects/schemes etc.

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5.1 The existing staff who were earlier employed under the sponsored projects/schemes, PL-480 Schemes etc. and have since been appointed on regular side will be entitled for assessment for promotion to the next higher grade on the basis of total combined service under the scheme(s) and on regular side in the grade on fulfilment of the given conditions. The advantage of assessment on this basis, will, however, become available to them from 1.4.1980 or the date of completing the prescribed number of qualifying years for assessment, if such date is later than 1.4.1980.

5.2 The period of service rendered under a scheme in another sister Laboratory/Institute will not count for the purpose of assessment in the Laboratory/Institute where he is employed on the crucial date (i.e. 1.4.1980).

5.3 The persons who have been continuously working for three years or more under an externally funded scheme and have not been regularised so far will be considered for absorption against existing regular vacancies in identical posts as and when available in the respective Laboratory/Institute. In case sufficient number of vacancies are not available to absorb them but enough work load exists in the concerned Laboratories/Institutes, the Director/Head of the National Laboratory/Institute should take up the question of creation of additional posts on the basis of the work as per the prescribed procedure, to consider their absorption.

5.4 The 'Planning' and (Finance' Divisions may be requested to examine such proposals keeping in view the fact that such additional posts are required to consider the absorption of persons already working in the schemes for more than three years.

5.5 Such of the scheme personnel as were selected to the scheme posts by following the proscribed procedure of recruitment will not be required to undergo this procedure afresh for their absorption on the regular side in identical posts, as above, and on such absorption the protection of the pay drawn by them in the scheme posts will be allowed. On absorption on the regular side, they will become entitled to the benefit of leave, Study Leave, promotion by assessment etc. for which purpose the scheme service will also be taken into account.

5.6 Cases which have already been decided will not be reopened generally; however, any case meriting special consideration may be examined and decided on individual merit by Director General, CSIR.

6.0 Distinction between Sponsored Research and above types of Projects.

6.1 In the above types of projects, there is a major deployment of funds and resources of the Institute and those are thus in a way 'Grants-in-Aid' Projects.

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In sponsored projects, the total costs are met by the Sponsoring Organisation.

7.0 Guidelines for Staff Recruitment in Sponsored Projects/Schemes.

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7.1 As far as possible, staff should be seconded from the Institute for sponsored projects.

7.2 In case staff is recruited for sponsored projects, the recruitment should be on behalf of the sponsor for a fixed period and the letter of appointment should clearly state that such an appointment.

7.2.1 Is not a CSIR appointment, temporary or otherwise;

7.2.2 does not entitle the incumbent to any claim, implicit or explicit, on any CSIR post.

7.3 For timebound sponsored projects to start within six months of the agreement, the Institute should be authorised to recruit such staff without following the rules and regulations of recruitment in CSIR as regards advertisement. But the educational qualifications, experience prescribed for a given post should be rigidly followed and not relaxed. Local Selection Committees on the pattern of similar committees for CSIR posts should be constituted by the Director for such posts and the matter reported to E.C. and CSIR. This should ensure that no dilution of standards takes place.

7.4 Since the basic reason for recruiting staff for time-bound sponsored projects is to provide additional manpower to keep to the time targets, promotion of staff from the Institute against a sponsored project post is not justifiable.

7.5 Presently, Deputation (duty) Allowance is governed by the Ministry of Finance O.M. dated 27.1.1970 as quoted in CSIR letter No.16(150)/68-E.I., dated 16th June, 1970 to the Director, National Chemical Laboratory, Poona. No consensus could be reached on giving deputation allowance to Institute staff seconded to sponsored projects.

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Appendix 1

Copy of letter No.4/3/78-Cte, dated 8.6.79 from Chief (Admn.) CSIR, New Delhi x to the Directors/Heads of National Labs./Institutes/Research Associations.

SUB. Proceedings of the 29th Conference of Directors held at CFTRI, Mysore, on 2nd and 3rd June, 1978.

I am directed to invite your kind attention to Item No. II 'Linking of the technical assistance programmes with overall plans and resources' of the proceedings of the above conference circulated vide this office letter of even number dated 19.6.78, and the decision of the Conference thereon which reads as under :-

"Prof.Rahman introduced this item.

DG,SIR broadly classified externally funded projects into three categories - (1) those funded by agencies like ICAR, ICMR, DST, DAE, Department of Space, Defence, etc. (2) those funded by PL-480, USSR Academy of Sciences, etc. and (3) those funded by UNDP. He brought out the distinction in each case. A general discussion followed. A good deal of anxiety was expressed by the Directors of staff employed in these schemes. DG,SIR desired that the whole matter should be examined and Guidelines issued. A committee was appointed with the following members to go into this question.

- (1) Dr.G.S.Sidhu.
- (2) Dr.A.R.Verma.
- (3) Dr.S.R.Valluri.
- (4) Chief (Administration) and
- (5) Chief (Finance).

The Directors should forward their suggestions to this Committee".

The DG/SIR has been pleased to include Chief(Planning), CSIR as member of the above committee.

Appendix 11.

Copy of letter No.16(150)/68-E.II (Pt.II) dated 23.7.1979 from the Chief (Admn.), CSIR, New Delhi to the Directors/Heads of all the National Laboratories/Institutes/Research Associations.

SUB. Proceedings of the 29th Conference of Directors held at CFTRI, Mysore on 2nd and 3rd June, 1978 - Item No.II "Linking of the technical assistance programmes with overall plans and resources".

Further to this office letter No.4/3/78-Cte, dated 8th June,1979 on the subject cited above, I am directed to state that the Director General, SIR has been pleased to nominate Dr.G.S.Sidhu, Director, Regional Research Laboratory Hyderabad as Chairman of the Committee mentioned thereon.

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Appendix

MEETINGS HELD

The Committee held two meetings as follows :-

The first meeting was held at Hyderabad (RRL) on 28th August, 1979 and the following were present :

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| 1. Dr.G.S.Sidhu | Chairman. |
| 2. Dr.S.R.Valluri | Member. |
| 3. Shri Nau Nihal Singh | Member. |
| 4. Prof.A.Rahman | Member. |
| 5. Shri S.R.Chaturvedi | On behalf of Chief (Finance). |

Dr.A.R.Verma, however, could not attend the meeting.

The second meeting of the Committee was held at CSIR H.Q., New Delhi on 12th March, 1980 and the following were present :-

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| 1. Dr.GS.Sidhu | Chairman. |
| 2. Dr.S.R.Valluri | Member. |
| 3. Dr.A.R.Verma | Member. |
| 4. Prof.A.Rahman. | Member. |
| 5. Shri P.K.Ramanujam | Member. |
| 6. Shri K.C.Sundarachari | Member. |

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Appendix IV

Copy of letter No.16(150)/68-E.II(Pt.II) dated 29/30 June 1979 from Chief (Administration) CSIR, New Delhi to the Members of the Committee.

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SUB.

Proceedings of the 29th Conference of Directors held at CFTRI, Mysore on 2nd and 3rd. June, 1978 (Item No.II of the Proceedings regarding "Linking of the technical assistance programmes with overall plans and resources)-Constitution of a Committee to look into the matter of absorption of staff employed on externally funded projects/schemes.

I am directed to invite a reference to this office circular letter No.4/3/78-Cte, dated 8.6.1979 on the subject cited above, and to state that the first meeting of the Committee, constitution of which has been notified therein, will be held on Thursday, the 12th July, 1979, at 10.30 A.M, at CSIR Headquarters.

I am to request you kindly to make it convenient to attend the meeting. In this connection the following documents are sent herewith for consideration of the Committee :-

- 1) Copy of the Item No.II of the Agenda of the said Conference;
- 2) Copy of the decision of the Conference on the above mentioned Item;
- 3) Copy each of CSIR circulars No. 6(150)/68-E.I., dated 23.4.1969 and 16-6-70 containing the orders/terms and conditions governing the appointment/service conditions of staff under the schemes projects sponsored/financed by non-CSIR bodies as in force at present.

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ANNEX. No 13 - 38

COUNCIL OF SCIENTIFIC & INDUSTRIAL RESEARCH
Rafi Marg, New Delhi-110001

No. 4(181)-Bud/83

Dated: 24/5 Feb., 1983

From:

The Internal Financial Adviser,
Council of Scientific & Industrial Research,

To

The Heads of National Laboratories/Institutes.

Subj: Engagement of Daily-wage staff in Sponsored Project/Schemes.

While looking at the question of creation of new posts in the Labs./Institutes, DGSIR has expressed his concern over the magnitude of the problem relating to the number of posts required for absorption of staff engaged on daily/monthly wages basis and in Sponsored Project or Schemes. Some Labs./Institutes have been engaging these categories of staff in large numbers without taking into account the organisational implications on long term basis.

2. Member (Finance) has observed that Research Laboratories manned primarily by scientists and technologists and not by Class IV staff and is most reluctant to agree to the creation of such posts.

3. In CSIR Circular No.1/34/77-O&M-II dated 2nd March, 1982, instructions have been issued to stop engagement/employment of casual staff completely and gradually absorb in regular strength those who have put in a minimum of two years service as a casual labour as on 1st July, 1981 with a minimum of 240 days per year. It is hoped that after the issue of the Circular dated 2nd March, 1982, no fresh daily wage staff has been engaged and I would like you to confirm this categorically for your laboratory. Considering the serious repercussion in future for engagement of daily wage staff, DGSIR has reiterated that the engagement of persons on daily wage or monthly contract rate should be totally stopped and the FAO/Sr.FAO of the Lab./Instit. will be personally responsible to ensure that no expenditure is incurred on this account in respect of persons engaged after issue of the Circular of 2nd March, 1982.

