

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
BANGALORE- 560 038.

Dated:

30 SEP 1994

APPLICATION NO: 922 of 1993

APPLICANTS:- Dr. K. Visweswaraiah, Mysore.,
V/S.

RESPONDENTS:- Director General, C.S.I.R., New Delhi
and another.

To

1. Dr. M. S. Nagaraja,
Advocate, No. 11,
II Floor, I cross,
Sujatha Complex,
Gandhinagar,
Bangalore-560 009.
2. Sri. M. Vasudeva Rao, Addl. C.G.S.C.
High Court Bldg, Bangalore-1.

Subject:- Forwarding of copies of the Order passed by the
Central Administrative Tribunal, Bangalore.

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Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/ passed by this Tribunal in the above
mentioned application(s) on 22nd September, 1994.

Issued on

30/9/94 18

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for

DEPUTY REGISTRAR
JUDICIAL BRANCHES.

gm*

**CENTRAL ADMINISTRATIVE TRIBUNAL,
BANGALORE BENCH.**

ORIGINAL APPLICATION NO. 922/1993

THURSDAY, THE 22ND DAY OF SEPTEMBER, 1994

SHRI V. RAMAKRISHNAN	...	MEMBER (A)
SHRI A.N. VUJJANARADHYA	...	MEMBER (J)

Between

Dr. K. Visweswaraiah,
Aged about 64 years,
S/o Shri G.V. Krishnamurthy,
236, 'Rama Priya',
12th Main, 3rd Cross,
Saraswathipuram,
Mysore - 570 009.

... Applicant

(By Advocate Dr. M. S. Nagaraja)

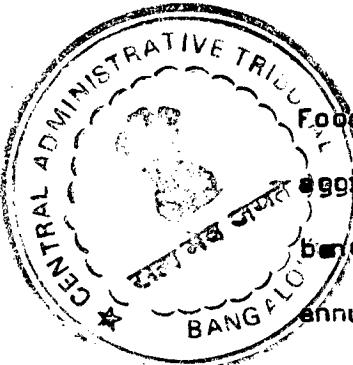
And

1. The Director General,
Council of Scientific and
Industrial Research,
Rafi Marg,
New Delhi - 110 001.
2. Union of India,
Represented by
Secretary to Government,
Ministry of Science & Technology,
New Delhi. Respondents

(By Advocate Shri M.V. Rao, Additional
Central Govt. Standing Counsel)

ORDER

Shri V. Ramakrishnan, Member (A)



The applicant in this case who has retired from the Central Food and Technological Research Institute, Mysore under CSIR is aggrieved by the decision of the CSIR not to extend to him the benefit of weightage in respect of qualifying service for superannuation pension. The applicant had applied for a post of Junior Scientific Officer in CSIR in 1960 in response to an advertisement.

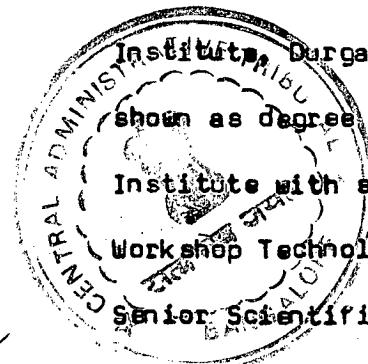
After the interview, however, he was offered the post of Senior Scientific Assistant which he accepted in the then pay scale of Rs. 250 - 500. On his attaining the age of 60 years on 31.5.90, he had superannuated from the services of CSIR. He had represented to the CSIR that he should be given weightage of qualifying service as laid down in the CSIR Rules which is pari materia with Rule 30 of CCS Pension Rules. This was not agreed to by the Institute and the rejection was communicated to him by a letter dated 7.2.92. He represented to the CSIR to reconsider the matter and also had requested them to give detailed reasons as to why this prayer could not be granted. The CSIR by their letter dated 16.2.93 as at Annexure A-8 informed him that the matter had been considered carefully but the applicant's request cannot be agreed to as the essential qualifications prescribed for the post of SSA etc. against which he was selected did not fulfil the requirements laid down for getting the benefit of Rule 30 of Pension Rules. Aggrieved by this decision, the applicant is before us.

2. We have heard Dr. M.S. Nagaraja for the applicant and Shri M.V. Rao for the respondents. Shri M.V. Rao takes a preliminary objection that as the applicant was informed in February 1992 about the rejection of his request, he should have approached the Tribunal within one year from the date of such rejection. He had in fact, approached this Tribunal only in November, 1993. Against this, Dr. Nagaraja argues that in response to the subsequent representation dated 14.9.92 as at Annexure A-7, the reply was communicated to the applicant only in February, 1993 as at Annexure A-8 and as such the applicant is in time. In view of the position brought out, we hold that the application cannot be dismissed merely on the ground of limitation.

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3. The main ground advanced by Dr. Nagaraja in support of the application is that in an identical case, the Tribunal had extended the benefit of weightage of qualifying service as sought for in the present application. Dr. Nagaraja refers in this connection to the case of Shri Shastry in OA 319/92 which was disposed of by the Tribunal on 15.9.93. The applicant in that case had joined as a Junior Scientific Assistant in the same unit of the CSIR, namely, CFTRI. The Tribunal had overruled the objections raised by the CSIR that he did not fulfil the conditions laid down under Rule 30 of CCS Pension Rules and allowed the application. Dr. Nagaraja states that the same relief should be extended to the present applicant also.

4. Shri M.V. Rao on the other hand states that the required qualification for the post of Senior Scientific Assistant was not post-graduate or experience as required in sub-rule 1 of Rule 30 of CCS Pension Rules. However, he has not been able to produce any material to substantiate this contention. In particular, the department was asked to show a copy of the advertisement for the post of SSA in the CFTRI which would have, inter alia, spelt out qualifications essential for the post. Shri Rao is not able to produce any such advertisement in respect of CFTRI but has instead given a copy of advertisement No. 70/59 issued by CSIR which pertains to Senior Scientific Assistant in the Central Mechanical Engineering Research



Institute, Mysore. The qualifications for the post of SSA was shown as degree or diploma in Mechanical Engineering of a recognised Institute with special reference to Production Engineering and Workshop Technology. However, it is not of much avail as the post of Senior Scientific Assistant in the Central Mechanical Engineering

Research Institute is functionally very different from that of SSA in CFTRI, Mysore. Shri Rao submits that against the decision of the Tribunal in OA 319/92 filed by Shri M.V. Shastry, the CSIR had approached the Supreme Court by an SLP No. 2949/94 and had obtained interim stay of the operation of the judgement. The learned standing counsel further informs us that the decision of the Supreme Court is awaited shortly.

5. As the Supreme Court is already seized of the matter, we think it appropriate to give the direction that the rights of the applicant in this case will be regulated in terms of the decision of the Supreme Court on the SLP referred to supra. If the decision of the Supreme Court goes in favour of Shri Shastry and he gets the weightage of qualifying service, the respondents are directed to extend the same benefit to the applicant in this case also.

6. With the above observation this application is finally disposed of with no order as to costs.

Sd/-

(A.N. Vujjanaradhy)
Member (J)

TCV

Sd/-

TRUE COPY (V. ^{24/9/77} Remakrishnan)
Member (A)

Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore