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S
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judi.)

Kabili
15/11/17

(SEE RULE. - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : 7/03
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s): Dr. Birnabani Saikia

- Vs. -

Respondent(s): H. O. I. Tom

Advocate for the Applicant(s): H. Rahman, Shri Mortafer Ahmed

Advocate for the Respondent(s): Cafe T. Singh, T. Talukdar
for Rept. No 2, T. A. Talukdar

Notes of the Registry	Date	Order of the Tribunal
<p>this application is in form but not in time <u>Condonation</u> Petition is filed / not filed C. P. for Rs. 5/- admitted vide IPO/B/ 26/1/03 76605326</p> <p>Dated 26/1/03</p> <p><i>He W. N. 26/1/03</i> <i>Dy. Register</i> <i>PAR</i></p>	23.1.2003	<p>Present : The Hon'ble Mr. Justice D. N. Chowdhury, Vice- Chairman.</p> <p>The Hon'ble Mr. S. K. Hajra, Administrative Member.</p> <p>Heard Mr. H. Rahman, learned counsel for the applicant and also Mr. A. K. Choudhury, learned Addl. C.G.S.C. for the respondents.</p> <p>The application is admitted Call for the records.</p> <p>List on 20.2.2003 for written statement.</p>
<p>Notice reckoned and sent to 8/3 for giving the respondent No 1 to 4 to Legal A/I.</p> <p>27/1/03</p> <p>D/No 135 & 138 dd 28/1/03</p>	mb	<p><i>Sum</i> Member</p> <p><i>Vice-Chairman</i></p>

20.2.2003

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

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

Put up again on 21.3.03

to enable the respondents to file
written statement.

S. Biswa

Member

mb

Vice-Chairman

20/3/03
Written statement has
not been submitted
by the respondents.

NS

20/3/03

No. Wts has been
billed.

21.3.03

21.3.2003 Mr. I.A. Talikdar, learned
counsel stated that he alongwith Mr.
J. Singh, learned Sr. counsel has
entered appearance on behalf of the
respondents and prayed for time for
filing written statement. Prayer is
allowed. List on 24.4.2003 for
orders.

Vice-Chairman

mb

24.4.2003

Mr. I.A. Talukdar, learned
counsel appearing for the respondents
prays for time to file written
statement. Prayer is allowed. List
on 19.5.2003 for orders.

Vice-Chairman

mb

19.5.2003 Present : The Hon'ble Mr. Justice D.N.
Chowdhury, Vice-Chairman.

The Hon'ble Mr. S.K. Hajra,
Administrative Member.

Written statement has been
filed. The case may now be listed for
hearing on 12.6.2003. The applicant may
file rejoinder, if any, within two weeks
from today.

S. Biswa

Member

mb

Vice-Chairman

No. Rejoinder has
been filed

21.6.03

Notes of the Registry	Date	Orders of the Tribunal
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12.6.2003	Heard counsel for the parties.
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	Hearing concluded. Judgment delivered in open Court, kept in separate sheet -s.
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	The application is dismissed in terms of the order. No order as to costs.
--	---------------------------------------------------------------------------

Chintan Jadhav

Member

Umesh

Vice-Chairman

19.6.2003
copy of the Judgment
has been sent to the
Office for issuing
The same to the applicant
as well as to the LIA
for the response

SS

pg

Notes of the Registry

Date

Orders of the Tribunal

1945-1946

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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

O.A. / R.A. No. . . 7 . . . of 2003.

DATE OF DECISION 12-6-2003.

Dr. Binapani Saikia APPLICANT(S)

Mr. H. Rajman ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN

THE HON'BLE MR R.K.UPADHYAYA, ADMINISTRATIVE MEMBER

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

Judgment delivered by Hobble Vice-Chairman

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 7 of 2003.

Date of Order : This the 12th Day of June, 2003.

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

The Hon'ble Mr R.K.Upadhyaya, Administrative Member.

Dr Binapani Saikia,
Daughter of Late K.C.Saikia,
aged about 35 years,
resident of Tarajan Phookan Road,
Opposite Bharati Press,
P.O. & District - Jorhat, Assam

...Applicant

By Advocate Sri H.Rahman.

- Versus -

1. Union of India,
represented by the Secretary,
Ministry of Science & Technology,
New Delhi.

2. Director General,
Council of Scientific Research,
Anusandhan Bhawan,
2, Rafi Marg, New Delhi-1.

3. Director, Regional Research Laboratory,
Jorhat, Assam.

4. Controller of Administration,
Regional Research Laboratory,
Jorhat, Assam.

...Respondents

By Sri J.Singh, Sr.Advocate & Mr.I.A.Talukdar
Counsel for the RRL.

O R D E R (ORAL)

CHOWDHURY J.(V.C)

The issue relates to recruitment and absorption of the applicant under the respondents. The applicant worked under the respondents from 1986 to 1995. Initially she was appointed as a Junior Research Fellow for a period of two years and thereafter she was allotted to the post of Senior Research Fellow with effect from 20.10.1988. Thereafter also she was appointed as an Research Associate with effect from 27.3.92 to 26.3.94 for a period of 2 years on a consolidated emoluments of Rs.2200/- per month. She worked in this fashion upto 3.4.95. The applicant is an M.Sc. in Physical Chemistry with Ph.D. in 1988. She knocked the door of this

Tribunal for a direction for considering her case for absorption. There were earlier two round of litigations. The respondents in terms of the order passed by the Tribunal in O.A.54/2001 considered her case in the light of the existing scheme and finally found that she was not eligible for absorption in the CSIR service. Hence this application.

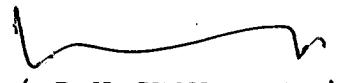
2. We have heard the learned counsel for the parties at length. Mr H.Rahman, learned counse4l appearing for the applicant strenuously contended that the applicant rendered a good part of her life under the respondents but she was not absorbed by the respondents though her case was recommended. No doubt the applicant has a right to be appointed and in the instant case her case was considered. However, the respondents did not find her eligible for appointment. The reasoning ascribed by the respondents authority in its communication dated 14.12.2001 cannot be said to be unlawful, arbitrary and discriminatory. The respondents duly considered the case of the applicant and found that she did not fulfill the eligibility criteria and therefore she could not be absorbed. No infirmity as such is discernible in the decision making process. Realising the position Mr.H.Rahman, learned counsel for the applicant drew our attention to the human and humane aspect of the case and submitted that the applicant spent a considerable period under the respondents and now she is over aged and cannot apply for direct recruitment under the respondents and therefore prays for a direction for relaxation of the age of the applicant so that her case can be considered against future vacancy. We have addressed our mind to this aspect. Admittedly, the applicant worked under the respondents as Junior Research Fellow/Senior Research Fellow and definitely gained some experience in that field. On overall consideration of the aspects of the matter, we are of the

opinion that ends of justice will be met if a direction is issued on the respondents to consider the case of the applicant for a direct recruitment against any suitable vacancy under the respondents, commensurate with her qualification by relaxing her age to the extent of nine years, which period she spent under the respondents.

Subject to the observations made above, the application stands dismissed. There shall, however, be no order as to costs.



(R.K.UPADHYAYA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN

bb

21 JAN 2003

गुवाहाटी न्यायालय
Guwahati Bench

10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

(An application Under Section 19 of the
Administrative Tribunal Act, 1985)

ORIGINAL APPLICATION NO.

7 /2003

Dr. Binapani Saikia,
Daughter of late K.C. Saikia,
aged about 35 years,
resident of Tarajan Phookan Road,
Opp. Bharati Press,
P.O. & District:- Jorhat, Assam.

..... Applicant.