4. Similarly the Lab./Instit. has to be careful in engaging persons for Sponsored Project/Scheme. According to the instructions issued by the CSIR persons working in the Sponsored Project/Scheme earn eligibility for absorption in the regular posts of the Lab./Instit. after they put in the required length of service. Therefore when the Lab./Instit. engages such persons in any sponsored project/scheme the future contingency of absorption of those persons is embedded at the initial stage of recruitment. In order to avoid such embarrassing situations, DGSIR has further been pleased to decide as follows:-

- a) No new staff should be recruited against sponsored project/scheme unless their absorption after the expiry of the scheme is assured & clearance is obtained from Director-General;
- b) The existing regular staff of the Lab./Instit. should be deployed in the sponsored project/scheme as far as possible.

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ANNEX. NO 14
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REGISTERED

COUNCIL OF SCIENTIFIC & INDUSTRIAL RESEARCH

ANUSANDHAN BHAVAN
RAJFAT MARG,

No.3(58)/87-E1111/V

New Delhi-1, the 30th March 1990

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

To,

Heads of all National Labs./Instts.

Sub: Recruitment of casual workers/persons engaged on daily wages and on contract - Review of Policy.

Sir,

I am directed to state that of late the matter regarding fixation of remuneration of Casual/Daily Wages/Contract Workers and their regularisation or otherwise has been engaging the attention of CSIR in the light of orders contained in Department of Personnel & Training vide their OM No.49014/2/86-2stt(C) dated 7.6.1986 which were circulated to all the National Labs./Instts. vide CSIR endorsement No.31(91)/67-G dated 8.11.1988.

On the recommendations of a Committee constituted for the above purpose, the DGSIR has been pleased to accord approval to the following:-

1. That all daily wages/casual/contract workers who are doing the same type of jobs as performed by regular employes of the Labs./Instts. of comparable grade and as may be determined by the Committee referred to a 2 (a) below may be paid remuneration as prescribed by GOI vide their OM dated 7.6.1986 referred to above, wef 1.4.1990.
2. A Committee may be constituted in each Lab./Instt. to screen the cases of daily wages/casual/contract workers to examine and make recommendations:-
 - (a) Number of persons actually doing the same type of jobs as performed by regular employes of the Labs./Instts. of comparabl. grade(s).
 - (b) Number of such workers (out of total number as worked out at (a) above) who could be absorbed against the existing vacancies without dilution of qualifications, experience, etc.

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ANNEX. No 15

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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,
CIRCUIT BENCH AT LUCKNOW.

Registration (O.A.) No. 145 of 1989 (L).

Smt. Madhuli Srivastava Applicant.

Versus

The Director, Central Drug Research
Institute, Lucknow & another Respondents.

Connected with

Registration (O.A.) No. 160 of 1989 (L)

Sushil Kumar Bhatnagar Applicant.

Versus

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

Hon'ble Justice K. Nair, V.C.
Hon'ble K.J. Raman, A.M.

(Delivered by Hon. K.J. Raman, A.M.)

This order covers the two Original Applications No. 145 of 1989 (L) and 160 of 1989 (L), since they involve common facts and issues and were also heard together, finally.

2. In both the cases, the applications have been filed under Section 19 of the Administrative Tribunals Act, 1985 challenging the order of termination of the services of the applicants by the Director, Central Drug Research Institute (CDRI), Lucknow. The Union of India through the Secretary, Department of Scientific and Industrial Research is the other respondent.

3. After the exchange of pleadings, the two cases were heard and the learned counsel for the applicants on the one hand and the counsel for the respondents on the other, made their submissions.

4. In O.A. No. 145 of 1989 (L), the applicant is Smt. Madhuli Srivastava. In answer to an advertisement (1579) inviting applications



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for the post of Technician Grade II in the CDRI, the Director of which is respondent no.1, the applicant submitted an application for the post, which was among those in various schemes tenable at the CDRI. The advertisement also stated that the posts were temporary for the duration of the schemes. The qualifications prescribed was Matriculation with Science plus two years of experience. It was said that B.Sc. with some experience will be an added qualification. The job was described as "to assist the Scientists in chemical and bio-Medical work". After appearing before the Selection Committee (SC) the applicant was selected for the said post/ what was known as "Walter Reed Scheme" (WRS). An office Memorandum dated 14.9.1984 (Annexure A-2) conveying the approval of appointment of the applicant was issued to her, and which contained a number of conditions of service. The appointment was stated to be under the WRS. It is also stated that the applicant shall not have any claim for regular appointment in any of the CSIR Establishment on termination of the scheme. The appointment was temporary upto the duration of the scheme. It was also mentioned that she will be on a probation for a period of one/two year(s). It was also stated that she would be governed by the rules and orders applicable to other employees of the Council of Scientific and Industrial Research (CSIR), of which the CDRI is a subsidiary Institution. The applicant joined the post on 21.12.1984. While working in the above post, the applicant appeared before a SC after having applied for the post of Technician Grade II in the CDRI, Lucknow, in pursuance of a second advertisement issued by the CSIR, for posts in the CDRI, Lucknow. The minimum qualification and the job requirement were the same as in the first advertisement, referred to above. The only difference was that the second advertisement was for posts in the CDRI and not under any scheme. It is the claim of the applicant that during the interview by the SC she was made to understand that she was eligible for absorption/appointment against regular post in the CDRI, since she had already been working in



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a scheme and, therefore, it was not necessary to consider her candidature. When the results came, others were appointed and not she. It is the claim of the applicant that in accordance with a CSIR letter dated 13.1.1981 (Annexure 'A-4'), which related to the question of absorption of staff employed in externally funded projects/schemes, she ought to have been regularly absorbed in a regular post in the CDRI, since she had put in more than three years' of service. It is also claimed that in terms of another letter from the Internal Financial Advisor of the CSIR to the Heads of Laboratories, which was issued on 14.2.1983 (Annexure 'A-5'), there was a similar assurance of absorption in regular post, as stipulated in the ^{the} 1981 letter, referred to above. In spite of all the above, her services were terminated by the issue of the impugned order dated 27.1.1989 (Annexure 'A-10'). Under this order, it was stated that her services were terminated in terms of para 5 of the conditions of service contained in the office Memorandum dated 14.9.1984. On her representation against the above impugned order of termination, which was to take effect from 27.2.1989, another memorandum was issued on 21.2.1989 in supersession of the impugned order dated 27.1.1989, stating that as a special case the applicant would continue in the same capacity till 30.6.1989 on the same terms and conditions on which she was appointed initially. This is the second impugned order under challenge by the applicant. The applicant made a number of representations including those before the Grievance Committee of the CSIR. She did not meet with any success from any quarter. Some evasive reply was given by the Grievance Committee, as regards her representation. In the meanwhile her employment was about to cease on 30.6.1989. The Director, CDRI, whom the applicant met, categorically informed the applicant that she would not be allowed to continue beyond 30.6.1989. In these circumstances the applicant filed the present application. His Tribunal issued



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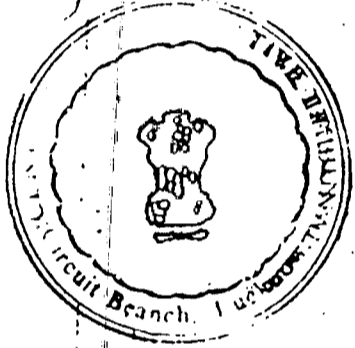
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a stay order by virtue of which she is continuing in the job, despite the two impugned orders.

5. The facts of the case in OA No. 160 of 1989 (L) are virtually identical to those in the above case. The applicant, Sri Sushil Kumar Bhatnagar was also similarly appointed under the same terms and conditions, as in the above case, as Technician Grade II. He joined his service on 13.8.1984 in the same WRS. One difference between this case and the above case is that by an order (Annexure '5') dated 25.10.1985, respondent no.1 recorded his approval of the satisfactory completion of the probationary period of the applicant, Sri Bhatnagar, amongst others. The applicant in the earlier case is not one of them. This order also stated that the above person including Sri Bhatnagar should be continued in their present appointment on the existing terms and conditions of their service. In this case also the impugned order of termination (Annexure '6') was (Annexure '6'), a issued on 27.1.1989/ On representation from this applicant, another (Annexure '8') order dated 21.2.1989/was issued in supersession of the first impugned order dated 27.1.1989, referred to above, to the effect that the applicant would continue till 30.6.1989 on the same terms and conditions on which he was appointed initially. Another difference between the earlier case and this case is that the impugned orders were not stayed in the case of this applicant and he has ceased to work in the job in question after 30.6.1989.

6. The applications have been contested by the respondents on various grounds, contained in their two counter affidavits. Their stand, briefly, is that the appointments of the applicants in both the cases were limited to the WRS and for the duration of that scheme, as very clearly brought out in the advertisement as well as the memorandum containing the terms and conditions of appointment. The 1981 and 1983 letters relied on by the applicants, regarding assurance of absorption in regular post, are stated to be inapplicable.



