

50/100

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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disposed Date-27/03/03

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O.A/T.A No. 191/02

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SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 191/2002
Misc Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicants. Moraj Kr. Das

-Vs-

Respondant(s) H.O.I. Joms

Advocate for the Appellant(s) Habibur Rahman Ibrahim Debn W.T. Konnyak

Advocate for the Respondant(s) Case

Notes of the Registry	Date	Order of the Tribunal
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20.6.02

Heard Mr.H. Rahman learned counsel appearing on behalf of the applicant.

Issue notice on the respondents to show cause as to why the application shall not be admitted. Returnable by 4 weeks. List on 22.7.02 for Admission.

ICU Sharma
Member

[Signature]
Vice-Chairman

lm

22.7.2002

Keeping the question of limitation open the application is admitted. The respondents are ordered to file written statement.

List the case on 20.8.2002 for orders.

[Signature]
Vice-Chairman

bb

176577380
10.6.2002

*NOT submitted
copy for respondents
19/6/02*

Notice prepared and sent to D:Section for issuing of the same to the respondents through Regd. post with A.D. D.No-1831 to 1834 Dtd-27/6/02. 25.6.02

No. written statement
has been filed.

30
19.8.02.

20.8.02 On the prayer of learned counsel
for the Respondents further four weeks
time is allowed to the Respondents to
file written statement. List on
17.9.2002 for orders.

K. U. Sharma
Member

[Signature]
Vice-Chairman

mb

No. written statement
has been filed.

30
5.11.02.

17.9.02 On the prayer of Mr. B. C. Pathak,
learned Addl. C.G.S.C. for the respond-
ents four weeks time is allowed to the
respondents to file written statement.
List on 6.11.2002 for orders.

[Signature]
Vice-Chairman

mb

No. written statement
has been filed.

30
4.12.02.

6.11.02 List on 5.12.2002 to enable the
respondents to file written statement.

K. U. Sharma
Member

[Signature]
Vice-Chairman

mb

5.12.02 The matter is similar with O.A.
No. 190/2002. Mr. B.C.Pathak, learned
Addl. C.G.S.C. for the respondents
stated that he will file written state-
ment within three weeks from today. The
matter may now be listed for hearing
alongwith O.A. 190/2002 on 30.1.2003.
List the matter for hearing on 30.1.03.

K. U. Sharma
Member

mb

10.12.02
W/S submitted
by the Respondents.

[Signature]

Received ~~in~~ W/S copy
Ali Mustafa Ahmad

30.1.2003 List the matter on 19.2.2003 for hearing alongwith O.A: 190/2002.


Member


Vice-Chairman

mb


19.2.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. S. Biswas Administrative Member.

Mr. H. Rahman, learned counsel for the applicant prays for adjournment of the case on personal ground. Learned counsel for the respondents has no objection. The case is accordingly adjourned. List the matter again on 27.3.2003 for hearing.

Wts has been taken

26.3.03


Member

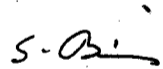

Vice-Chairman


mb

27.3.2003 Heard the learned counsel for the parties. Hearing concluded. Judgement delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.

Copy of the order dated 27.3.03.

7/4/03


Member


Vice-Chairman

nkm

*16.4.2003
Copy of the Judgt has been sent to the office for issuing the same to the applicant as well as to the addy G.P.S.K
RS*

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.190 of 2002

And

Original Application No.191 of 2002

Date of decision: This the 27th day of March 2003

The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman

The Hon'ble Mr S. Biswas, Administrative Member

(I) O.A.No.190/2002

Shri Tileswar Das,
S/o Late Loknath Das,
Resident of Chandradhar Baruah Nagar,
Regional Research Laboratory, Jorhat.

(II) O.A.No.191/2002

Shri Manoj Kumar Das
S/o Late Lakheswar Das
Resident of Regional Research Laboratory Colony,
Jorhat.

.....Applicants

By Advocates Mr H. Rahman, Ivalina Deka
and W.T. Konyak.

-versus-

1. The Union of India
2. The Director General,
Council of Scientific & Industrial Research,
Raj Marg, New Delhi.
3. The Director,
Regional Research Laboratory,
Jorhat, Assam.
4. The Controller of Administration,
Regional Research Laboratory,
Jorhat, Assam.
5. The Section Officer,
Regional Research Laboratory,
Jorhat, Assam.

.....Respondents

By Advocates Mr A. Deb Roy, Sr. C.G.S.C. and
Mr B.C. Pathak, Addl. C.G.S.C.

.....



O R D E R (ORAL)CHOWDHURY. J. (V.C.)

Both the cases were taken up together since common questions of law and facts are involved.

2. Both the cases relate to consideration of the case of the applicants for promotion in the light of the scheme of MANAS as amended from time to time.