- Versus -

1. The Union of India,
represented by the Ministry of
Science & Technology, New Delhi.
2. Director General,
Council of Scientific Research,
Anusandhan Bhawan,
2, Rafi Margh, New Delhi- 1.
3. Director, Regional Research Laboratory,
Jorhat , Assam.
4. Controller of Administration,
Regional Research Laboratory, Jorhat,
Assam.

.....Respondents.

Binapani Saikia

I. PARTICULARS OF THE ORDER AGAINST WHICH
THE APPLICATION IS MADE

This application is made against the order dated 14.12.2001 communicated by the Director, Regional Research Laboratory, Jorhat rejecting the prayer of the applicant.

..... (Annexure- 1)

II. JURISDICTION:

The applicant declares that the subject-matter of the order against which she wants redressal is within the jurisdiction of this Hon'ble Tribunal.

III. LIMITATION

The applicant further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

IV FACTS OF THE CASE:

1. That your humble applicant is a citizen of India and is a permanent resident of Jorhat and she was working as the Research Scholar in the Regional Research Laboratory, Jorhat and she was eligible for permanent absorption as per the Scheme* called "Scheme for absorption of Researchers in CSIR Laboratories/Institutes , 1977.*

2. That your humble applicant is qualified as M.Sc. in Physical Chemistry and she was appointed as a Guest Worker Research Scholar in 1985 by the Director,

B. Binapani Saikia

Regional Research Laboratory, Jorhat without any remuneration. It is pertinent to mention herein that the Guest Worker Research Scholars under the Regional Research Laboratory, Jorhat who are working without any remuneration are supplied with books & Journals and are also entitled to avail facilities of laboratory and libraries. These are provided to enable the Guest Workers to develop in specialised education and to improve his/her quality so that she can be permanently absorbed after practical training. Since the applicant was appointed as a Guest Worker without any remuneration, it was the legitimate expectation of the applicant that her appointment will be made regular in the near future.

3. That your humble applicant begs to state that although she was initially appointed as a Guest Worker in 1985, she was appointed as a Junior Research Fellow in the year, 1986 under the Regional Research Laboratory, Jorhat with an stipend of Rs. 1800- 2000/- per month along with house-rent and other allowances which are eligible as per law.

4. That your humble applicant begs to state that after the appointment as Junior Research Fellow she has completed three years of service. Again she was appointed as a Senior Research Fellow in the scale of Rs. 2000/- Per month. She was appointed as a Senior Research Fellow in 1988. During this period your humble applicant completed her Ph. D. in 1988 and continued to work as a Sr. Research Fellow till 1992.

5. That your humble applicant begs to state that she was again appointed as Research Assistant on 25.3.1992 for a period of two years by the Director, Regional Research Laboratory, Jorhat and her services were extended for a further period ~~as~~ from 29.3. 94 and by the order dtd. 3.4.1995.

6. That the applicant begs to state that as your applicant was initially appointed as a Junior Research Fellow and then Senior Research Fellow and again as a Research Assistant , it was the expectation of the applicant that her service will be regularised as a Research Assistant in view of her long association with the Regional Research Laboratory, Jorhat and she did not apply to any of the posts equivalent to her qualification in response to the advertisement outside the Regional Research Laboratory, Jorhat.

7. That your applicant begs to state that all of a sudden an office order was issued on 19.5.1995 by which the service of your humble ^e ~~p~~etitioner /applicant was discontinued.

8. That your humble applicant begs to state that a Scheme was formulated by the Council of Scientific & Industrial Research for absorption of researchers working in the CSIR Laboratories and institutions which was circulated on 3.7.98 and has been approved by the Governing Body in its 144th meeting held at New Delhi. As per the said Scheme your applicant is eligible to be absorbed permanently in the Regional Research Laboratory , Jorhat.

Brinapani Saikia

A copy of the said Scheme is enclosed herewith and marked as Annexure- 2.

9. That your humble applicant begs to state that being aggrieved by the order dtd. 19.5.95 your humble applicant filed an application before this Hon'ble Tribunal which was registered as Original Application No. 443/1999 .

10. That your humble applicant begs to state that this Hon'ble Tribunal by its order dated 24.12.1999 directed the respondents to dispose of the representation submitted by the applicant on 12.5.1999 within a period of one month and in the said direction it was made clear that if the applicant is aggrieved she may approach this Hon'ble Tribunal again.

A copy of the said order dtd. 24.12.99 is enclosed herewith and marked as Annexure- 3.

11. That your humble applicant begs to state that as per the direction of the Hon'ble Tribunal in O.A. No. 443/99 the prayer of the applicant was rejected and so your applicant again filed an Original Application No. 54/2001 before this Hon'ble Tribunal . This Hon'ble Tribunal admitted O.A. No. 54/2001 and issued a show cause notice to the opposite party/ respondents.

12. That your humble applicant begs to state that the O.A. No. 54/2001 was listed for hearing on 18th day of September, 2001 and the Hon'ble Tribunal after hearing the case of the applicant as well as the respondents

Bhupani Saikia

passed an order on 18.9.2001 directing the respondents to consider the case of the applicant for her absorption in the light of the Scheme for permanent absorption in any of the suitable posts in commensurate with her educational qualification.

A copy of the order dtd. 18.9.2001 is enclosed herewith and marked as Annexure- 4.

13. That your humble applicant begs to state that during the pendency of the Original application No. 54/2001 Advertisement No. 2/2001 was circulated by the Regional Research Laboratory, Jorhat in the "Dainik Janambhumi, Jorhat dated 7.2.2001 and in "The Assam Tribune" dated 7.2.2001 inviting applications to fill up the post of Scientist- C in Group- IV. In response to the said advertisement your applicant preferred her application as against the vacancy of Scientist-C as she was eligible for direct recruitment in response to the said advertisement.

14. That your humble applicant begs to state that though the advertisement was circulated on 7.2.2001 and your applicant had submitted her application in response to the said advertisement for the post of Scientist, the said post was not filled up for the reasons best known to the respondents.

15. That your humble applicant begs to state that your applicant was eligible to be considered

B. N. Panigrahi, Saikia

either for direct recruitment or for regular absorption under the Scheme which was available till 1998 as per the letter of approval of the Governing Body .

16. That your humble applicant begs to state that the posts which were advertised in Advertisement No. 2/01 your applicant was eligible and qualified to be absorbed. Moreover, your applicant was also eligible for regular absorption as per the Scheme framed by the CSIR , but the case of your humble applicant was not considered either for for direct recruitment or for permanent absorption and the respondents have deprived your humble applicant from her legal and fundamental rights for which she is entitled as per the Scheme framed by the CSIR.

17. That your humble applicant begs to state that the Original Application No. 54/2001 was listed for hearing before this Hon'ble Tribunal on 18thSeptember, 2001 and this Hon'ble Tribunal by its order dtd. 18th September, 2001 disposed of the Original Application No. 54/2001 with a direction to the Respondents. The Hon'ble Tribunal by its order directing the respondents to consider the case of the applicant for absorption in the light of the Scheme in the post of Scientist -C in Group IV or any other suitable post in Commensurate with her educational qualifications. The respondents

Brinapani Saikia

are also directed to complete the above exercise within a period of three months from the date of receipt of the order .

A copy of the said order dated 18.9.2001 is enclosed herewith and marked as Annexure- 4.

18. That your humble applicant begs to state that after receipt of the certified copy of the order your applicant submitted the said order with a forwarding note to the Regional Research Laboratory, Jorhat which was duly acknowledged .