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able to the applicants. It is stated that no assurance was given or could have been given for regular absorption, during the interview in pursuance of the second advertisement. We may now deal with the various contentions of both the sides in some detail.

7. The first contention of the learned counsel for the applicant in O.A. No. 145 of 1989 is that the applicant must be deemed to have been confirmed in the post he was occupying, since the applicant had completed the period of probation of two years (which is maximum), as prescribed in the terms and conditions of service and there was no curtailment or extension of the probationary period. In this connection, he relied on the decision of the Hon'ble Supreme Court in State of Punjab v. Dharam Singh (AIR 1968 SC 1210). The respondents oppose the above contention and point out that her appointment was purely temporary till the end of the scheme. It was argued that even if she is confirmed it could be only within the duration of the scheme. The learned counsel for the respondents relied on the decision of the Hon'ble Supreme Court in Union of India & others v. Arun Kumar Roy (1986 SCC (L&S) 199).

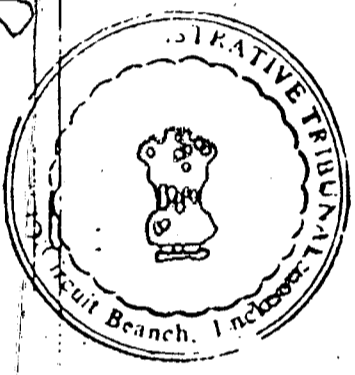
8. The condition no.4 relied on by the applicant is as follows :-

"4. She/He will be on probation for a period of one/two year(s) which may be extended or curtailed at the discretion of the competent authority. During the period of probation, her/his appointment may be terminated at any time without notice and without assigning any reason."

The question is whether the applicant, in the circumstances stated above, should be deemed to have been confirmed in the post held by her. According to the condition referred to above, the probation period is one or two years and there is provision for extending or curtailing the same by the competent authority. It is, of course,

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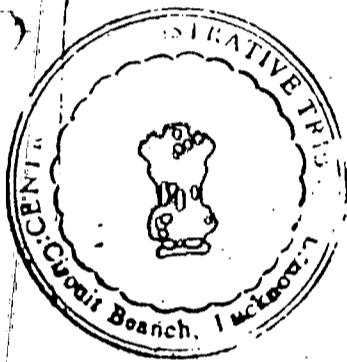
true that in the case of the applicant in OA No.145 of 1989 (L) there was no specific extension of the probationary period and the probationary period of two years had expired and she continued to be in service; but on the other hand, there is no order of confirmation as such in this case. Even in the other case (OA No.160 of 1989 (L)) there is no order of confirmation. There is only an order of satisfactory completion of the probationary period. In these circumstances, it cannot be presumed that the applicants in these cases have actually been confirmed or are to be deemed to be confirmed, without a specific order to that effect. This question of deemed confirmation of persons on probation has been considered in detail in Shri S.K. Sisodia v. Union of India & others (1989 (1) SLJ 449 - Full Bench, CAT, Allahabad). In that case there was a similar claim of deemed confirmation by a Railway servant whose services were terminated after the completion of his period of probation. The Full Bench considered the decisions in a number of cases on this issue. It cited relevant extracts from such cases including the State of Punjab v. Dharam Singh, referred to above. The Full Bench held :

"It is thus well settled; by a catena of cases decided by the Supreme Court that unless the rules otherwise provide, by mere completion of the period of probation, a probationer does not stand confirmed against a permanent post. There has to be a declaration by the competent authority that he has satisfactorily completed the probation and that he is confirmed against a substantive post. Until then, he continues to be a probationer."

It was further held :

"The subsequent decisions of the Supreme Court referred to above clearly declare that in the absence of any rule, a probationer's performance has to be assessed by the competent authority and unless he is confirmed after such an assessment, he does not acquire a permanent status."

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In the case of the applicant in OA No. 145 of 1989 (L), there is no order stating that she had satisfactorily completed her probation. In the light of the decisions above, she must be deemed to continue on probation. In the other case, since there is an order of satisfactory completion of probation, the applicant must be held to have so completed the probation, but still, it does not amount to actual conferring of substantive ^{status} ~~post~~ or confirmation in a permanent post. In these circumstances the first contention of the learned counsel for the applicants must be negated.

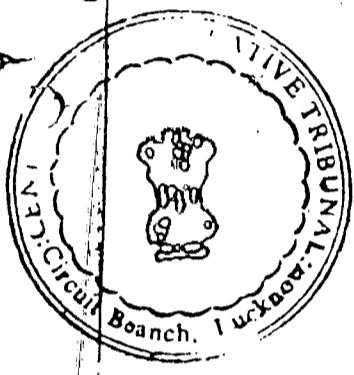
9. Another contention of the learned counsel for ~~the~~ both the applicants is that an assurance was given to them during the interview by the SC in pursuance of the second advertisement, referred to above, that she ^{she} was eligible for regular absorption against a post in the CDRI and that it was not necessary to consider their candidature in response to the advertisement No.2/87, referred to above. The respondents have denied any such assurance. In the face of such denial, there is not much value in this contention of the learned counsel for the applicants, in the absence of any other corroborating evidence. In any case, the entitlement of the applicants to regular appointment is not at all a matter for ~~any~~ assurance given by the unspecified members of the SCs. We have perused the proceedings and minutes of the selection in respect of the above advertisement. The record does not show any evidence of such assurance. On the contrary, the record shows that the applicants were not found suitable for the post and they are not in the select list for appointment in pursuance of the above advertisement. The record confirms the contention of the respondents that the applicants were not found suitable by the SC for appointment and persons who were found suitable have been appointed. There is thus no question of any promise or estoppel and this contention of the learned counsel for the applicants also falls.

10. The third contention of the learned counsel for the applicants is regarding stipulation in the appointment letter that

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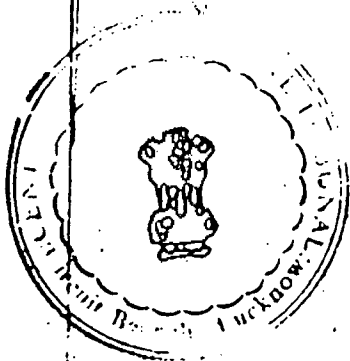
the services could be terminated without assigning any reason. The learned-counsel argued that such a condition is unconscionable, arbitrary and opposed to public policy and thus void under Section 23 of the Contract Act. In this connection he mentioned the following cases :

- (i) Ratan Lal & others v. State of Haryana (1985 (4) SCC 43).
- (ii) F. Venkatta Reddy & others v. State of Andhra Pradesh (1985 (3) SCC 198).
- (iii) Olga Tellis v. Union of India (1985 (3) SCC 545).
- (iv) Central Inland Water Ways Corporation v. Union of India (1986 (3) SCC 156).

The condition in the Office Memorandum dated 14.9.1984 (Annexure 'A-2') reads as follows :-

"5. Her/His appointment is temporary upto the duration of the above mentioned scheme and her/his service may be terminated by a month's notice on either side, viz., the appointee or the appointing authority without assigning any reasons. The appointing authority also reserves the right of termination of the services of the appointee forthwith or before the expiry of the stipulated period of notice by making payment to her/his of a sum equivalent to the unexpired portion thereof."

This condition has to be read in the context of other relevant conditions in the above memorandum. The very first para of the office Memorandum makes it clear that the appointment of the applicant was in WRS tenable at the CDRI. Condition No.2 states that "The appointment is under the Walter Reed Scheme. She/He shall have no claim for regular appointment in any of the CSIR establishment on the termination of the Scheme." Condition No.4, regarding probation, has already been reproduced earlier in this order. It is



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thus clear that the appointment of the applicants was definitely limited and for the duration of the scheme. It was not for any indefinite period. There is no promise of further extension beyond the life of the scheme. There is both a period of probation and a limitation of the total period by the expiry of the scheme. The applicant's service through out, would thus be temporary. It may be stated here that a similar provision for termination of service on a month's notice without assigning any reason, occurs in the rules of established services, e.g. CCS (Temporary Service) Rules, 1965. In these circumstances, there does not seem to be anything unconscionable or arbitrary in inserting such a clause in the conditions of service. At the worst such a condition amongst the many conditions may be held inapplicable in certain circumstances, but that does not render the entire set of conditions null and void. An appointment under a contract specifying a limited period of service is not illegal. Such an appointment does not bestow a legal right to continue in service beyond the period prescribed in the contract. In this connection a reference may be made to the decision of the Hon'ble Supreme Court in State of U.P. & others v. Ex. Pilot Officer Arun Govil (AIR 1990 SC 458). In the result, this contention of the learned counsel for the applicant also is of no assistance to the applicants.