3. The applicants are working under the respondents in the Regional Research Laboratory, Jorhat. The respondents authority with a view to provide promotional benefit, introduced a scheme, more effectively known as the MANAS which came into force on and from 1.4.1992 and continued upto 1.4.1992. The said Scheme was revised and the revised Scheme came into effect from 1.4.1992. Admittedly, the applicants did not possess the entry level qualification at the time of their initial appointment. They, however, acquired the special qualification in 1988 and 1991 respectively.

4. The applicant in O.A.No.190/2002 was first appointed on 31.12.1977 as Group 1(I) in the scale of pay of Rs.196/-. Since he was a non-Matriculate he was initially appointed in the lowest category of post, i.e. Group I (1) in the scale of pay of Rs.196/- (revised scale of Rs.750-940). As per the prevailing policy of promotion, he was assessed in 1984 and promoted as Group I(2) in the scale of pay of Rs.210/- (revised scale of Rs.802-1150). He was again promoted in the year 1992 as Group I(3) in the scale of pay of Rs.260/- (revised scale of Rs.950-1400). The applicant thereafter passed the ITI Plumber

Trade.....

Trade in 1991 and his grievance is that after he acquired the higher qualification he was not considered for promotion under the Scheme though he was considered for promotion in the normal channel.

5. Similarly, the applicant in O.A.No.191/2002 was first appointed as Technical Group (1) in the year 1979 in the scale of pay of Rs.196/-. He was promoted as per assessment in the year 1986 in the scale of pay of Rs.210 in Group I(2). This applicant also passed the ITI examination in Fitter Trade in the year 1988. According to the applicant he was entitled for promotion in the year 1988 after acquiring the qualification of Feeder Trade. He was, no doubt promoted as Group 1(3) in the year 1994 as a normal assessment promotion in the scale of pay of Rs.260-4500. The applicant is also smarting under the grievance that his case was not considered in the light of the MANAS Scheme which was revised subsequently.

6. The respondents contested the claim of the applicants and stated that there is no illegality in the action of the respondents and their cases were duly considered.

7. We have heard Mr H. Rahman, learned counsel for the applicants in both the cases and also Mr A. Deb Roy, learned Sr. C.G.S.C. appearing on behalf of the respondents in O.A.No.190/2002 and Mr B.C. Pathak, learned Addl. C.G.S.C. appearing on behalf of the respondents in O.A.No.191/2002. We have also perused the promotional scheme which is of beneficial nature.

8. From a perusal of the materials submitted before us, it is found that the applicants submitted their

representations.....

representations for consideration of their case for promotion in the light of the Scheme which was subsequently revised. It is also a fact that both the applicants acquired the entry level qualification. Considering the facts of the cases and the materials placed before us, we are of the opinion that ends of justice will be met if a direction is issued on the applicants to submit their representations before the authority for consideration of their case for promotion. Accordingly the applicants are directed to submit their representations ventilating their grievances before the authority claiming promotion under the Scheme within four weeks from the date of receipt of the order. If such representations are made the respondents are ordered to consider the same justly and fairly in accordance with law and pass appropriate orders according to law.

9. Needless to state that while considering the case of the applicants the respondent authority shall take note of the Scheme as amended from time to time as well as any other existing scheme and pass a speaking order. The respondents are directed to complete the above exercise as expeditiously as possible preferably within three months from the date of receipt of the representations from the applicants.

10. With the above observations both the applications stand disposed of. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Admn)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

Original Application No. 191 /2002

Manoj Kumar Das

..... Applicant

- VS -

Union of India & others

..... Respondents

WS
17/6/02

I N D E X

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Filed by

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH AT GUWAHATI

An application under Section 19
of the Central Administrative Act,
1985.

ORIGINAL APPLICATION NO. 191 / 2002.

Shri Manoj Kumar Das,
S/o late Lakheswar Das,
resident of Regional Research Labo-
ratory Colony, Jorhat.

..... Applicant.

- Versus -

1. The Union of India.
2. Director General, Council of
Scientific & Industrial Research
Raj Marg, New Delhi- 110001.
3. Director, Regional Research
Laboratory, Jorhat, Assam.
4. Controller of Administration
Regional Research Laboratory,
Jorhat, Assam.
5. Section Officer, Regional Research
Laboratory, Jorhat, Assam.

..... Opposite Party
Respondents.

10
Manoj Kumar Das
Filed by - Haribur Rahman
Advocate 13/6

Particulars of the Order against which, this application is made:-

Money for Govt. =

This application is made against the order No. 17/66/32/95-PPS dated 20.12.99 issued under the signature of the Under Secretary to the Council of Scientific & Industrial Research communicated under Memo No. RLJ.14(161) Estt/79 dated 10.1.2000.