19. That your humble applicant begs to state that the certified copy of the order of the Hon'ble Tribunal was handed over to the respondents on 7.10.2001 and the respondents by its order dated 14.12.2001 communicated your humble petitioner that her case for permanent absorption cannot be considered as the case is not covered under the provisions of the Scheme of the CSIR dated 13.1.1981.

20. That your humble applicant begs to state that the prayer for permanent absorption was rejected by the Director , Regional Research Laboratory, Jorhat by its order dtd. 14.12.2001.

A copy of the said order dated 14.12.2001 is enclosed herewith and marked as Annexure- 6.1

21. That your humble applicant begs to state that the Scheme formulated by the Council of Scientific

Bina Panne Jairka

Brinapurne Saikia

& Industrial Research was published on 3.7.98 and in that communication it was mentioned that the Governing Body in its 144th meeting held on 18.2.98 had approved the Scheme for absorption of researchers working in CSIR laboratories and Institutes meaning thereby the Scheme was very much in operative after 1998. Your applicant is eligible as per the scheme for permanent absorption inspite of that the case of your applicant was not considered which could be considered by the authority as per their own Scheme.

22. That your humble applicant begs to state that as the prayer of the applicant was not considered by the respondents in spite of the order dated 18.9.2001 passed in O.A. No. 54/2001 ,your applicant has filed an application for contempt which was registered as Contempt PetitionNo. 7/2002 which is pending before this Hon'ble Tribunal .

23. That your applicant begs to state that during the pendency of the above case, another advertisement was issued by the Regional Research Laboratory, Jorhat in continuation of earlier Advertisement No 2/01 published in the Assam Tribune dated 28th December, 2001 in which it was stated that the candidates who have already applied earlier in response to the Advertisement No. 2/01 need not apply afresh. The said notification was circulated in the Assam Tribune in continuation of the earlier Advertisement No. 2001 but till today the respondents have not called for interview, your applicant though the applicant is eligible and qualified to the

to the post advertised by the Regional Research Laboratory, Jorhat.

V. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

I) For that your humble applicant is entitled to be considered for permanent absorption as per the Scheme for absorption of Researchers working in the CSIR Laboratory, Institution which was approved by the Governing Body on 18.2.1998.

II) For that your humble applicant is entitled for regular absorption like that of the Project Assistants who were regularised by the Director, Regional Research Laboratory after completion of three years service and were permanently absorbed as per their qualifications.

III) For that your humble applicant is entitled for regularisation of her service as per the Scheme circulated by the Council for Scientific and Industrial Research for permanent absorption of researchers working in the CSIR Laboratory/ Institutions and also in the light of the various judgments.

IV) For that your applicant is entitled for regular appointment as against Advertisement No. 2/01 and also she is eligible and qualified to be regularised for permanent absorption in the post of Scientist as per the Scheme framed by the authority.

V) For that your humble applicant has already

Brinapani Saikia

Binareswar Sajwan

crossed the age limit for other Central Government Services and she cannot now go for alternative job due to the age limit and as such, she deserves to be considered on humanitarian ground to be absorbed as against the Scheme framed by the CSIR and as per the recommendation made by the Director, CSIR .

VI) For that although this Hon'ble Tribunal while disposing of the application filed by the applicant by its order dated 24.12.99 in O.A. No. 443/99 and 18.9.2001 in OA No. 54/2001 was pleased to direct the respondents to dispose of the representation filed by the applicant, but no action has yet been initiated by the respondent-authorities to dispose of the representation filed by the applicant and consider his case for regularisation. In that view of the matter the authorities concerned may be directed to regularise the services of the applicant.

VI. DETAILS OF REMEDY EXHAUSTED

There is no other remedy except filing this application before this Hon'ble Tribunal.

VII. MATTER NOT PENDING IN ANY OTHER COURT/TRIBUNAL

That the applicant further declares that he has not previously filed any application/Writ petition or suit regarding the matter in respect of which this application has been made before any court of law or any other authority or any other Bench of this Hon'ble Tribunal and no such application/Writ application or suit is pending.

VIII. RELIEF PRAYED FOR

It is, therefore, prayed that Your Lordships may be pleased to admit this application, call for the entire records of the case and direct the respondents to consider the case of the applicant either for regular absorption under the Scheme or against the direct vacancies for which an advertisement was issued and to appoint the applicant against the existing vacancy as Scientist or in any other vacancy in commensurate with her educational qualification for which she is eligible.

AND

For this act of your kindness, the applicant as in duty bound, shall ever pray.

IX. INTERIM ORDER

NIL

X. Does not arise.

XI. POSTAL ORDER NO. 76.65326 DATED 20.1.2⁰⁰3
OF GUWAHATI POST OFFICEIS ANNEXED.

XII. DETAILS OF INDEX

An index showing the particulars of documents is enclosed.

XIII. LIST OF ENCLOSURES:

As per index.

.....

Verification.

Brinapani Saikia

VERIFICATION

I, Dr. Binapani Saikia, daughter of late K.C. Saikia, aged about 35 years, resident of village Tarjan Phookan Road, Opposite- Bharati Press, Jorhat, District- Jorhat (Assam), do hereby verify that the statements made in paragraphs 1 to 7, 9, 11, 13 to 19, 21 to 23 are true to my personal knowledge and the statements made in paragraphs 8, 10, 12, 17 & 20 are believed to be true on legal advice and that I have not suppressed any material fact.

Place:- Jorhat

Date: 21/1/203

Binapani Saikia
Signature of the applicant

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Annexure- 1.

REGIONAL RESEARCH LABORATORY

(A CONSTITUENT ESTABLISHMENT OF CSIR)

Jorhat-785006 (Assam)

NO. RLJ.18(119)-Vig./2001 Dated December 12/14, 2001

From:- The Director,
RRL, Jorhat- 6

To Dr (Ms) Binapani Saikia
D/o late K.C. Saikia,
Resident of Tarajan Phukan Road,
Opposite to Bharati Press
PO Jorhat- 785001
Jorhat.

Sub:- Implementation of the Order dated
18.9.2001 passed by the Hon'ble ~~CAT~~,
CAT, Guwahati Bench, Guwahati in O.A.
No. 54 of 2001 (Dr. Ms) Binapani Saikia
Vs. the Union of India & Others) for
absorption of the applicant as Scientist
C in RRL- Jorhat/CSIR.

Madam,

On the subject cited above and with reference
to your letter dated 7.10.2001 enclosing therewith an order
of the Hon'ble CAT, Guwahati Bench, Guwahati, I am
directed to inform you that in order to comply with
the directions of the Hon'ble CAT, Guwahati Bench
Guwahati, the matter was placed before the Director
General, CSIR and the Hon'ble DG has considered your
case carefully and has passed the following order.

Attested
Ali Mostafa Ahmed,
Advocate

I have looked into the case of Dr. (Ms) Binapani
Saikia for her absorption as Scientist - C in CSIR
service as per directions of the Hon'ble CAT, Guwahati
Bench and found that Dr. (Ms) Saikia was JRF , SRF
and RA in CSIR from 1986 to 1995.

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As per directions of the Hon'ble Supreme Court CSIR, with the approval of the Governing Body, formulated a scheme called " Scheme for Absorption of Researchers in CSIR Laboratories/ Institutes, 1997". The Scheme was a one time measure and was applicable to those eligible Researchers engaged on Full time basis in CSIR Laboratories/ Institutes and had put in 15(fifteen) years of continuous research as Fellow/~~Associate~~/ Project Associate on monthly payment basis and were in position on 2.5.97. Since Dr. (Ms) Saikia had neither put in 15(fifteen) years of continuous service as Fellow/~~Associate~~/Project Associate nor was she in a position as on 2.5.1997. her case was not covered under the aforesaid Scheme.