11. The learned counsel for the applicants earnestly contend that having regard to the circular letters dated 13.1.1981 (Annexure 'A-4') and 14.2.1983 (Annexure 'A-5') the applicants were and are entitled to regular absorption in the equivalent cadres of the CDRL. In this connection the learned counsel for the applicant pointed out to paras 4, 5, 6, 7 and 8 of the letter dated 13.1.1981. It is admitted on all sides that the CSIR constituted a committee in the year 1979, "to look into the question of linking of the technical assistance programmes with overall plans and resources and absorption of staff employed in externally funded

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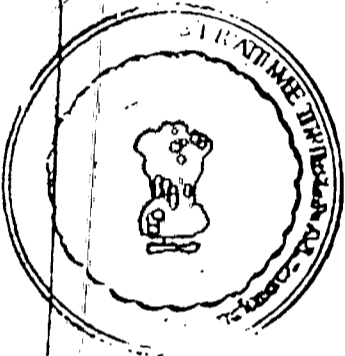
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projects/schemes. The committee submitted a report containing recommendations, which was accepted subject to certain modifications by the Director General, CSIR. The letter dated 13.1.1981 contains the ^{D.G.,} ~~a/~~ decisions of the CSIR and are in the nature of directives to be followed by the CSIR and the various National Laboratories and other Institutions under the CSIR. The first few paragraphs of the letter provides guidelines for acceptance of sponsored projects and schemes. The emphasis is on such projects being in consonance with the objectives end goals of the Laboratories and Institutions and that this should be in the particular fields of regular activities of the Institution. In para 4 it is indicated that the work relating to such projects should as far as possible be managed with the regular staff of the Institutions and Laboratories instead of going in for recruitment from outside. It does not, however, rule out recruitment from outside. It says that "the incremental staff should be minimal". Para 5 then deals with how the additional staff should be recruited, where such recruitment becomes essential. Para 5 says that the prescribed procedure for filling up regular posts should be followed in recruiting staff for such externally funded scheme. The heads of the Laboratories are admonished that there should be no dilution of quality. This para also mentions that in the case of sponsored projects, the recruitment should be for a fixed period for the duration of the scheme only and that such appointment does not entitle the incumbent to any claim on a CSIR post. It is stated that posts for sponsored projects could be filled from regular staff applying for the same. Even though the letter cautions against recruitment from outside, para 6 refers to the staff recruited for schemes by following prescribed recruitment procedure. In this para it is stated that such staff should not be required to undergo the recruitment procedure afresh for their appointment/absorption on regular side in identical post. On such absorption, their scheme service will be taken into account for purposes of entitlement to



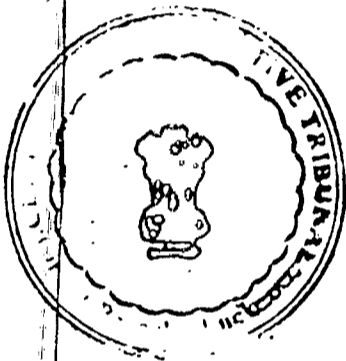
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various service benefits in CSIR, such as leave, etc. Para 7 of this letter refers to the staff earlier appointed in the sponsored projects and who had since been absorbed on ^{the} regular side. This shows that the absorption of staff engaged in externally funded schemes, against regular post in the CSIR, had been in existence even before the 1981 letter. Para 8 of the letter states that "the existing persons who have rendered three years continuous service in a scheme should be absorbed either against existing regular vacancies in identical posts or by creation of additional posts (by following prescribed procedure) if the work load in the Laboratory/Institution so demands." This para further cautions that "the Laboratories/Institutes should not recruit further staff until all such staff is absorbed." In other words, there is no total prohibition of recruitment of further staff. The only directive is that each recruitment should be made after all the earlier staff is absorbed. The recruitment of the applicants in these cases can be presumed to have been made after satisfaction of this requirement. The last para in this letter states that the earlier guidelines stand superseded by this letter in respect of appointment of staff for schemes sponsored/financed by non-CSIR bodies (both Indian and Foreign). From a perusal of the above it is obvious that the 1981 circular covers the schemes such as the WRS and the service conditions of persons like the applicants, who had been recruited in such schemes. There is nothing in this letter to state that the guidelines applied only to the staff in position on the date of issue of this instructions or on any fixed date. On the contrary, a close reading of the conditions reveals that the instructions in this letter are of a continuing nature applicable to future recruitments also, since there is a specific reference to minimal recruitment ^{as per} the prescribed procedure for regular appointment, in respect of recruitment to even sponsored projects of a limited duration. Coming to the letter dated 14.2.1983 of the IKA



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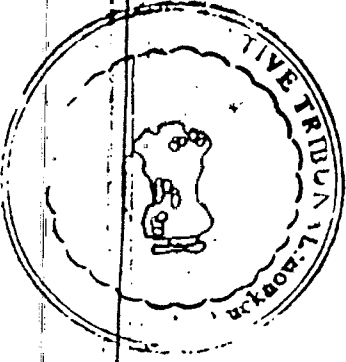
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Internal Financial Adviser (IFA), CSIR (Annexure 'A-5'), it is seen that though the subject of the letter is "Engagement of Dally-wage staff in Sponsored Project/Schemes", it actually deals with not only dally-wage staff, not only class IV staff, but staff on monthly wages and other staff also. The applicants rely heavily on para 4, which is as follows :-

"4. Similarly the Lab./Instt. has to be careful in engaging persons for Sponsored Project/Scheme. According to the instructions issued by the CSIR persons working in the Sponsored Project/Scheme earn eligibility for absorption in the regular posts of the Lab./Instt. after they put in the required length of service. Therefore when the Lab./Instt. engages such persons in any sponsored project/scheme the future contingency of absorption of those persons is embedded at the initial stage of recruitment. In order to avoid such embarrassing situations, CSIR has further been pleased to decide as follows :-

- (a) No new staff should be recruited against sponsored project/scheme unless their absorption after the expiry of the scheme is assured & clearance is obtained from Director General;
- (b) The existing regular staff of the Lab./Instt. should be deployed in the sponsored project/scheme as far as possible."

13. It is clear from para 4 of this letter, which seems to refer to the provisions regarding regular absorption contained in the 1981 letter, mentioned above, that the 1981 letter was not a one time affair but a kind of standing instruction. Further there is a clear reference to eligibility for absorption in the regular post, by appointees in sponsored projects and schemes, after they had put in the required length of service. That is why this letter admonishes the Heads of the Department to engage only such persons in the sponsored programmes, as could be absorbed, without any problem, against regular posts, thus avoiding what it calls "embarrassing situations". There is a caution in the letter that no new staff should be recruited against sponsored projects/schemes unless their



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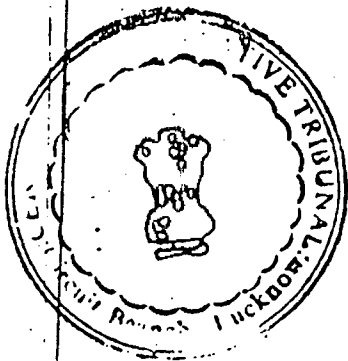
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absorption after the expiry of the scheme is assured. It is very clear without any shadow of doubt that these two letters taken together, do lend assurance to such appointees in sponsored projects, that they would be considered for absorption against regular posts after the completion of the prescribed period of service. The learned counsel for the applicant was, therefore, right in contending that these two letters make the applicants entitled for consideration of absorption against regular posts.

13. The learned counsel for the respondents contended that the 1981 letter related only to what he called "existing persons" (para 8 of the letter), i.e., those who were in position on the date of issue of the letter, i.e. 13.1.1981. We do not find that such a construction should be placed on the above word for the reasons already indicated above. The letter refers to continuing direct recruitment from outside for sponsored projects. There is no absolute ban on such direct recruitment. The very fact that the applicants were recruited shows that there was no such ban and we cannot introduce a negative clause in this letter to the effect that only those persons, who were in position on 13.1.1981 deserved to be regularised and not recruits of a later period. The letter dated 14.2.1983, as extracted above clarifies the intention of the 1981 instructions. The contention of the respondents limiting the applicability of the 1981 instructions to past recruitment, has to be firmly rejected, as acceptance of such a contention would be totally unjust and uncalled for insofar as recruits like the applicants are concerned, when there is no specific condition to that effect in any of these instructions. The 1983 instructions cannot otherwise be explained consistently with the 1981 instructions. The net position is that the two letters in Annexures 'A-4' and 'A-5' do give rise to a right to consideration for regular appointment in favour of the applicants, as contended by their learned counsel.

14. A subsidiary contention of the learned counsel for the applicants



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is that a number of other persons in exactly the same situation as the applicants, belonging to other externally funded schemes, have been absorbed against regular vacancies. The orders of such regular appointment in favour of a number of persons have been annexed as Annexures 'A-22' to 'A-25' to the application. These orders, it is observed, have been issued in 1983 and 1984 and they relate to appointees of 1982 to 1984, thus disproving the contention of the respondents that the 1981 letter did not operate after 1981. The learned counsel for the respondents tried to make a distinction between the applicants on the one hand, and those persons who were thus ~~not~~ regularly absorbed, on the other, to ward off the allegation of discrimination. He said that none of them belonged to WRS and most of them belonged to a scheme of the Ministry of Health. He further tried to distinguish by saying that the WRS was a foreign funded scheme for a limited period and no funds were received beyond the particular period. On the contrary, in respect of the Ministry of Health Scheme funds are sanctioned on a long term basis. Such fine and delicate distinctions are beyond our comprehension. It is not seen how the charge of discrimination is averted by saying that funds are being regularly received from the Ministry of Health for certain schemes and one is a foreign funded scheme and the other is indigenously funded. The question is not the nature of the source of funds, but of an opportunity to be appointed against a regular post, instead of ~~being~~ ^{ending} in a scheme. It is seen that it is purely by chance that in pursuance of the first advertisement of 1983, the applicants got selected under the WRS. It is not as though ~~there~~ there was any special qualification for the particular scheme for which they were particularly selected. ~~There is no particular~~ The qualifications prescribed for both the advertisements of 1983 and 1987 are the same. When the staff selected for other schemes have been regularised in large numbers even after 1981, it is not understood why the applicants could not be considered for similar absorption on the same basis.