(Annexute- 1)

II. JURISDICTION :-

The applicant declares that the cause of action of this application is within the jurisdiction of this Hon'ble Tribunal.

III. LIMITATION :-

The applicant further declares that this application is ^{not} within the prescribed period of limitation and as such, a separate application has been filed for condoning the delay.

IV. FACTS OF THE CASE:-

1. That your humble applicant is a citizen of India and is a permanent resident of Jorhat. and presently working as Group I(3) in the Regional Research Laboratory at Jorhat.
2. That your humble applicant was initially appointed as Technical Group1(1) in the year, 1979 in the scale of pay of Rs. 196.
3. That your humble applicant was promoted as

per assessment in the year 1986 in the scale of pay of Rs. 210 in Group I(2).

Manoj kumar

4. That your humble applicant begs to state that in 1988 your humble applicant passed the ITI Examination in Fitter Trade and by virtue of this additional qualification i.e. the entry level qualification, your applicant is entitled for consideration of the next grade of promotion as per prevailing promotional system.

5. That your humble applicant begs to state that he is entitled for the next grade of promotion in 1988 after acquiring entry level qualification, but he was promoted ~~on an special assessment~~ in 1994 as Group 1(3) as a normal assessment promotion in the scale of pay of Rs. 260- 4500/- and your humble applicant is drawing pay of Rs. 3650 per month plus other allowances as admissible from time to time.

6. That your humble applicant begs to state that as per policy of the Regional Research Laboratory and as per circular issued by the Council of Scientific and Industrial research, your humble applicant is entitled for promotion as per MANAS.

7. That your humble applicant begs to state that though there was no clear-cut guidelines for promotion to Group 1 staff under the Regional Research Laboratory

Jorhat, after introduction of merit and normal assessment scheme, hereinafter referred as "MANAS" effective from 1.4.1988, your humble applicant is entitled for promotion to the next higher grade as per scheme.

8. That your humble applicant begs to state that when MANAS came into operation on and from 1.4.88 and it was continued up to 1.4.1992. During the said period your humble applicant acquired special qualification of ITI (Fitter Trade) in 1988 and as the applicant has acquired the entry level higher qualification in 1988 and he was appointed in 1979; as per the circular No. 171/66/94-PPS dtd. 17.6.95 issued under the signature of the Deputy Secretary to council for Scientific and Industrial Research Laboratory, your applicant is entitled for the benefit of promotion for acquiring the special qualification .

The circular clearly mentioned that the condition of qualification in respect of those who were in position on 1.2.1981 in Group I in the pre-revised scale of Rs. 260- 550 and in Group II in the pre-revised scale of Rs. 425- 7000 , has been relaxed as an exceptional case by the Director General, CISR by virtue of acquiring experience , specialised skill etc. The assessment of these persons can be considered up to Group II(3) in the scale of Rs. 1400- 2300 and Group III(4) in the scale of pay of Rs. 2200- 4000 in respective groups. As per letter

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Money for m.

dated 17.6.1995, your applicant is entitled for consideration of his ~~xxxx~~ next promotion on an assessment as a special case for acquiring higher qualification. But your humble applicant was not considered for assessment promotion as per circular though your applicant has acquired the entry level qualification of ITI passed in 1988%.

14
Monday 12-10-1995

A copy of the letter dated 17.6.1995 is annexed herewith and marked as Annexure- 2.

9. That your applicant begs to state that as per letter issued on 19.6.1995, your applicant is entitled for the promotion for acquiring the entry level higher qualification in 1988. But his case was not considered by the authority and as such, your applicant has submitted an application/ representation before the authority for redressal of his grievances .

10. That your humble applicant begs to state that after receipt of the representation from the applicant the Regional Research Laboratory, Jorhat sought for some clarification regarding the revised MANAS effective from 1.4.1992 from the Council of Scientific and Industrial Research, New Delhi. In reply to the said letter the clarification was issued on 13.2.1996 by the Joint Secretary to the Council for Scientific and Industrial Research in which it was clarified that those employees

who were in position as on 1.2.1981 and have acquired the higher qualification i.e. the entry level qualification for movement from one group to another is eligible as per provision 6.4.7 and 2.3.5 of the pre-revised MANAS respectively. It was also clarified in this regard that the benefit as envisages under the above provision is admissible ~~and~~ prospectively to all the employees who were in position as on 1.2.1981 and acquired the qualification of the next higher grade at any time after 31.12.1981 without restriction of any cut of date for acquiring the same. As such your humble applicant is entitled for the benefit of promotion as your applicant was initially appointed in 1979 and he was in the service on 1.2.1981 and he acquired the higher qualification i.e. the entry level qualification of ITI in the year, 1988.