As regards the contention of Dr. (Ms) Saikia for considering her absorption under CSIR circular letter No. 16(150)/68-E.II Part- II dated 13.1.1981, it may be noted that the Scheme contained under the said Circular was as a one time measure under which only the personnel who were working on any scheme/ project funded by non-CSIR agencies and were in position as on 13.1.1981 were eligible for consideration for absorption in CSIR. This has been upheld by the CAT, Mumbai Bench, in a similar case (O.As No. 03/96 and 84/96 dated 7.5.99). that the Scheme notified vide letter dated 13.1.1981 was a one-time measure and applicable to only those personnel who were in position as on 13.1.1981 and were working in any of the sponsored schemes/ projects funded by non-CSIR agencies. Since Dr. (Ms) Saikia was not working on any such scheme and joined CSIR as JRF only in the year 1986, her case is also not covered under the

the provisions of the Scheme notified vide CSIR letter No. 16(150)/68/-E.II Part-II dated 13.1.1981.

I, therefore, do not find any merit in her case for absorption in CSIR service.

Please acknowledge receipt of this communication implementing the order of the Hon'ble CAT, Guwahati Bench, Guwahati.

Yours faithfully,
Sd/-

(N.K. Barbaruah)
Administrative Officer

Attested
Ali Mostafa Ahmed,
Advocate.

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Annexure- 2.

COUNCIL OF SCIENTIFIC AND INDUSTRIAL RESEARCH

(Anusandhan Bhawan, 2, Rafi Marg, New Delhi-110001)

NO. 3(3)-SAR/98-R & A Dated 3.7.1998

To

Heads of All National Labs/ Instts.

Subject: Scheme for Absorption of Researchers working
in CSIR Labs/ Instts.

Sir,

The Governing Body in its 144th meeting held
on 18.2.1998 had approved a scheme for absorption of
Researchers working in CSIR Labs/ Instts" A copy of the
Scheme is sent herewith for information and compliance.

The aforesaid scheme will come into force from
the date of issue of this letter.

Yours faithfully,

(R.S. Antil)
Deputy Secretary

Attested
Ali Mostafa Ahmed,
Advocate

SCHEME FOR ABSORPTION OF RESEARCHERS WORKING IN CSIR
LABORATORIES/INSTITUTES

1. Name of the Scheme.

The scheme shall be called " Scheme for absorption of Researchers in CSIR Laboratories/ Institutes 1997".

2. Administration of Scheme

The Council of Scientific and Industrial Research (CSIR), hereinafter referred as Council will administer the Scheme. The Scheme would be a ~~one~~-time measure and is for eligible researchers.

3. Definitions:

- (I) The " Council" of CSIR shall mean the Council of Scientific and Industrial Research.
- (II) The CSIR shall mean Director- General, CSIR.
- (III) HRDG means Human Resources Development Group dealing with extra mural research related activities of the Council.
- (IV) The Rules referred herein shall mean the CSIR

Service Rules, 1984, for Recruitment of Scientific Technical and Supporting Staff.

(V) The Central Selection Committee shall mean the Committee constituted by the DG, CSIR as per clause 6 (e) of the Scheme.

(VI) The eligible Researcher shall mean persons who has put in 15 years of continuous research as Fellow/Associate/Project Associate on monthly payment basis on 2.5.1997 and is/was in position as on that date.

(VII) The Fellow/Associate means the persons working in CSIR Laboratories/ Institutes who have been awarded the Fellowship/Associateship under the CSIR Research, A Fellowship and Associateship Schemes and Senior Research Associateship (Scientists' Pool) Scheme i.e. the Scheme operated through Human Resource Development Group(HRDG) of the Council. Project Associates means the person engaged as JRF/SRF/ Associate in CSIR Laboratories/ Institutes under the externally funded Projects/Schemes. The period of two months may be in different spells but the total period shall not be more than two months.

4. To whom applicable

The Scheme being a one-time measure shall be

applicable to the eligible researchers engaged on full time basis in CSIR Laboratories/ Institutes under the Scheme operated through HRDG of the Council or under externally funded projects/ Schemes of the council in its Laboratories/ Institutes.

5. Commencement of the Scheme

The commencement of the Scheme shall be, the date notifying the approval of the Governing Body of the Council.

6. Terms and Conditions for absorption

(a) As per "Rules" the maximum age limit for recruitment to Group IV(1) and Group IV(2) is 35 years. However, in the case of Researchers covered by this Scheme relaxation up to 10 years would be considered in the upper age limit as on 2.3.1997, over and above, the maximum age limit prescribed under the rules for recruitment to Group IV(1) and IV(2).

(b) The eligible researchers concerned should possess the educational qualifications prescribed for the Group IV (1) and IV (2) . No relaxation in educational qualification shall be permissible.

(c) Orders on reservation for SC/ST/OBC, etc. issued by Government of India from time to time shall apply in operating this Scheme.

(d) The selection of the concerned researchers for their absorption shall be determined by a Central Selection Committee constituted by DG, CSIR on the lines of the Constitution of the Selection Committee prescribed in the "Rules". The Central Selection Committee prescribed in the "Rules". The Central Selection Committee shall determine their suitability for absorption after interviewing the candidates. Non-availability of posts shall not be a constraint for implementation of this Scheme.

(e) A maximum of two opportunities shall be given to the eligible researchers for consideration of absorption from the date of notification. In case those who are not recommended by the Central Selection Committee for absorption on the basis of interviews in two chances, their fellowship/ Associateship shall be governed by the terms and conditions applicable to them.

(f) The eligible researchers shall be governed by the terms project associateship.

(g) In case any of the eligible researcher fails to appear before the Central Selection Committee on the

date and time of interview intimated to him/her for the purpose. ~~of his, /her~~ chance for absorption shall be treated as forfeited.

(h) The recommended researchers shall have no right to make claim for placement in the same Laboratories/ Institutes where they ~~have~~ ^{have} worked as researchers and can be placed in any other Laboratory/ Institute depending upon the need.

7. This scheme shall supersede all other provisions /instructions/ orders as far as in consistent with this Scheme.

8. In case of any doubt the interpretation of any of the provisions of this Schemes, the decision of the Director General, CSIR shall be final.

9. DG, CSIR shall have the power to relax/modify /amend any of the conditions/ provisions of the Scheme except relating to educational qualification mentioned in para 6(b).

Attested
Ali Mostafa Ahmed,
Advocate

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Annexure- 3

FORM NO .4

(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH::: GUWAHATI

ORDER SHEET

APPLICATION NO. 443 OF 1999

Applicant(s) Dr. Binapani Saikia.

Respondent(s) Union of India & Ors.

Advocate for applicant(s) Mr. H. Rahman,
Mr.N. Baruah,
Mr. Z. Alam,

Advocate for Respondents(s) Mr. B.S. Basumatary, Addl.
C.G.S.C.

Present: Hon'ble Mr. Justice D.N. Baruah,
Vice Chairman.

24.12.99 In this application the applicant is seeking a direction on the respondents for regular appointment against existing vacancy of Scientist or any other vacant post in which she is eligible as per the Scheme for Absorption of Researchers working in CSIR Laboratories/ Institutes. The case of the applicant is that at the relevant time she was appointed Guest Worker Research Scholar in 1985 and then became Senior Research Fellow and continued as such up to 19.5.1995 when her service s were discontinued. According to the applicant she is entitled to get permanently absorbed as per the scheme known as " Scheme for Absorption of Researchers Working in CSIR Laboratories/ Institutes". Feeling aggrieved she

Attested
Ali Mostaf Ahmed
Advocate

submitted Annexure-VI representation dated 12.5.1999 to the authority. The authority has not yet disposed of the same. Hence, the present application.