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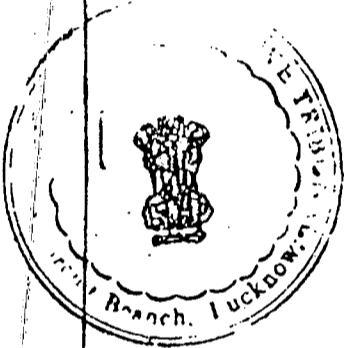
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15. On a consideration of the foregoing position, we have no doubt that, firstly, both the applicants are entitled for being considered for appointment against regular posts in the CDRI or CSIR, in pursuance of the 1981 and 1983 letters, referred to above, and in the same manner as others, mentioned by the applicants, have been appointed against regular posts in the CDRI; and secondly, that the applicants have been very unjustly and arbitrarily treated without any plausible reason in being denied the same consideration as the others mentioned by the applicant, who have been appointed against regular posts, in violation of the provisions contained in the 1981 and 1983 letters, referred to above.

16. In the short counter affidavit of the respondents, the respondents have mentioned that the Hon'ble Supreme Court in the case of Sabhalit Tewari v. CSIR (AIR 1975 SC 1329) had held that the CSIR is not an 'authority' within the meaning of Article 12 of the Constitution. While this is so, it has not been denied that this Tribunal has jurisdiction in respect of service matters of the employees of CSIR and its Laboratories. Such jurisdiction has not been questioned. This Tribunal is, therefore, entitled to consider whether the impugned order of the respondents in respect of the applicants has been issued in keeping with their own directions, rules, regulations and policy guidelines. We are entitled to see whether any injustice has been done to the applicants with reference to the existing rules, regulations and instructions of the respondents themselves and particularly vis-a-vis other employees of the respondents in similar situation. This Tribunal is expected to do substantial justice in such matters. In this connection we may respectfully refer to the guidelines in respect of such matters contained in paras 10, 11 and 12 of the judgment of the Hon'ble Supreme Court in Council of Scientific and Industrial Research and another v. Sri K.G.S. Phatt and another (ATR 1989 (2) SC 341). In that case the present respondents were the appellants. Seeing that



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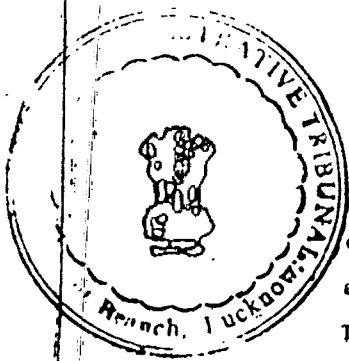
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Injustice had been done to the respondent and that the Tribunal had done justice to the respondent in that case, the Hon'ble Supreme Court upheld the Tribunal's order even though there was some error in the order of the Tribunal. In these circumstances, we hold that the impugned orders dated 27.1.1989 and 21.2.1989, in both the cases, are liable to be set aside.

17. In the case of OA No. 145 of 1989 (L), the impugned orders dated 27.1.1989 and 21.2.1989 (Annexures 'A-10' and 'A-13') are quashed. The applicant is already in service due to the stay order issued by this Tribunal. In view of our present order, she will continue to be in service. As admitted by the respondents, there are some vacancies in the post of Technical Assistant Grade II. The applicant shall be considered for regular appointment against one of those posts or any future vacancy if there are no posts vacant now, and shall be appointed in such post, in the same manner as the other persons mentioned in Annexure 'A-22' to 'A-25' to whom the application were appointed to regular posts, unless she is found unsuitable in the process of selection as in the case of the other persons, mentioned above.

16. In the case of OA No. 160 of 1989 the impugned orders dated 27.1.1989 (Annexure '6') and 21.2.1989 (Annexure '8') are quashed. The applicant shall be reinstated in the post of ~~Technical Grade II~~ ^{Technical Grade II} within one month from the date of receipt of a certified copy of this order. He shall be paid all the back wages for the period from the date of termination till the date of reinstatement within three months from the date of receipt of this order. The above period shall be treated as period of service rendered by the applicant and such service shall be considered to be continuous without any break. He shall be considered for and appointed against a regular post as in the case of the applicant in O.A. No. 145 of 1989 in terms of the above. There will be no order as to costs.



DI/- April 4, 1990. MEMBER (A).

VIC. CHAIRMAN.

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RESERVED.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH AT LUCKNOW.

Registration (O.A.) No. 160 of 1989 (L)

Sushil Kumar Bhatnagar ---- Applicant.

Versus

The Director General Council of
Scientific & Industrial Research
New Delhi & others ---- Respondents.

Connected with

Registration (O.A.) No. 145 of 1989 (L)

Smt. Madhull Srivastava ---- Applicant.

Versus

The Director, Central Drug Research
Institute, Lucknow & another ---- Respondents.

Hon'ble Justice K. Nath, V.C.
Hon'ble K.J. Raman, A.M.

(Delivered by Hon. K.J. Raman, A.M.)

For judgment see our judgment of date passed in
the connected OA No. 145 of 1989 (L), Smt. Madhull Srivastava
v. The Director, Central Drug Research Institute, Lucknow &
another.

- MEMBER (A).

VICE-CHAIRMAN.

Dated: April 4, 1990.
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Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow

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

O.A. NO. 203/ 1990 (L)

Vakeel Ahmad Khan & another.Applicants.

Versus

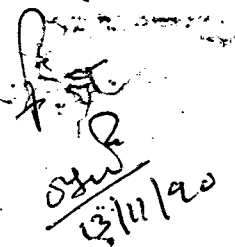
C.S.I.R. & Others. Opp.parties./ Respondents

C.A./WRITTEN STATEMENT OF RESPONDENTS NO. 1 TO 4.

1. That the contents of paragraph 1 of the application donot require any comments except that the action of Respondents was fully justified and legal.
2. That the contents of paragraph 2 of the application donot require any comments.
3. That the contents of paragraph 3 of the application donot require any comments.
4. That the contents of paragraph 4 (I) of the application donot require any comments.
5. That the contents of paragraph 4 (II) of the application donot require any comments. Annexure No. 2 of the application, however, indicates that applicant no. 1 joined the Institute as a Graduate Trainee in the forenoon of 8.1.1987.
6. That the contents of paragraph 4 (III) of the application donot require any comments except that Annexure No. 3 is not in respect of Applicant no. 1, Vakeel Ahmad Khan but in respect of Vidya Bhushan Nath Tewari, Applicant No. 2.



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7. That the contents of paragraph 4 (IV) of the application donot require any comments.

8. That the contents of paragraph 4 (V) of the application donot require any comments except that so far as Applicant No. 1 was concerned his term was extended w.e.f. 8.1.1988 and not w.e.f. 13.1.1988 as mentioned in this paragraph.

9. That the contents of paragraph 4(VI) of the application donot require any comments except that the period of extension of applicant no. 1 for the second year expired on 7.1.1989 and not on 12.1.1989 and a further extension as a special case was granted to applicant no. 1 w.e.f. 8.1.1989 to 7.1.1990.

10. That the contents of paragraph 4 (VII) of the application donot require any comments except that the period of Training of Applicant No. 1 had finally expired on 7.1.1990. Thereafter he was neither a trainee nor in the employment of the Central Drug Research Institute. It was only for attending to some work of Casual nature that one month thereafter ^{he was} engaged as a Casual worker for a fixed period of three months only w.e.f. 8.2.1990 on a consolidated amount of Rs. 900/- per month. It may also be mentioned that Annexure No. 7 does not pertain to applicant no. 1 but to applicant no.2. It was mentioned in this very order that no further extension will be given.

11. That the contents of paragraph 4(VIII) of the application are not admitted as stated. The engagement as a Casual Worker was for a fixed period of three months w.e.f. 8.2.1990 and the applicant was not to continue thereafter, as the termination was



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automatic on account of the fact that the ^{engagement} ~~appointment~~ as a Casual Worker was for a fixed period, no administrative approval beyond 7.5.1990 was given for his continuance by the authority competent to sanction extension nor did the competent authority permit him to work beyond 7.5.1990 and no payment could be made beyond that date.

12. That the contents of paragraph 4 (IX) of the application donot require any comments.

13. That the contents of paragraph 4 (X) of the application are not admitted as stated. Annexure No. 8 of the application is in respect of Applicant No. 1 and not applicant No.2. The Applicant No.2 worked in the Process Development Division and not in the Walter Reed Scheme but as a financial arrangement he was paid from the funds of Walter Reed Scheme.

14. That the contents of paragraph 4 (XI) of the application are not admitted as stated. Although the appointment letter of Applicant No. 2 was dated 2.1.1987 he, however, commenced working w.e.f. 13.1.1987.

15. That the contents of paragraph 4 (XII) of the application are not admitted as stated. The period of Trainee Apprenticeship of Applicant no. 2 commenced from 13.1.1987 and his period of apprenticeship was extended for one year w.e.f. 13.1.1988 upto 12.1.1989.