A copy of the circular dated 13.2.1996 is annexed hereto and marked as Annexure- 3.

11. That your humble applicant begs to state that as per the letter dtd. 19.6.1995 and 13.2.1996 your humble applicant is entitled for the benefit of promotion, they were not promoted and so they have submitted memorandum and representations etc. Ultimately Section Officer of the Regional Research Laboratory, Jorhat issued a notice on 1.5.1997 directing all the employees to submit their entry level

Manoj Kumar Das

qualification and detailed information who were eligible as per circular for consideration of their case. The said notice was circulated on the Notice Board of the Regional Research Laboratory, Jorhat on 1.5.1997.

16
Monoj kumar

A copy of the said notification is annexed hereto and marked as Annexure- 4.

12. That your humble applicant begs to state that though the applicant has submitted his application before the authority, but his case was not considered and still he is working in the same post as Grade I and his case of promotion is not considered in the light of the circular issued by the authority.

13. That your humble applicant begs to state that as per the date of appointment your humble applicant was initially appointed on 12.11.79 in Group I(1) and acquired the qualification of ITI(Fitter Trade) in 1988 and in acquiring the entry level qualification your humble applicant is entitled for the movement from Group I to Group II as per MANAS and revised MANAS.

It may be mentioned herein that the MANAS was introduced on 1.11.88 and the revised MANAS on 1.4.1992 and in both the MANAS AND REVISED MANAS there was a guidelines as per the scheme for which your humble applicant is entitled for consideration

of promotion from Grade I to Grade II.

14. That your humble applicant begs to state that as the applicant was not promoted after several representations, he has no other alternative than to file this application before this Hon'ble Tribunal for redressal of his grievances so that the case of your applicant for promotion may be considered by this Hon'ble Tribunal.

1 LEGAL GROUNDS FOR RELIEF:-

1. For that your humble applicant is entitled for promotion as per MANAS and revised MANAS as your applicant has acquired the entry level qualification of ITI in 1988.

2. For that your applicant is also entitled for promotion as per revised MANAS and also under MANAS in 1988. But his case of promotion is not considered till today even after issuance of circular by the Council of Scientific and Industrial Research.

3. For that your humble applicant was initially appointed in 1979 in Grade I and still he is working as such although he has acquired the entry level qualification in 1988 and as per MANAS AND revised MANAS, YOUR HUMBLE APPLICANT is entitled for consideration of his promotion as per circular dated 13.2.1996.

Manoj Kumar Singh

4 For that your applicant is entitled for prospective promotion on and from 1988 as MANAS was introduced in 1988 and it was in force up to 1992 and revised MANAS was introduced on 1.4.92 and as per both the schemes your humble applicants is entitled for promotion on group change from group 1 to Group II.

5. For that your humble applicant is entitled for promotion as per circular issued by the Council for scientific and Industrial Research dtd. 19.6.95 and 13.2.1996.

6. For that in any view of the matter, your humble applicant is ~~xxxxx~~ entitled for promotion from Group I to Group II post which was not considered by the authority till today and as such, your applicant filed this application before this Hon'ble Tribunal.

II. DETAILED OF THE REMEDY EXHAUSTED:-

There is no remedy except filing this application before this Hon'ble Tribunal, as your humble applicant has exhausted all the remedies available to him.

III. MATTERS NOT PENDING IN ANY OTHER COURT:-
TRIBUNAL:

The applicant declares that he has not filed any other application before any Court/ Tribunal.

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Mony kr Ban

IV. RELIEF PRAYED FOR:-

That the respondents may be directed to consider the case of the applicant as per provision of MANAS and revised MANAS and the letters dated 16.6.95 and 13.2.96 issued by the Council for Scientific and Industrial Research.

AND/OR

Pass necessary orders as prayed for as your Lordships may deem fit and proper.

V. INTERIM RELIEF PRAYED FOR:-

NIL

VI. PARTICULARS OF THE POSTAL ORDER:-

Postal Order No .:- 76 57738⁰
Date of issue :- 10.6.2002
Issued from :- G.P.O Raichoti
Payable at :- Raichoti

VII. DETAILS OF INDEX:-

An index showing the particulars of documents is enclosed.

VIII. LIST OF ENCLOSURES:-

As per index.

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Money for Donor

VERIFICATION

I Shri Manoj Kumar Das, son of late Lakheswar Das, aged about 48 years, resident of R.R.L. Colony, Jorhat, Assam, do hereby solemnly affirm and verify the statements made in this application as follows:-

1. That I am the applicant in the above application and as such, I am acquainted with the facts and circumstances of the case.
2. That I am fully competent to verify this application and I do verify this application as true to my knowledge and belief and I have not suppressed any material facts.