Heard Mr. H. Rahman, learned counsel for the applicant and Mr. B.S. Basumatary, learned Addl. C.G.S.C. for the respondents. On hearing the counsel of the parties I feel that the authority should dispose of the representation. Accordingly, the present application is disposed of with a direction to the respondents to dispose of the Annexure-VI representation dated 12.5.1999 within a period of one month from the date of receipt of this order by a reasoned order. If the applicant is still aggrieved she may approach the Tribunal.

Sd/-

Vice Chairman

Affested
Ali Mostafa Ahmed,
Advocate

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Annexure- 4.

CENTRAL ADMINISTRATIVE TRIBUNAL:GUWAHATI BENCH

Original Application No. 54 of 2001.

Date of Order: This the 18th day of September, 2001

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

The Hon'ble Mr. K.K. Sharma, Administrative Member.

Dr. Binapani Saikia

Daughter of late K.C. Saikia,
aged about 31 years,
resident of Tarajan Phukan Road,
Opp. Bharati Press,
P.O. & Distt. Jorhat. Assam.

Applicant.

By Advocate Sri H. Rahman,

- Versus -

1. Union of India,

represented by the Ministry of Science & Technology,
New Delhi.

2. The Director General,

Council of Scientific Research, Anusandhan Bhawan,
2, Rafi Marg, New Delhi- 1.

3. The Director,

(a)

Regional Research Laboratory, Jorhat,
Assam.

Attested
Ali Mostafa Ahmed,
Advocate

4. Controller of Administration,
Regional Research Laboratory, Jorhat.
Assam.

..... Respondents

By Advocate : Shri B.C. Pathak,
Addl. C.G.S.C.

ORDER

CHOWDHURYJ (V.C.)

This is the second round of litigation concerning the applicant. Admittedly the applicant worked under the respondents from 1986 to 1995. The applicant was initially appointed as a Junior Research Fellow for a period of 2 years and thereafter she was allotted to the post of Senior Research Fellow with effect from 20.10.1988. The applicant was appointed as a Research Associate with effect from 27.3.1992 to 26.3.1994 for a period of 2 years on a consolidated emoluments of Rs. 2200/- per month in the slab of Rs. 2200 - 100- 2700/- The said arrangement was extended for a period of one year with effect from 4.4.1994 to 3.4.1995 on the existing terms and conditions. On the own showing of the respondents the applicant continued in the Regional Research Laboratory initially as Junior Research Fellow, then Senior Research Fellow and thereafter as Research Associate and thus acquired full knowledge and experience of research work. As per the materials on record the applicant is M.Sc. in Physical Chemistry. The applicant also obtained Ph.D. in 1988 while she was working as Senior Research Fellow in R.R.L. She came to this Tribunal by filing an application which was registered and numbered

as Original Application No. 443/1999 . By the said application she sought for a direction for permanent absorption as per the scheme for absorption of Researchers working in CSIR Laboratories. By order dated 24.12.99 the Tribunal directed the respondents to examine and dispose of her representation within the specified period. Despite the direction issued by the Tribunal the respondents were sitting over the matter and informed the applicant that they took steps for reviewing the order of the Tribunal. From the order dated 15.5.2000 issued by the Administrative Officer the respondents are yet to dispose of her representation.

2. In the written statement the respondents though admitted that the applicant fulfilled the eligibility criteria for appointment or absorption but she did not acquire prescribed 15 years of continuous research as Fellow /Associate/Project Associate on monthly payment basis. The respondents ~~also~~ ^{Assistant} stated that some other persons who were appointed through open advertisement on regular basis could not be compared with the applicant.

3. Mr. H. Rahman, learned counsel appearing for the applicant countering the assertion made by Mr. B.C. Pathak, learned Addl. C.G.S.C, submitted that the applicant also applied for the post against the advertisement but till now her case was not considered. Mr. B.C. Pathak, learned Addl. C.G.S.C, strenuously asserted that

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the applicant under no circumstances was entitled to be considered for absorption as per the scheme dated Mr. Pathak, 3.7.1998. ~~000 000000000~~ submitted that as per the scheme one is to work for 15 years continuously as Fellow/Associate/Project Associate on monthly payment basis. Mr. Rahman submitted that the applicant worked under the respondents from 1985 onwards till 1995. On the own showing of the respondents she worked for more than 9 years as Junior Research Fellow, Senior Research Fellow and thereafter as Research Associate and acquired full knowledge of research work. The only controversy raised by the respondents that she did not complete 15 years of continuous service on monthly payment basis. Mr. Rahman, therefore submitted that since she was rendering service in the R.R.L. for about 3 years before coming of the revised circular/ scheme of 1998, the applicant was at least entitled for being considered in the light of the circular dated 13.1.1981.

4. From the conspectus it thus emerges that the applicant rendered nine years continuous service and worked against regular vacancy and identical post, we have given our anxious consideration on the matter. The respondents in spite of direction issued earlier did not pass any order. In the circumstances we are impelled to pass an order directing the respondents to consider the the case of the applicant for absorption in the light of the scheme promulgated by communication dated 13.1.1981 in the post of Scientific "C" Group IV or any other suitable

post commensurate to her educational qualification. The respondents are ordered to complete the above exercise within 3 months from the date of receipt of copy of this order.

The application is allowed to the extent indicated. There shall, however, be no order as to costs.

Sd/ Vice Chairman

Sd/- Member (Admn)

True copy:

Sd/- Illegible,
5.10.2001

Affested
Ali Mostafa Ahmed,
Advocate.

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State of Assam
General Administration Petition
MAY 2003
Central Administrative Tribunal,
Gauhati Bench
Gauhati Bench, Gauhati

In the Central Administrative Tribunal,
Gauhati Bench

MAY 2003

Gauhati Bench

Gauhati Bench

Filed by the
Respondents
through
Adv. Ali Talukdar

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OA NO. 7/03

Dr. Binapani Saikia

APPLICANT

VERSUS

Union of India

RESPONDENTS

Written Statement on behalf of the Respondents 2,
3 & 4.

PRELIMINARY SUBMISSIONS :

It is submitted that Council of Scientific & Industrial Research (CSIR) is a Society registered under the Societies Registration Act, 1860 which has been constituted for the purpose for undertaking research in the field of Science and Technology. Under respondent CSIR there are various Laboratories/Institutions of national importance spread all over India. Respondent No. 2 is the Director General and Respondent No. 3 and 4 are the Director and Controller of Administration of Regional Research Laboratory (RRL). RRL is one of the constituent units of CSIR.

2. It is also stated that basic purpose of awarding the CSIR Research Fellowship and Associateship is only to provide opportunity to bright

young men and women for training in methods of Research under the expert guidance of faculty members/scientists working in University Departments/National Laboratories and Institutes in various fields of Science and Technology including Agriculture and Medical Sciences. The Fellowships/Associateships are tenable in Universities/IITs/Post Graduate Colleges/Government Research Establishments including those of CSIR, R&D establishments of recognized public or private sector; industrial firms and other recognized institutions. It is just like University degree with stipend. It is also pertinent to mention here that as per the basic purpose, CSIR wants to provide this facility to the maximum candidates, applications are invited twice in a year through press advertisement on all India basis for selection and accordingly they are selected as per procedure laid down. CSIR gives facility to enhance their knowledge and with no commitment for absorption. The Principle of service jurisprudence cannot be attracted to these fellowships. Since these are only facilities for a limited period to acquire research experience, CSIR does not derive any benefit out of the work performed by the Fellows/Associate except helping the candidate while awaiting job opportunities and development of research work in furtherance of the

object of the Action Plan of the Policy on National Education.