16. That the contents of paragraph 4 (XIII) of the application donot require any comments.



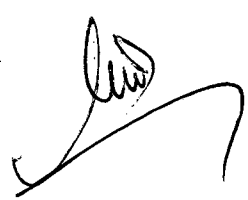
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17. That the contents of paragraph 4 (XIV) of the application donot require any comments except that Annexure No. 11 of the application is not an order of appointment as Casual worker and Annexure No. 10 pertains to Applicant No. 1 and not Applicant No.2. The period of training of Applicant NO.2 had finally ended on 12.1.1990 and, thereafter, he was neither a Casual worker nor an Apprentice. It was after one month that he was appointed as a Casual worker for a fixed period of three months on a consolidated wages of Rs. 900/- per month.

18. That the contents of paragraph 4 (XV) of the application are not admitted. The Appointing Authority never gave any sanction for continuation of applicant No.2 beyond 11.5.1990 and therebeing no administrative sanction, no payment beyond that date was made nor was there any order permitting Applicant No.2 to work beyond that date.

19. That the contents of paragraph 4 (XVI) of the application are not admitted as stated. The Graduate Trainee Scheme was intended for giving training to Graduates in Science or Diploma Holders. This Scheme does not provide any guarantee for regular absorption. The Committee was concerned with regular employees who had worked in various types of projects and not Apprentices or Trainees.

20. That the contents of paragraph 4 (XVII) of the application are denied. The O.M. dated 13.1.1981 was in respect of employees where staff was recruited against advertised posts in Schemes and projects by following prescribed procedure and who had rendered three years' continuous service in the Scheme. It did not relate

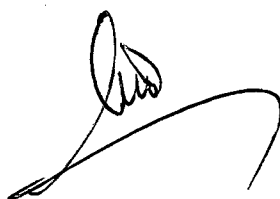


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to Apprentices or Trainees who cannot be said to be regular employees of the C.S.I.R. or C.D.R.I. The Apprentices used to get only stipend and not pay and they were not recruited against advertised posts by following prescribed recruitment procedure. The O.M. dated 13.1.1981 was, therefore, not at all applicable to them.

21. That the contents of paragraph 4 (XVIII) of the application are denied. The O.M., Annexure No. 13 like O.M., Annexure No. 12 does not apply to Apprentices who cannot be said to be regular employees. These Apprentices/Trainees who cannot be said to be regular employees as they are taken for purposes of training on a fixed stipend and for a fixed period.

22. That the contents of paragraph 4 (XIX) of the application are not admitted as stated. The cases of the applicants are not covered by O.M. dated 30.3.1990. The applicants initially were Trainees on payment of stipend for fixed periods. After their period of Apprenticeship was over and they were not in the employment of C.S.I.R. or its Units for a period of about a month, they were engaged as Casual employees for a fixed period of three months and on the expiry of the period their services were to terminate automatically. They were not doing work in comparable grades of regular employees. The cases of employees who are covered under O.M. dated 30.3.1990 are under consideration for absorption in the light of the O.M.. These employees are those who are doing the same job as performed by regular employees of the Laboratories and Institutes of comparable grades and fulfil the conditions as laid down in C.S.I.R. Circular dated 14.2.1983. The



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present applicants were working as Apprentices in the Training programme which does not provide for any guarantee for absorption. Their casual employment was only for a fixed period of three months on a contractual sum of Rs. 900/- p.m.

23. That the contents of paragraph 4 (XX) of the application are denied. It is wrong to state that both the applicants were working in the Walter Reed Malaria project. They were Trainees. Applicant No. 2 was working in the Process Development Division during his total employment but as the financial adjustment his stipend was drawn from the Walter Reed Malaria project.

24. That the contents of paragraph 4 (XXI) of the application are not admitted as stated. The Case D.A. No. 145/1989 Smt. Madhuli Srivastava versus Director, Central Drug Institute and D.A. No. 160/1989 Sushil Kumar Bhatnagar versus Director General, C.S.I.R. were based on completely different facts. They were not casual employees. They were appointed against sanctioned posts of Technicians in the grade of Rs. 950-1400 in projects. The Hon'ble Tribunal on the basis of facts of those cases allowed the applications of above mentioned applicants. So far as the present applicants are concerned, they were as already stated, only Trainees under the Graduate Trainee Scheme and were getting training only on payment of fixed Stipend. Their appointment as Casual workers was for a fixed period of three months. The decision of the Hon'ble Tribunal in the case of Smt. Madhuli Srivastava and Sushil Kumar Bhatnagar therefore, in no way applied to the case of the present applicants.

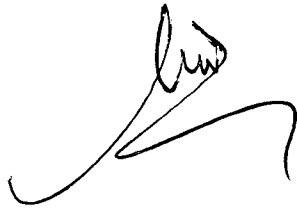


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25. That the contents of paragraph 4 (XXII) of the application are denied. The C.D.R.I. is not an 'Industry' within the meaning of definition contained in Section 2 (j) of the Industrial Dispute Act. The Bangalore Water Supply and Sewerage Board Versus Rajappa - 1978 (2) Supreme Court Cases at page 215 was not a case in respect of C.S.I.R. or its Units. The C.S.I.R. or its Units do not carry out any activity which might be akin to trade, commerce or business. It also does not carry on any manufacture. 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. Parmeshwaran Pillai versus the Chief Administration, C.S.I.R. and after consideration of the law on the subject including the case of Bangalore Water Supply, the Hon'ble Tribunal came to the conclusion that the C.S.I.R. cannot be said to be an "Industry". The case is reported in (1989) 10 Administrative Tribunals Cases at page 849. Clearly, therefore, the C.S.I.R. or its Institutes are not 'Industry' as defined in the Industrial Dispute Act.

26. That the contents of paragraph 4 (XXIII) of the application are denied. The provisions of Industrial Dispute Act do not apply to the C.S.I.R. and its Units. Moreover, the applicants were only Trainees on fixed stipend and, thereafter, the training period concluded and it was thereafter that with a break of one month they were employed as casual workers for three months only.

27. That the contents of paragraph 4 (XXIV) of the application are not admitted. The Industrial Dispute Act does not apply to the applicants. The question of their having completed continuous-----



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service of 240 days also does not arise. Conditions precedent to retrenchment of Workmen laid down in Section 25-F of the Industrial Dispute Act does not apply to the applicants.

28. That the contents of paragraph 4 (XXV) of the application are denied. As already stated, they were only trainees on fixed stipend and thereafter only for three months, casual employees and the termination of their services was automatic.

29. That the contents of paragraph 4 (XXVI) of the application are denied. As already stated, the provisions of Industrial Dispute Act do not apply to the applicants and there was no violation of article 21 of the Constitution.

30. That the contents of paragraph 5 of the application including the grounds A to E are denied. It is submitted that O.Ms. dated 13.1.1981, 14.2.1983 and 30.3.1990 do not apply to the applicants. The Industrial Dispute Act is not applicable to the applicants and there was no arbitrariness on the part of the opposite parties.

31. That the contents of paragraph 6 of the application need no comments.

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

33. That the contents of paragraph 8 of the application are denied. The applicants are not entitled to any reliefs.



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34. That the contents of paragraph 9 of the application are denied. The applicants are not entitled to any interim relief whatsoever. They were not holders of any posts and their casual employment came to an end automatically after three months period for which they were appointed.

35. That the contents of paragraphs 10,11 and 12 of the application need no comments.

VERIFICATION

I, V.P. Bakshi, Senior Controller of Administration, Central Drug Research Institute, Lucknow, do hereby verify that contents of paragraphs 1 to 35 of this written statement are true to knowledge based on record available in the office and on legal advice which is believed to be true. No part of it is false and nothing material has been concealed. So help me God.

Signed and verified this 26th day of October 1990 at Lucknow.

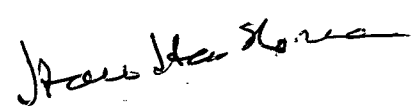
LUCKNOW: DATED:
Oct., 26 1990.



(V.P. BAKSHI)
SENIOR CONTROLLER OF ADMINISTRATION
CENTRAL DRUG RESEARCH
INSTITUTE, LUCKNOW
FOR OPPOSITE PARTIES 1 TO 4.

I identify the applicant who has signed before me.

LUCKNOW: DATED:
OCT. 26 1990 .



(HARI HAR SARAN)
ADVOCATE

A76

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
L U C K N O W.

O.A.No. 203 of 1990.

Vakeel Ahamad Khan.

Applicant.

Versus

Council of Scientific &
Industrial Research & Others.

Respondents.

Supplementary Written Statement of opposite parties
no. 1 to 4 against the Supplementary affidavit of the
Applicant.

Handwritten notes on the left margin:
25
F.T.
12-10-92
[Signature]

1. That the contents of paragraph 1 of the
supplementary affidavit do not require any comments.

2. That the contents of paragraph 2 of the
supplementary affidavit do not require any comments.

3. That the contents of paragraph 3 of the
supplementary affidavit are not admitted as stated.

It is submitted that both the applicants were engaged
on contractual basis for a period of 3 months as under:

Sri Vakeel Ahamad	8.2.90 to 7.5.90
Sri V.B.N.Tewari.	12.2.90 to 11th May, 90

While engaging them on contract it was made clear that
the term shall not be extended further and no other
benefits will accrue to them (Annexures 1 and 2). They
were being paid out of office contingencies and had
no claim to any post. On the other hand Sri Anup
Kishore Pandey and Satish Chandra Tewari were engaged
on contract basis in a sponsored Scheme which continued
till the aforesaid employees applied against notified
regular posts of Technician Grade-II (i). In compliance
with O.M.dated 12.2.1991, 27.5.1991 and 4.6.1991, copies
of which are being filed as Annexures No.CA-1, CA-2 &


A72

: 2 :

CA-3, they underwent prescribed recruitment procedure and appeared before the constituted Selection Committee. Sri Vakeel Ahmad and Sri V.B.N.Tewari did not apply for the posts notified, consequently, the question of any discrimination does not arise.