And

I sign this verification on this the 17th day of June, 2002 at Guwahati.

Places:-

Date:-

Manoj Kumar Das
Declarant.

COUNCIL OF SCIENTIFIC & INDUSTRIAL RESEARCH
Anusandhan Bhavan, 2, Rafi Marg, New Delhi-110 001

No. 17/66/32/95-PPS

Dated 20.12.1999

The Director,
Regional Research Laboratory,
Jorhat- 785 006.

Sir,

With reference to your letter No. RLJ -14(161)/
Estt/17, dated 29.11.99. forwarding representations
from S/Shri Tileswar Das and Manoj Das regarding
movements to next group under para 6.4.7 of MANAS,
I am directed to state that under the special provision
contained in paras 6.4.7 and 2.3.5 of pre-revised
and revised MANAS approved by the G.B. the benefit of
movement to next group is admissible from prospective
effect from the date of notification of the approval of
the competent authority to the recommendations of the
~~competent~~ Selection Committee. This amounts to fresh
selection and cannot take effect from retrospective
effect. The qualification possessed by such employees
at the time of consideration of their cases under the
said paras is taken into consideration.

It is, therefore, regretted that the cases of
the employees under reference cannot be considered under
para 6.4.7 of MANAS at this stage and the decision already
communicated vide this office letters dated 26.10.98,

Contd.....2/-

Attested
J. Deba
Advocate

18.3.99, 29.4.99 and 23.8.99 is reiterated. However, the existing assessment scheme including the issue under reference has also been considered by the Apex Committee and if there is any change in the existing position on the recommendations of the committee as may be finally approved by the competent authority, the same will be notified to the Labs./Instts. and their cases could be considered accordingly.

Sd/-

Y. Ramakrishna
Under Secretary

.....

REGIONAL RESEARCH LABORATORY : JORHAT

No.. RLJ -14(161)/Estt./79

Dated :10.1.2000

Copy to :

1. Sri M.K.Das, Tech., RRL, Jorhat-for information.
2. Sri Tuleswar Das, Tech., - do - do-
3. Personal file of S/Sri M.K.Das & Tuleswar Das.

Attested
Suleka
Advocate

SECTION OFFICER.

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COUNCIL OF SCIENTIFIC AND INDUSTRIAL RESEARCH
RAFI MARG

NO. 17/66/94-pps NEW DELHI-11001, the 17.6.1995

From,

Joint Secretary (Admn)
Council of Scientific and Industrial Research

To,

The Heads of all the
National Labs./Instts.

Sub: Revised MANAS effective from 1.4.1992 - some clarifications regarding.

Sir,

I am directed to invite your kind attention to D.U. letter No.17(66)/94-PPS dated 1st Sept., 1994 from Shri Dilip Kumar, J.S. (Admn.) CSIR forwarding a copy of the revised MANAS approved by the competent authority for implementation w.e.f. 1.4.92 and to state that references have been received in this office from some of the Labs-/Instts. after issuance of the above document, seeking clarifications regarding some of the provisions of the revised MANAS. These points are clarified as under for your kind information, guidance and necessary action.

1. There was a provision under the pre-revised MANAS made effective from 1.4.88 vide para 2.5.8 to the effect that

" Those (employees) in Group III ~~S~~ V(A)

*Attested
S. S. S. Ka
Advocate*

Contn.....2/-

who did not possess qualifications of the lowest Grade of those Groups on 1.2.81 will be eligible on consideration for assessment upto Grade III (2) V(A) (2) (Rs1640-2900) only. However, condition of qualification in respect of these position on 1.2.81 in Groups I & II pre-revised scales of Rs.260-350 (revised Rs.950-1400) and Rs.475 (revised Rs.1400-2500) has been relaxed and an exceptional case by the DG. CSIR by virtue of acquiring experience, specialised skill etc. assessment of these persons can be considered upto Grade II (V) in the scale of Rs.1400-2300 and Grade III (4) in the scale of Rs.2200-4000"

The Governing Body while considering the revision of the MANAS, decided to delete the above provision from MANAS taking a view that there may be stray cases requiring the application of the said provision under Para 2.5.8. of the pre-revised MANAS. While deciding to delete the said provision, the Governing Body at the same time also decided that separate administrative instruction could be issued to decide such stray cases that may come up in future.