In the present case the engagement of Petitioners as JRF/ SRF/ RA is not an employment or regular appointment. The CSIR Recruitment Rules are not applicable to Research Fellows and Associates. The award of Fellowships/ Associateships also does not imply any whisher/ or assurance or guarantee for subsequent employment by CSIR to the beneficiaries.

That for regular posts of Scientists in Group IV of the CSIR, there are service rules, which besides providing for specific qualifications for the post, provide a procedure of selection. The selection is made by a Selection Committee constituted under Rule and only such a selection committee can make selection. The appointment of the applicant as JRF/ SRF/ RA was made under various schemes and not by following the procedure laid down under the CSIR Service Rules.

3. The engagement of a person as a Junior Research Fellow, Senior Research Fellow or an Associate is not appointment in a service and the stipend paid to such a person can also not be termed as payment of salary.

4. The award of Research Associate to a person does not automatically imply any assurance or guarantee for any subsequent employment by CSIR to the beneficiary.

5. The scheme viz. Scheme and Absorption of Researchers Scheme 1997 formulated by the respondents is applicable only to those persons who have put in 15 years of continuous research as Fellow/Associate/Project Associate as on 02.05.1995 with the CSIR system and that too was one time measure. The applicant has attempted to mislead the Hon'ble Tribunal by giving an impression that she has been in regular employment of the respondent laboratory, whereas she has been in the capacity of IRF/ SRF/ RA only.

PRELIMINARY OBJECTIONS :

This is the third round of litigation on the same subject matter and relief. The earlier two being viz OA No. 443/99 and another OA No. 54/2001. The respondents have very diligently and meticulously considered the case of petitioner for regularization in the light of the two schemes viz 1981 Scheme and Absorption of Researchers Scheme 1997 and lately the orders were passed on 10-12-2001 by the Director General CSIR expressing inability of the CSIR for regularization as the applicant does not fulfill the criteria for regu-

(34) 49

larization as per the scheme of 1997.

A copy of the said order was conveyed on 14.12.2001 for ready reference of the Court is submitted for appraisal of the Hon'ble Tribunal and marked as Annexure R 1..

2. That the original application otherwise has been filed beyond the period of limitation. The alleged cause of action even as per the applicant herself arose on 14th December, 2001. The applicant has filed the present OA sometime in 2003. Had the applicant's grievance been genuine and substantial nothing had really prevented the applicant from agitating against the same at the appropriate point of time, instead the applicant had chosen to sleep over her right. The application deserves dismissal on this ground of laches alone.

3. That the application is a gross and blatant misuse of the process of law. The competent authority of the respondent in compliance to the order dated 18th December, 2001 of this Hon'ble Tribunal in OA No. 54/01 had considered the case of the applicant in the light of the directions of this Hon'ble Tribunal and keeping in view the terms and conditions of the scheme formulated as per directions of the Hon'ble Supreme Court.

Pursuant to the same, a reasoned, justified order was passed by the respondents.

Despite the same, the applicant has once again resorted to filing of the present OA praying for a direction to consider the case of the applicant for regular absorption under the Scheme or through Direct Recruitment which is nothing but a deliberate and intentional twist to the relief as sought for in the earlier OAs. The application deserves dismissal on this ground alone.

4. That the applicant has not come to this Court with clean hands. The applicant on one hand has submitted in paragraph VI (Grounds) that the representation of the applicant as directed by the Hon'ble Tribunal in OA 54/01 has not been disposed off, whereas the present application has been filed on the basis of the applicant's alleged grievance against the rejection of the applicant's representation dated 7th October, 2001. The Hon'ble Tribunal be pleased to take strict cognizance of such unsubstantiated averments of the applicant and dismisses the OA on this ground alone.

PARAWISE REPLY :

With regard to the statements, made on the facts of the case may be deemed to be denied

unless specifically admitted herein below. The statements which are contrary to and inconsistent with the records of the case may also be deemed to have been denied.

I. That in reply to the contents of paragraph 1 of the OA, it is submitted that the order passed by respondents dated 14th December, 2001 (R-1) is justified and issued after proper application of mind and after careful consideration of the facts and circumstances of the case and complying with the directions passed by the Hon'ble Tribunal. There is thus no 'cause of action' which lies in favour of the applicant against the impugned order as contended in the paragraph under reply.

II. That contents of paragraphs 2 needs no reply.

III. In reply to para III, it is submitted that application is barred by limitation thus liable to be dismissed.

IV. REPLY TO THE FACTS OF THE CASE :

1. That in reply to paragraph IV (1) of the OA, it is submitted that the applicant had worked as JRF, SRF and then RA with the respondent Laboratory. The applicant has, however, had not worked for a continuous period of 15 years in the respondent's Institute which as per the 'scheme' could only enable her to be eligible for absorption in

the respondent Institute. It is further submitted that there exists no scheme of 1977 but only of '1997'.

2. & 3. That in reply to the contents of paragraphs IV, (2 and 3), it is submitted that the applicant on her own request was allowed to avail of the Research Facilities in the Institute to carry out her Research work to pursue her Ph.D. course. It is wrong and denied that the facilities extended to her such as library, laboratories, books and journals were with any intention to absorb her permanently with the Laboratory or the Institute as wrongly alleged. She was a guest worker of the Institute and there is no provision for absorption of such a guest worker in the Institute. It is further submitted that the applicant was working in the Laboratory for her own benefit i.e. to upgrade her own qualification. Thus there was no question of payment of any remuneration. From the averments in the paragraph under reply the applicant has sought to misconstrue to her advantage the facilities extended to the applicant. Rest is admitted to the extent pertaining to matter of record.

4. That the contents of paragraph IV(4) of the OA which are matter of record needs no reply. It

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is, however, submitted that the appointment as JRF does not fall under the definition of "service" under CSIR Rules. Further the applicant's engagement was for two years wherein after she has worked as an SRF for three years w.e.f. 20th October, 1988. The placement as JRF/SRF is only a Fellowship to enable a candidate to continue with his/her research/study.

5. That in reply to paragraph IV (5) of the OA the respondents state that the applicant worked as a Research Associate with effect from 27th March, 1992 to 26th March, 1994 for a period of two years on a consolidated amount i.e. Rs. 2,200/- . Applicant's Research Associateship was extended for a period of one year with effect from 4th April, 1994 to 3rd April, 1995, on existing terms and conditions.

6. That in reply to the contents of paragraph IV (6) of the OA it is submitted that the applicant was appointed as a JRF and SRF. It is, however, incorrect on the part of the applicant to state that she was appointed as a Research Assistant whereas she was appointed as a Research Associate (hereinafter referred to as RA).

Appointment against a regular post can be made when a candidate applies against an adver-

tised post and considered along with orders and selected. as per the relevant Recruitment Rules. There is no provision of regularization of JRF's/SRF's/RA's as those schemes will speak for themselves. However, a one time scheme for absorption for such Researcher who worked for 15 years as on 2.5.97 as detailed in the Preliminary Submissions was framed by CSIR. The applicant was not covered under that Scheme. At no point the applicant was given any indication or assurance from the Respondents that she would be regularised in the Laboratory/Institute. The applicant on her own volition failed to explore the possibility of other openings outside the Laboratory/Institute. There existed no circumstances which in any way would have led the applicant to expect that she would be regularised as a Research Assistant with the respondents..

The Respondents cannot be blamed for the applicant's not having taken any independent decision to avail other opportunities outside RRL, Jorhat like IIT Guwahati, Tezpur University, public sector undertaking in Assam.