4. That the contents of paragraph 4 of the supplementary affidavit are denied in view of the averments made in reply to paragraph 3.

LUCKNOW: DATED:
June , 1992.



(V.P.BAKSHI)
SENIOR CONTROLLER OF ADMN.
C.D.R.I., LUCKNOW.

VERIFICATION

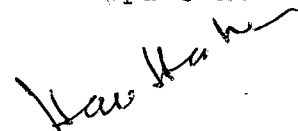
I, V.P.Bakshi, Senior Controller of Administration, C.D.R.I., Lucknow, do hereby verify that the contents of paragraphs 1 to 4 of this written statement are true to my knowledge based on records available in the office. No part of it is false and nothing material has been concealed. So help me God.

Signed and verified this day of June, 1992
at Lucknow.

LUCKNOW: DATED:
June , 1992.


(V.P.BAKSHI)
SENIOR CONTROLLER OF ADMN.
C.D.R.I., LUCKNOW.

I identify the above named applicant who has signed and verified before me.


(HARI HAR SARAN)
ADVOCATE.

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

(A 78)
Lucknow

12.2.91

No. CA/Misc/91

OFFICE MEMORANDUM

It is proposed to interview the eligible Casual Workers working for the post of Technicians Gr.II(1) which may become available during the next 6 months.

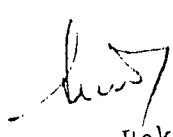
The qualifications prescribed for Technicians are as follows:-

I.T.I. Trade Certificate/Matriculation (10 years in the new system) + 2 years experience.

All the Heads of Divisions are requested kindly to obtain the biodata of the eligible Casual Workers in the format enclosed vide Annexure-I and forward it to the undersigned by 27th instant.

A report on the work and conduct of the applicants may also kindly be forwarded in the format enclosed vide, Annexure-II.

They should also be asked to furnish attested copies of the certificates & testimonials if any, in support of their qualifications and previous experience and SC/ST status wherever applicable.


(V.P. Bakshi)
Sr. Controller of Administration

Copy to:

All Divisional Heads



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

AM
CA2

Lucknow.

27.5.91

No. CA/ Misc/91

OFFICE MEMORANDUM

With reference to this office O.M. of even number dated 12.2.91, all the Heads of Divisions are requested kindly to forward the bio-data of the eligible casual workers who are performing technical duties in their respective Divisions in case their bio-data has not been forwarded earlier in response to the O.M. under reference.

The bio-data should reach to the undersigned positively by 3.30 p.m. today.

[Signature]

(V.P. Bakshi)
Sr. Controller of Administration

Copy to :-

All Heads of Divisions/Sections

C.A

we do not
have casual workers
on (casual) job
27/5/91

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

A 88
CNS

Chattar Manzil Palace,
Lucknow


No. CA/2222/91

Dated 4.6.1991

OFFICE MEMORANDUM

With reference to OM of even number dated 12.2.91 regarding filling up of posts of Technicians, it is clarified that Scheme employees who may be working in the Grade of Technician Gr. II can also avail themselves of this opportunity to be absorbed against a regular post. In case a Technician in the Scheme does not apply against the vacant Institute's post or fails to appear for the interview on 6.6.91, it will be presumed that he/she is not interested in absorption against the regular post.

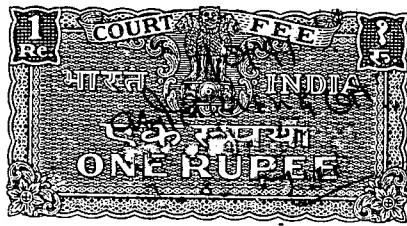
The Heads of concerned Divisions may kindly advise the Scheme staff in their Divisions accordingly.


(V.P. RAKSHI)
Sr. Controller of Administration



ASV

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALLAHABAD
CIRCUIT BENCH LUCKNOW.
O.A.No. 203 of 1990



1991
AFFIDAVIT
19 IM
DIST. COURT
U.P.

VAKEL AHMAD KHAN & another ... Applicants
Versus
Council of Scientific & Industrial
Research and others Respondents

REJOINDER AFFIDAVIT

I, Vakeel Ahmad Khan, aged about 23 years
son of late Mukhtar Ahmad Khan, resident of
House No.482/Ka/50 Bhandu Mohalla, Daliganj,
Lucknow, the deponent do hereby make oath and
state as under:

Filed today
1/8/91

1. That the deponent is the applicant No.1 himself
in the above mentioned application and he is
looking after the interests of his co-applicant
and as such he is fully conversant with the facts
deposed to herein after.

2. That the deponent has read and understood
the contents of ~~para~~ the counter affidavit ~~and~~
~~the counter affidavit~~ to be herein -after called
the counter' filed by Shri V.P. Bakshi, Senior
Controller of Administration, Central Drug Research
Institute Lucknow and he states that he is fully

1/8/91

Almas

ADD 2

ADD 3

(2)

competent to reply to the contents thereof, parawise as under:

3. That the contents of paragraphs 1, 2, 3, 4, 5, 6, 7, 8 and 9 of the counter need no comments from the deponent.

4. That with regard to the contents of para 10 of the counter it is submitted that in the period with effect from 8.1.1990 to 7.2.1990 the deponent continued to perform his duties in the Central Drug Research Institute, Lucknow although no specific order of his appointment or extension of service had been passed.

5. That the contents of paragraph 11 of the counter are not admitted as stated.

6. That the contents of paragraphs 12 of the counter need no comments from the deponent.

7. That the contents of paragraph 13 of the counter need no comments.

8. That the contents of para 14 of the counter are denied.

9. That the contents of para 15 of the counter need no comments.

10. That the countents of para 16 of the counter need no comments.

Chakraborty
1/8/91
Adhary

A83

(3)

11. That with regard to the contents of para 17 of the counter, it is submitted that even in the period with effect from 12.1.1990 to 11.2.1990 the applicants No.2 continued to serve in the Central Drug Research Institute, Lucknow though no actual order of appointment of extension was passed.

12. That the contents of paragraph 18 of the counter are denied.

13. That the contents of paragraph 19 of the counter are denied. It is further submitted here that although the applicants were appointed as Graduate Trainees but it is submitted here that they were required to perform regular duties in the Central Drug Research Institute Lucknow during their so called period of training. In fact, the applicants, during their entire period of service in the Central Drug Research Institute Lucknow, they have been performing the duties which were being performed by a regular employee of the Institute holding the post of Junior Technical Assistant. The aforesaid contentions of the applicants would be apparent from the clauses 10 and 11 of the initial orders of appointment of the applicants as contained in Annexures No.3 and 8 respectively which clearly stipulate that the applicants were required to attend all types of works which were allotted to them and they were also required to do that work to the complete satisfaction of their superiors. It was also a

Chakraborty
1/8/91

Debnath

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(4)

condition of appointment of the applicants that when the need arose, they could be required to perform the duties different from their allotted duties. It is further submitted here that under Clause 15 of the orders of their initial appointment, the provisions of Central Civil Service (Classification, Control & Appeal) Rules and Central Civil Service (Conduct) Rules and other rules and orders applicable to the servants of the respondent No. 1 were made applicable to the applicants also. Had the applicants been really only trainees as asserted by the deponent of the counter, there was no necessity of their being subjected to the various rules and regulations applicable to a regular employee of the Institute. In view of the above, the contention of the deponent of the counter that the applicants were only trainees and were even not entitled to absorption in the regular basis in the service of the Institute is not tenable in law nor is supported by the facts of the instant case.

14. That the contents of paragraph 20 of the counter are not admitted as stated in view of the averments made herein above. Since as already stated herein above, the applicants were required to perform the same work as a regular employee of the Institute their case is fully covered by the office Memorandum dated ~~xxx~~ 13.1.81. As regards the contention of the deponent of the counter that the applicants were not recruited against advertised posts by

1/8/91
Alkhan

A 25

(5)

following the recruitment procedure, it is submitted that interview was conducted before the applicants were appointed and therefore the contention raised as above by the deponent of the counter are misconceived and not tenable in the eyes of law.

15. That the contents of para 21 of the counter are denied in view of the averments made herein above.

16. That the contents of para 22 of the counter are not admitted as stated and it is submitted here that the applicants, since they were performing the same work as a regular employee, they were entitled to be considered for absorption in terms of Office Memorandum dated 30.3.90.

17. That the contents of para 23 of the counter are denied and those of para 4(xx) of the application are reiterated.

18. That the contents of para 24 of the counter are denied and those of para 4(xxi) of the application are reiterated.

19. That the contents of paragraph 25 of the counter are denied and those of para 4(xxii) of the application are reiterated.

20. That the contents of paragraph 26 of the counter are denied and those of paragraph 4(xxiii) of the Application are reiterated.