Pursuant to the decision of the Governing Body and above, it has administratively been decided that under the revised MANAS implemented w.e.f. 1.4.92 also, the employees in Group III&V (A) who did not possess the qualifications of the lowest grade (entry level qualifi-

Contd....3/-

cations prescribed under NRAS of these Groups on 1.2.1981, will be eligible for consideration for assessment upto Gr.III(2) and V (A) (2) Rs.1640-2900 only. However, if the condition of qualification in respect of those who were in position on 1.2.81 in Group-I in the pre-revised scale of Rs.260-350 (revised Rs 950-1400) and in Group II in the pre-revised scale of (Rs.425-700) (revised Rs1400-2300) has been relaxed as an exceptional case by the DG CSIR by virtue of acquiring experience, specialised skill etc., assessment of these persons can be considered upto Grade II (3) in the scale of Rs.1400-2300- and Grade III (4) in the scale of Rs.2200-4000 in the respective Groups. Accordingly, para 1.3.2. of the revised MANAS containing the provision that "for assessment promotion within the same group, the restrictions of minimum qualification and experience will not apply for the existing employees" may be deemed to have been modified to the above extent in respect of the above categories of employees in Group III and V(A).

2. Para 0.6.7 of the revised MANAS provides that " For foreign assignment/deputation, study leave EOL which has not resulted in break of service where no ACPs/APARS are available, average of percentage of marks as obtained for interview and peer review combined for Group IV and interview (including trade test) for other Groups will be counted for Normal assessment only by

Contd....4/-

conversion of rating given by the outside organisation into 7 point scale. For this purpose, at least three ACRs/APARs written in CSIR Labs. Hqrs. are required."

It may kindly be ~~seen~~ from the above that the provision has been made under the said para for regulating the cases of assesses involving foreign assignment/deputation, study leave, EOL, with or without the availability of ACRs/APARs for the period of their foreign assignment/ deputation etc. The conversion of rating given by the outside organisation into 7 point scale is envisaged only in respect of the cases where the ACRs/APARs may be available. But this is not very clear from the language of the para as it is. It is, therefore, clarified that Para 0.6.7. under the revised MANAS may be deemed to have been modified as under:-

% For foreign assignment/ deputation study leave EOL which has not resulted in break of service where no ACRs/ APARs are available, average of percentage of marks as obtained for interview and peer review combined for Group IV and interview (including trade test) for other Group will be counted for Normal Assessment only. If, However, the ACRs/APARs for the said period are available, then the rating given by the outside organisation will be converted into 7 points scale. For above purposes, at least three ACRs/ APARs written in CSIR Labs/ Instts are required."

Contd....5/-

3. It has also been noted that para 6.4.7. and 2.3.5. of the old and revised MANAS respectively are being misinterpreted by some of the Lab./Instts. who are taking them at par with other provision of MANAS applicable for assessment promotions for the next higher grades for the purpose of determining the effective date of promotion to the higher group post, and are giving the benefit to the concerned employees with retrospective effect of 1.4.1988 i.e. the effective date of implementation of the old MANAS containing this provision, on the basis of the interviews conducted by them under the provisions of the said paras much after 1.4.1988, which is not in order. It is, therefore, clarified here that the benefit of placement in the higher group under the provisions of the said paras is admissible to the concerned employees from prospective effect from the date of their joining on the higher Group post after their selection for the same on acquiring a comparable level expected in open recruitment to such positions through the selection Committee constituted as per the instruction.

4. Clarifications are also being sought by the Labs/Instts. whether there is any cut off date for acquiring the qualification of next higher group by the employees who were in position as on 1.12.81 for being eligible for the benefit of movement to higher group under the provision of paras 6.4.7. and 2.3.5. of the pre-revised and revised MANAS,

Contd....6/-

respectively. It is clarified in this regard that the benefit envisaged under the above provision is admissible prospectively as explained in para 3 here above, to all the employees who were in position as on 31.12.81 and acquire the qualifications of the next higher group at any time after 31.12.81 without the restriction of any cut off date for acquiring the same.

5. It has also been observed that inspite of the fact that it has been clearly stipulated under the relevent provisions under the old as well as the revised MANAS that Assessment Committees will be constituted from the approved panel of experts, as per prescribed constitution, some of the labs/institts, are not following these guidelines strictly, inasmuch as they are including the expert members in the Assessment Committees from outside the approved expert panels and in some cases more members than the number prescribed under the relevant provisions are being put in the Assessment Committee. In this connection, it is clarified that the assessment Committees have to be constituted invariably out of the experts panels (both internal CSIR as well as outside experts) only, and the number of experts should also not exceed the number prescribed under the relevant provisions. Needless to emphasise any kind of violation of the procedure/ guidelines approved by the competent authority, irrespective of its magnitude, could be challenged and may not withstand the legal scrutiny. It is therefore,

Contd...7/-

necessary to ensure that all actions are taken strictly in accordance with the prescribed provisions/ guidelines and related instructions without allowing any violation of any kind.

It is requested that the above clarifications may kindly be brought to the notice of all concerned in your Labs./instts. for their information, guidance and necessary actions.