7. That in reply to contents IV (7) of the OA it is submitted that the applicant's Research Associateship had to be discontinued as her tenure had expired and the Expert Committee which met on 15th

May, 1995 to assess the progress of work of the applicant did not recommend further extension of her tenure as RA beyond 3 years w.e.f. 5th April, 1995 as it was concluded by the Expert Committee that her progress was not satisfactory.

8. That the contents of paragraph IV (8) is admitted to the extent that a scheme was formulated by the respondent No. 2.

It is, however, wrong and denied that the applicant as per the scheme was eligible to be absorbed permanently. As submitted hereinabove, the applicant has not acquired/satisfied the prescribed minimum 15 years of continuous research as JRF/SRF/RA as per the circular No. 3 (3)-SAR/98 R&A wherein it is categorically stated that "the eligible researcher shall mean persons who have put in 15 years of continuous Research as Fellows/Associate/Project Associate on monthly payment basis (fellowship) on 2nd May, 1997 and is/was in position as on date" i.e. 2/5/97. She did not qualify for said absorption.

9. That in reply to the contents of paragraph IV (9) it is submitted that conditions of the scheme for regular absorption yet the applicant deemed it fit to approach the Hon'ble Court under several proceedings to get her alleged grievances re-

dressed. The rest of the contents of paragraph 4.9 which pertains to matter of record needs no reply.

10 & 11. That the contents of paragraphs IV (10 and 11) which pertains to matter of record needs no reply.

12 & 13. That the contents of paragraphs IV (12 and 13) of the OA is admitted to the extent pertaining to matter of record.

14. That in reply to the contents of paragraph IV (14) of the OA, it is submitted that the applicant's candidature was considered along with other applicants by the Screening Committee. It is submitted that the Screening Committee was guided by the minimum eligibility condition and experience in the relevant field of the candidates and fixed a criteria to screen candidates to be called for interview and subsequent selection out of them. The Screening Committee did not find the applicant's candidature within the eligibility criteria and thus she was not called for interview.

15 & 16. That the contents of paragraphs IV (15 & 16) are wrong and denied. It is submitted that

the applicant cannot as a matter of right lay claim to the post by way of Direct Recruitment. For the Direct Recruitment all the applicants stand to be offered equal opportunity before the Screening Committee. Their qualification and experience in the relevant area/field are scrutinized by a duly constituted screening committee and if any suitable candidate is/are selected, he/they are called for an oral interview. If he/she is found fit then selection committee recommends his/her name for the appointment.

As regards regular appointment under the Scheme it is once again reiterated that the applicant is not covered in the aforesaid scheme. As per the "Definitions" 3 (VI) "The eligible Researcher shall mean persons who have put in 15 years of continuous research as Fellows/Associate/Project Associate on monthly payment (fellowship) basis on 2nd May, 1997 and is/was in position as on date i.e. 2/5/97. It is pertinent to mention that as per the spirit of the scheme the applicant was neither in position on 2nd May, 1997 nor did she complete 15 years as research scholar. She was never near eligible for absorption.

17. That the contents of paragraphs IV (17) is admitted to the extent pertaining to matter of

record. The Hon'ble Court had directed the respondents to consider the case of the applicant in the light of the Scheme which in no way could be construed to mean that the applicant should be absorbed ignoring the specific terms and conditions as set out in the Scheme.

18. That the contents of paragraph IV (18) of the OA is admitted to the extent pertaining to matter of record. The copy of the order was forwarded to the DG, CSIR for consideration as per the directions of the Hon'ble Tribunal.

19. That in response to paragraph IV (19) of the OA, it is submitted that in compliance of the orders of the Hon'ble CAT, her case was considered by the DG, CSIR and as it was not covered under the scheme and accordingly speaking order dated 14th December, 2001 was passed intimating her that her request could not be acceded to.

20. That in reply to the contents of paragraph IV (20) of the OA, it is submitted that since the applicant was not covered under the provisions of the scheme the request for absorption by the applicant was turned down by the competent authorities.

21. That the contents of paragraph IV (21) of the OA is wrong and denied save and except matter of record. As per the provisions of the scheme only such candidate is eligible who was in position as on 2nd May, 1997 and had completed 15 years as Researcher. It is an admitted fact that the applicant was not in position since 19th May, 1995 (Reference paragraph 7 of the OA) and she completed about 9 years as JRF/SRF/RA. Thus, the applicant does not come/fall under the zone of consideration under the Scheme much less being eligible for permanent absorption.

22. That the contents of paragraph IV (22) is admitted to the extent pertaining to matter of record. It is submitted that after hearing the parties at length on the contempt petition, the Hon'ble Tribunal was pleased to discharge the officials arrayed as alleged contemnors in the contempt petition No. 7/2002 vide its order dated 4th December, 2002.

23. That the contents of paragraph IV (23) is admitted to the extent pertaining to matter of record. The rest are wrong and denied. It is submitted that the advertisement published on the 28th December, 2001 which was a continuation of

the earlier advertisement No. 2/01 had categorically stated that candidates who had earlier need not apply again. Furthermore, since the applicant had already applied for to the earlier advertisement and the Screening Committee did not find her candidature satisfying the eligibility conditions the applicant was not called for an interview.

REPLY TO GROUNDS :

I-IV That the contents of the Gounds I to IV are not tenable. The applicant has only reiterated her averments as set out in the facts of the case in the Grounds under reply. The parawise reply of the respondents be read as part and parcel of the reply to these Grounds also. It is submitted that the scheme as formulated under the directions of the Hon'ble Supreme Court has categorically laid down the terms and conditions of eligibility for being considered for regularisation. The said scheme is deemed to be operative in the absence of any order staying/modifying or setting aside the same. That being so, the applicant's repeated filing of OA and the relief sought therein for consideration/absorption on regular basis under the scheme is without any merit, basis or substance. The contention of the applicant that she is entitled for regular absorption like that of a Project Assistant is absolutely baseless. She

never worked as a Project Assistant. The status of a Project Assistant vis-a-vis that of the RA are different. The applicant in order to become entitled for regular absorption had to satisfy the eligibility criterion that is 15 years of continuous service under CSIR System as on 2nd May, 1997, which the applicant does not satisfy.

That the contention of the applicant that she has crossed the age limit for other Government services does not come to her aid as ground for seeking the relief as sought for in the present OA. The Grounds I to VI being without any basis, substance, justification or merits needs no indulgence of this Hon'ble Tribunal.

VI. REMEDIES EXHAUSTED :

The Preliminary Objection No. 3 be read as reply to this paragraph.

VII. Contents of paragraph VII denied for want of knowledge.

VIII. REPLY TO RELIEF PRAYED FOR :

In view of the Preliminary Objections and the Parawise Reply as set out hereinabove, the applicant is not entitled for grant of any relief as prayed for in the paragraph under reply.

IX -XIII. Needs no reply.

In view of the facts and circumstances as stated hereinabove and in view of the clear and reasoned order dated 10-12-2001 passed by the R 2 in reply to the representation dated 7th October, 2001 this Hon'ble Court may be pleased to dismiss the prayer of the applicant and the OA with costs.

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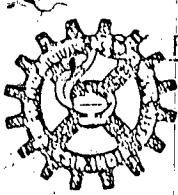
VERIFICATION

I, Shri Naba Kumar Barbaruah, Administrative Officer, Regional Research Laboratory, Jorhat, who is looking after the responsibilities of Controller of Administration, Respondent No.4 herein, do hereby state that I am authorised to verify the pleadings on behalf of the respondent No.1, 2 & 3 and solemnly declare that the statements made in this written statement are true to my knowledge and information as derived from official records and I have not suppressed any material fact.

And I sign this verification on this 5th day of May, 2003.