21. That the contents of paragraph 27 of the

30/1/91
1/8/91
[Handwritten signatures and initials]

ABC

(6)

counter are denied and those of paragraph 4(xxiv) of the application are reiterated.

22. That the contents of paragraph 28 of the counter are denied and those of paragraph 4(xxv) of the application are reiterated.

23. That the contents of paragraph 29 of the counter are denied and those of paragraph 4(xxvi) of the application are reiterated.

24. That the contents of paragraph 30 of the counter are denied in view of the averments made herein above.

25. That the contents of paragraph 31 and 32 of the counter need no comments.

26. That the contents of paragraph 33 of the counter are denied. The application is liable to be allowed with costs.

Chitry
1/8/91
Lucknow

27. That the contents of paragraph 34 of the counter are denied.

Wheeler

28. That the contents of paragraph 35 of the counter need no comments.

Lucknow, dated
1st-Aug 1991

Wheeler
Deponent/applicant

VERIFICATION

I, the above named deponent/applicant

A02

(7)

do hereby verify that the contents of paragraphs 1 to 28 of this Rejoinder Affidavit are true to the knowledge of the deponent. 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] *[Date]*
(Amit Bose) Advocate
Counsel for the Applicants

C- No. 19. 117
on this
14.11.20AM
and is received
Lark to S.
I have
deponent
of this
Valveel Ahmad Khan
Amit Bose
Adv.
KATB LIMITED
Advocate
Collectorate (cont. Lucknow
14/8/91

ASD

Application in this Hon'ble Tribunal the respondents numbers 2,3 and 4 to the application have appointed on regular posts Sarvasri Satish Chandra Tewari, and Anoop Kumar Pande as Technicians on regular ~~posts~~ basis on 10th December, 1991. The aforesaid two persons were also like the Applicants, initially appointed as Graduate Trainees and subsequently were appointed as Casual Workers.

4. That thus it is apparent that the contention of the respondents raised in the counter affidavit that casual workers and Graduate Trainees cannot be appointed on regular basis is false and baseless.

Dated Lucknow: April 1992

Deponent

Verification

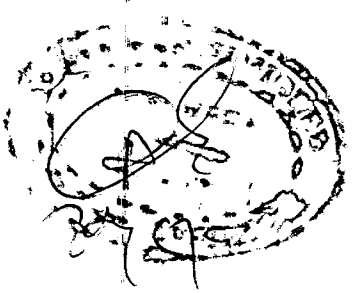
I, the deponent above named, do hereby verify that the contents of paragraph numbers 1 to 4 of the affidavit are true to the best of my personal knowledge and belief, no part of it is false, nothing incriminating material has been concealed, so help me GOD.

DEPONENT

I identify the deponent, who has signed before me.

20/5/92
Advocate

Solemnly affirmed before me on this
day of April 1992 at 11:00 a.m./p.m.



A90

by Sri Vakil Ahmad Khan, the deponent, who has been identified by Sri R.K.Srivastava, ~~Advocate~~ and Sri Amit Bose, Advocate.

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



(AAV)

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

O.A. No. 203 of 1990 (L)

Vakeel Ahmad Khan & another. ... Applicants.
Versus
C.S.I.R. & Others. ... Opp. Parties.

The opposite party begs to state as under:-

1. That the case is fixed for final hearing today.
2. That the rejoinder affidavit filed by the applicant contains some new facts e.g. paras 4, 11 and 16.
3. That it would be necessary to give a reply so that the correct facts may come before this Hon'ble Tribunal.

It is, therefore, prayed that the opposite parties be permitted to rebut the allegations and the hearing be adjourned.

LUCKNOW: DATED:
Oct. 24, 1991.

Hari Har Saran

(Hari Har Saran)
Advocate
counsel for opposite parties.

*Please give me another date
I have no objection
Vidya Bhushan Nath Tiwari
Applicant
24-10-91*

Aay

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

O.A. No. 203 of 1990 (L)

Vakeel Ahmad Khan & another. ... Applicants.

Versus

C.S.I.R. & Others. ... Opp. Parties.

sl 34

The opposite party begs to state as under:-

1. That the case is fixed for final hearing today.
2. That the rejoinder affidavit filed by the applicant contains some new facts e.g. paras 4, 11 and 16.
3. That it would be necessary to give a reply so that the correct facts may come before this Hon'ble Tribunal.

It is, therefore, prayed that the opposite parties be permitted to rebut the allegations and the hearing be adjourned.

LUCKNOW: DATED:
Oct. 24, 1991.

Hari Har Saran

(Hari Har Saran)
Advocate
counsel for opposite parties.

893

In the Central Administrative Tribunal, Allahabad,
Circuit Bench, Lucknow

--
D.A. No. 203 of 1990

Vakil Ahmad Khan and another

-Applicants

versus

Council of Scientific and Industrial Research
and others

-Respondents

--
Supplementary rejoinder-affidavit

I, Vakil Ahmad Khan, aged about 23 years,
son of late Sri Mukhtar Ahmad Khan, resident of
House no. 482/ka/50, Bhandu Mohalla, Daliganj,
Lucknow, the deponent, do hereby make oath and state
as under:

1. That the deponent is the applicant no.1 himself
in the above application and he is doing pairvi
of his co-applicant and, as such, he is fully
conversant with the facts deposed to hereinafter.

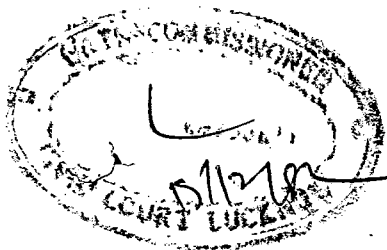
2. That the deponent has read and understood the
contents of the supplementary written-statement
filed on behalf of opposite-parties nos. 1 to 4
and it is stated that he is fully competent to reply
to the contents thereof parawise as under.

3. That the contents of paras 1 and 2 of the
supplementary written-statement need no comments
from the deponent.

4. That with regard to the contents of para 3



F.T
17/12



Vakil Ahmad Khan

Very

of the supplementary written-statement it is submitted that the applicants were never informed of the interviews for regular appointment on the post of Technician held in pursuance of the Office Memorandum contained in Annexures nos. CA-1 to CA-3 to the supplementary written-statement although both the applicants were fully qualified for appointment on regular posts of Technicians and they have also served for more than 2 years as casual workers and, therefore, it is apparent that the applicants have been discriminated against as compared to their similarly situated colleagues Sri Anoop Kumar Pandey and Sri Satish Chandra Tewari which action of the authorities of the Council of Scientific and Industrial Research is illegal and violative of Articles 14 and 16 of the Constitution of India.

5. That the contents of para 4 of the supplementary written-statement are denied and those of para 4 of the supplementary affidavit are reiterated.

Lucknow: Dated
December 17th, 1992

Vakil Ahmad
Deponent

Verification

I, the deponent named above, do hereby verify that contents of paras 1 to 5 of this affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed; so help me God.

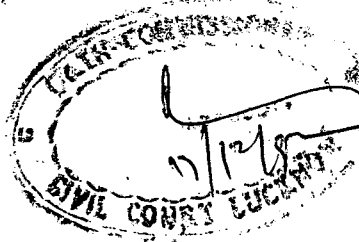
Lucknow Dated
December 17th 1992

Vakil Ahmad
Deponent

I identify the deponent who has signed before me.

(Amit Bose) Ad.
Advocate

Solemnly affirmed before me on
at _____ a.m/p.m by
the deponent who is identified by Sri
clerk to Sri _____ Advocate, High Court,
Allahabad. I have satisfied myself by examining
the deponent that he understands the contents of the
affidavit.



[Handwritten notes and signatures in the left margin, including 'Vakil Ahmad' and 'Amit Bose']

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

OIC
10/12/90

TRICAM BENCH

Gandhi Bh. n, Opp. Residency, Lucknow

No. CAT/Adm/Jud/2787+0.4790 dated the 29/6/90.

3/7/90

Registration No. 203/90 of 1990

Vakceel Ahmac APPLICANT

VERSUS

C. S. G. R. and others RESPONDENT

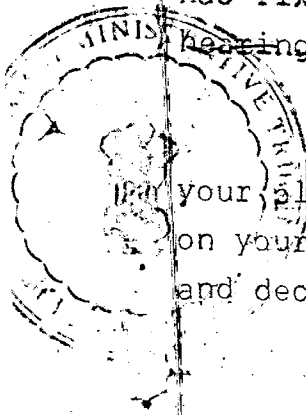
- ① the Council of Scientific and Industrial Research New Delhi through its director general
- ② the Central Drug Research Institute Chatthar Manzil, Lucknow through its director.

Please take notice that the applicant abovenamed has presented an application, a copy whereof is enclosed herewith, which has been registered in this Tribunal, and the Tribunal has fixed 11-7-90 ^{for order upon matter} day of 1990 for the hearing of the said application.

22-8-90 Per order

If no appearance is made on your behalf by yourself or your pleaser or by some one duly authorised to act and plead on your behalf in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this _____ day of _____ 1990.



AK. S. N.
29/6/90
DEPUTY REGISTRAR

- ③ the director ~~C.S.G.R.~~ Central Drug Research Institute Chatthar Manzil, Lucknow
- ④ the Administrative officer Central Drug Research Institute, Chatthar Manzil, Lucknow

Encl- Copy of petition with court's order dated on 27/6/90 passed there on.