Kindly, acknowledge the receipt.

Sd/- B. S. Cairra.
Deputy Secretary.

Copy to :

- 1. F&AOs/ F&AOs of all labs/instts.
- 2. Sr.F&AOs /F&AOs in CSIR Hqrs.
- 3. BS. CU/US(CO)
- 4. Sr.Dy. FA(F) /Dy FA(S) (R).

Attested
J. DeKa
Advocate

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ANNEXURE — 3

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COUNCIL OF SCIENTIFIC & INDUSTRIAL RESEARCH

Rafi Marg

No. 17/66/94-PPS New Delhi 110001, the 13th Feb, 1996.

From,

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

To,

The Directors/Head of all the
National Labs. Instts.

Sub:- Revised, MANAS effective from 1.4.1992-
some clarifications regarding.

Sir,

I am directed to refer to CSIR letter of even number dated 19.6.1995, on the above subject and to state that the benefit envisaged under paras 6.4.7., 2.3.5 of the pre-revised and revised of MANAS respectively is admissible only to the employees who were in position on 1.2.81. Keeping this position in view, it is, requested that para 4 of the said CSIR circular letter may be deemed to have been modified to read as under :-

"Clarifications are also being sought by the Labs/Instts, whether there is any cut off date for acquiring the qualification of next higher group by the employees who were in position as on 1.2.81 for being eligible on the benefit of movement to higher group under the provisions of Paras 6.4.7. and 2.3.5. of the pre-revised and revised MANAS respectively. It is clarified in this regard that the benefit envisaged under the

Contd...2/-

Attested
J. Debra
Advocate

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above provisions is admissible prospectively as explained in para 3 herein above to all the employees who were in position as 1.2.1981 and acquire the qualifications of the next higher group at any time after 31.12.81 without the restriction of any cut off date for acquiring the same."

Sd/- Girish Chopra
Under Secretary.

Copy to :

1. Sr.F&AOs/F&AOs of all Labs/Instts.
2. All Heads of Divisions / Sections in CSIR Hqrs. / CSIR.

Attested
J. S. Ka
Advocate

REGIONAL RESEARCH LABORATORY: JORHAT (ASSAM)

NO. RRL J/REC/97

Dated : 01.05.97

NOTICE

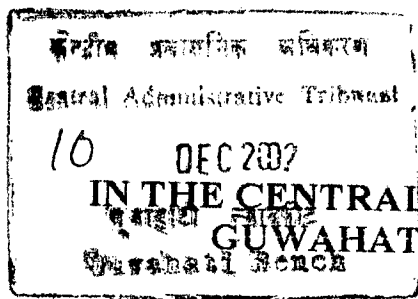
The competent Authority likes to consider the cases of employees who were in position on 01.02.81 and acquired after 31.12.81, the entry level qualifications of the group next higher to the one in which they were placed as per the revised MANAS Clause 7.3.5. All the eligible candidates are requested to submit their applications with detail information accordingly on or before 20.5.97 failing which it will be difficult to consider their cases.

Sd/ B.J. Deuri
Section Officer.

CC:

1. All Heads of Divn/ Sec. for kind information and circulation among the staff members of their Divns/sec.
2. All Notice Boards.
3. Scientist-in-charge, BLT, Itanagar.
4. SPA to Director.

Attested
J. Debra
Advocate



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Filed by:-

B. C. Pathak
(B. C. Pathak) .. 9/12/02

Addl. Central Govt. Standing Counsel
Central Administrative Tribunal

ORIGINAL APPLICATION NO.191/2002

Shri M.K.Das

Applicant

-Versus-

Union of India & Others

Respondents

(Written Statements filed by the respondents)

The written statements of the respondents are as follows:

1. That a copy of the O.A. No.191/02 (referred to as the application) has been served on the respondents. The respondents have gone through the same and understood the contents thereof.
2. That the statements made in the application, which are not specifically admitted by the respondents, are hereby denied.
3. That with regard to the statements made in para 1,2 and 3 of the application, the answering respondents have no comments to offer.
4. That with regard to the statements made in para 4, the respondents state that as per records the applicant passed the ITI examination in the year 1988 in the Fitter Trade. As per existing promotional scheme, the applicant has been given 3 promotion, namely, from Gr. 1(1) to Gr.1(4) till date.
5. That with regard to the statements made in para 5, the respondents state that the applicant joined the Laboratory in the year 1979 in Gr.1 (1) and after completion of 7 years in service, he was

promoted to the next higher grade i.e. Gr.1(2) in the year 1986 after the recommendation of the Assessment Committee. Now, the applicant has been promoted to the Gr.(4).