Naba Kumar Barbaruah

DECLARANT.
Administrative Officer
Regional Research Laboratory
Jorhat-785006 (Assam)



REGISTERED POST WITH A/D /COURIER SERVICE

E.mail : drrijt @ csir.res.in
inform @ csir.res.in
librrijt @ csir.res.in

FAX 0376-370011, Tele No 370121, 370086
3370115, 370012

क्षेत्रीय अनुसंधान प्रयोगशाला, जोरहाट (आसाम)

REGIONAL RESEARCH LABORATORY

(A CONSTITUENT ESTABLISHMENT OF CSIR)

JORHAT 785 006 (ASSAM)

NO.RLJ-18(119)-vig./2001

DECEMBER 12, 2001
14

From : The Director,
RRL, Jorhat-6.

To : Dr. (Ms) Binapani Saikia
D/O Late K.C. Saikia
Resident of Tarajan Phukan Road
Opposite to Bharati Press
P.O.-Jorhat-785 001
Jorhat.

Sub :- Implementation of the order dated 18.09.2001
passed by the Hon'ble CAT, Guwahati Bench, Guwa-
hati in O.A.No. 54 of 2001 (Dr. (Ms.) Binapani
Saikia Vs. the Union of India & Others) for
absorption of the applicant as Scientist C in
RRL-Jorhat/CSIR.

Madam,

On the subject cited above and with reference to your
letter dated 07.10.2001 enclosing therewith an order of the Hon'ble
CAT, Guwahati Bench, Guwahati, I am directed to inform you that in
order to comply with the directions of the Hon'ble CAT, Guwahati
Bench, Guwahati, the matter was placed before the Director General,
CSIR and the Hon'ble DG has considered your case carefully and has
passed the following order.

I have looked into the case of Dr.(Ms) Binapani Saikia for her
absorption as Scientist MC in CSIR service as per directions of the
Hon'ble CAT, Guwahati Bench and found that Dr.(Ms) Saikia was JRF, SRF
and RA in CSIR from 1986 to 1995.

As per directions of the Hon'ble Supreme Court, CSIR, with the
approval of the Governing Body, formulated a scheme called ■Scheme for
Absorption of Researchers in CSIR Laboratories/ Institutes, 1997■. The
Scheme was a one time measure and was applicable to those eligible Research-
ers engaged on full time basis in CSIR Laboratories/ Institutes and had put

Contd. 2

E.mail : drrijt @ csir.res.in

inform @ csir.res.in

librijt @ csir.res.in

FAX 0376-370011, Tele No 370121, 370086,

370115, 370012

क्षेत्रीय अनुसंधान प्रयोगशाला, जोरहाट (आसाम)

REGIONAL RESEARCH LABORATORY

(A CONSTITUENT ESTABLISHMENT OF CSIR)

JORHAT 785 006 (ASSAM)

- 2 -

in 15 (fifteen) ^{years} of continuous research as Fellow/Associate/Project Associate on monthly payment basis and were in position on 02.05.1997. Since Dr. (Ms.) Saikia had neither put in 15 (fifteen) years of continuous service as Fellow/ Associate/Project Associate nor was she in position as on 02.05.1997, her case was not covered under the aforesaid Scheme.

As regards the contention of Dr.(Ms) Saikia for considering her absorption under CSIR circular letter No. 16(150)/68-E.II Part-II dated 13.1.1981, it may be noted that the Scheme contained under the said circular was as a one-time measure under which only the personnel who were working on any scheme/project funded by non-CSIR agencies and were in position as on 13.1.1981 were eligible for consideration for absorption in CSIR. This has been upheld by the CAT, Mumbai Bench, in a similar case (O.A.s No. 03/96 and 04/96 dated 7.5.1999), that the Scheme notified vide letter dated 13.1.1981 was a one-time measure and applicable to only those personnel who were in position as on 13.1.1981 and were working in any of the sponsored schemes/projects funded by non-CSIR agencies. Since Dr.(Ms.) Saikia was not working on any such scheme and joined CSIR as JRF only in the year 1986, her case is also not covered under the provisions of the Scheme notified vide CSIR letter No.16(150)/68-E.II Part-II dated 13.01.1981.

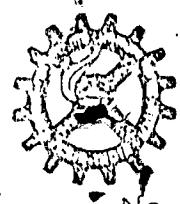
I, therefore, do not find any merit in her case for absorption in CSIR service. ■

Please acknowledge receipt of this communication implementing the Order of the Hon'ble CAT, Guwahati Bench, Guwahati.

Yours faithfully,



(N. K. Barbaruah)
ADMINISTRATIVE OFFICER



वैज्ञानिक तथा औद्योगिक अनुसंधान परिषद
COUNCIL OF SCIENTIFIC & INDUSTRIAL RESEARCH

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Anusandhan Bhawan, 2, Raffi Marg, New Delhi-110 001

No. 21(58)2001-Law / 11(11)

10th December 2001

Dated

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From

संयुक्त सचिव (प्रशासन)
Joint Secretary (Admin.)

To,

The Director
Regional Research Laboratory
P.O. Jorhat 785 006 (Assam)

Sub: Implementation of the Order of Hon'ble CAT, Guwahati Bench dated 18.9.2001 in OA No. 54 of 2001 filed by Dr. (Ms.) Binapani Saikia for absorption as Scientist 'C' in RRL, Jorhat/CSIR

Sir,

I am directed to refer to the Order of Hon'ble CAT, Guwahati Bench, in the above cited case. To comply with the directions of the Hon'ble CAT, DG, CSIR has considered the case of Dr. (Ms.) Binapani Saikia carefully and has passed the following order:

"I have looked into the case of Dr. (Ms.) Binapani Saikia for her absorption as Scientist 'C' in CSIR service as per directions of the Hon'ble CAT, Guwahati Bench and found that Dr. (Ms.) Saikia was JRF, SRF and RA in CSIR from 1986 to 1995.

As per directions of the Hon'ble Supreme Court, CSIR, with the approval of Governing Body, formulated a scheme called "Scheme for Absorption of Researchers in CSIR Laboratories/Institutes, 1997". The Scheme was a one-time measure and was applicable to those eligible Researchers engaged on full time basis in CSIR Laboratories/Institutes and had put in fifteen years of continuous research as Fellow/Associate/Project Associate on monthly payment basis and were in position on 2.5.1997. Since Dr. (Ms.) Saikia had neither put in fifteen years of continuous service as Fellow/Associate/Project Associate nor was she in position as on 2.5.1997, her case was not covered under the aforesaid Scheme.

As regards the contention of Dr. (Ms.) Saikia for considering her absorption under CSIR circular letter No. 16(150)/68-E.II Part-II dated 13.1.1981, it may be noted that the Scheme contained under the said circular was as a one-time measure under which only the personnel who were working on any scheme/project funded by non-CSIR agencies and were in position as on 13.1.1981 were eligible for consideration for absorption in CSIR. This has been upheld by the CAT, Mumbai Bench, in a

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similar case (O.A.s No. 03/96 and 04/96 dated 7.5.1999), that the Scheme notified vide letter dated 13.1.1981 was a one-time measure and applicable to only those personnel who were in position as on 13.1.1981 and were working in any of the sponsored schemes / projects funded by non-CSIR agencies. Since Dr. (Ms.) Saikia was not working on any such scheme and joined CSIR as JRF only in the year 1986, her case is also not covered under the provisions of the Scheme notified vide CSIR letter No. 16(150)/68-E.II Part-II dated 13.1.1981.

I, therefore, do not find any merit in her case for absorption in CSIR service."

You are requested to apprise Dr. (Ms.) Binapani Saikia of the decision of the DG, CSIR suitably.

Yours faithfully,


(B.S. Gaira)
Sr. Deputy Secretary