6. That depending on the period of consideration for promotion i.e. if the promotion period falls during MANAS, it was dealt as per MANAS and in case it falls under the Revised MANAS, it was dealt as per Revised MANAS. As such, the promotion of the applicant right from his joining of the Laboratory from 1979 till date has been considered under both the schemes.

7. That with regard to the statements made in para 7, the respondents state that these statements are not correct and hence the same are denied. In this connection the respondents state that there are clear cut guidelines for promotion and according to which the applicant's case was considered and he has been promoted to the higher grades, which has been accepted by the applicant without any objection.

8. That with regard to the statements made in para 8, the respondents state that as per existing official term there is no special qualification as mentioned by the applicant. Acquiring higher qualification does not mean automatic change of one's existing Group and promotion to higher group. It is pertinent to mention here that in the para 6.4.7 of the MANAS, it laid down that special interview may be arranged as a one time measure if the post was not advertised in any particular year. As such, the spirit of the para 6.4.7 of the MANAS is one of rather objective need base but neither automatic nor superimposed upon this spirit as this is equivalent to open recruitment /selection. Moreover, mention may be made here that all scientific/technical posts in the national Laboratories/ Institutes are created on functional needs only.

9. That with regard to the statements made in para 9, the respondents state that acquiring the higher qualification does not mean automatic change of one's existing group to higher group. It is pertinent to mention that in the para 6.4.7 of MANAS, it is mentioned that special interview may be arranged as a one time measure, if post was not advertised in any particular year. In this connection the respondents re-iterate the foregoing statements made in this written statements and state that the applicant's claim that his case was not considered by the authority is false and misleading. As such, the applicant is not entitled to any relief under the scheme or any rules.

10. That with regard to the statements made in para 10, the respondents state that the authorities under the respondent No.3 initiated the matter at the first instance. The respondent No.3 being a functional and constituent establishment under the respondent No.2 and the respondent No.2 being the regulatory authority, the authority under the respondent No.3 sought clarification from the respondent No.2 on the issue.

In this connection, the respondents also state that the claim of the applicant that his case was referred to CSIR on the basis of revised MANAS is factually incorrect and misleading one. In fact his case was referred as per MANAS and not under the revised MANAS. So far as the other statements are concern, the respondents reassert and reiterate the foregoing statements as made in this written statements.

11. That with regard to the statements made in para 11 of the application, the respondents state that even if there is no cut off date under letter under reference, acquiring of higher qualification does not mean automatic change of one's existing Group to a higher group. In this regard the para 6.4.7 of MANAS is very much clear and therefore the respondents reiterate the foregoing statements made herein above.

12. That with regard to the statements made in para 12, the respondents state that claim of the applicant that his case was not considered by the respondents is not correct. The provisions of the Clause 6.4.7 of the Scheme very much clear in this regard.

13. That with regard to the statements made in para 13, the respondents state that the changing of group from Gr.1(1) to Gr. II as per MANAS and Revised MANAS is not automatic after acquiring any higher qualification. In fact, its objective is need based and equivalent to open recruitment /selection. Therefore, the respondents are to implement the scheme strictly as per spirit and object of the scheme taking as whole and not otherwise.

14. That the respondents have no comment to offer to the statements made in para 14 of the application.

15. That with regard to the statements made in para 1 to 6 under the heading LEGAL GROUNDS FOR RELIEF of the application, the

answering respondents state that under the facts and circumstances of the case and under the provisions of the law relating the matter in issues in the application, the grounds shown are not ground at all which can not sustain in law. Therefore the application is liable to be dismissed with cost.

16. That with regard to the statements made in para II under the heading DETAILS OF THE REMEDY EXHAUSTED and para III under the heading MATTERS NOT PENDING IN ANY OTHER COURT OR TRIBUNAL, the respondents have no comments to offer.

17. That with regard to the statements made in para IV under the heading RELIEF PRAYED FOR, the answering respondents state that in view of the facts and circumstances of the case and the provisions of law, the applicant is not entitled to any relief whatsoever as prayed for and therefore the application is liable to be dismissed with cost as devoid of any merit.

In premises aforesaid, it is therefore, prayed that Your Lordships would be please to hear the parties, peruse the records and after hearing the parties and perusing the records, shall also be pleased to dismiss the application with cost.

VERIFICATION

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VERIFICATION

I, Shri. N.K.Barbaruah , presently working as the Administrative Officer in the Regional Research Laboratory, Jorhat (Assam), being competent and duly authorized to sign this verification , do hereby solemnly affirm and state that the statements made in the written statements in para 1 to 16 and 17 _____ are true to my knowledge and belief, those made in para _____ being matter of records are true to my information derived there-from and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 9th day of November, 2002 at Guwahati.

N K Barbaruah

Deponent
Administrative Officer
Regional Research Laboratory
Jorhat-785006 (Assam)