

FORM NO. 2
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 6/2006

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant(s) _____

Respondent(s) _____

Advocate for the Applicant(s) _____

Advocate for the Respondent(s) _____

Notes of the Registry Date _____

Application is in form
is filed/C.F. for Rs. 50/-
d.p.s. _____
No. 266/3172/06
Dated 23.12.2005

He Dy. Registrar

Slips not taken

Pl. comply order dated

10.1.06.

10.1.06

Notice & order sent
to D/Section Barising
to resp. Nos. 1 to 5 by
regd. A/D post.

23/1/06 D/No: 144 to 149
Dt: 30/1/06.

Order of the Tribunal

10.01.2006

Present : Hon'ble Mr. Justice G.
Sivaraman, Vice-Chairman.

Hear Mr. M. Chanda, learned
counsel for the applicant and Mr. G.
Baishya, learned Sr. C.G.S.C. for the
respondents.

Admit. Issue notice to the respon-
dents.

Post on 28.2.2006. Written
statement, if any, in the meantime.

Vice-Chairman

28.2.06

Mr. G. Baishya, learned Sr. C.G.S.
C. submits that he would like to have
six weeks time to file reply state-
ment. Let it be done.

Post on 12.4.2006.

Vice-Chairman

bb

Contd.

O.A.6/2006

27-2-06

① Service report
awaited.

② No Wb has been
filed.

My

4.5.2006

Mr.G.Baishya, learned Sr.C.G.S.
C. submits that he would like to
have some more time to file reply
statement. Let it be done.

post on 9.6.2006.

Vice-Chairman

3-5-2006

No Wb filed.

bb

9.6.2006

Mr.G.Baishya, learned Sr.C.G.S.
C. has filed reply statement today.
Registry is directed to receive it
if it is otherwise in order. Mr.S.
Nath, learned counsel for the applic-
ant seeks for time to file rejoinder.
Let it be done.

post on 3.7.2006.

Vice-Chairman

8-6-06

No Wb has been
filed.

My

12.6.06

Wb filed by
the respondents.

bb

03.07.2006

Post on 18.07.2006

Vice-Chairman

30-6-06

No rejoinder has
been filed.

My

mb

18.07.2006

Learned counsel for the applic-
ant wanted time to file rejoinder.

Post on 04.08.2006.

Vice-Chairman

17-7-06

No rejoinder has
been filed.

My

mb

04.08.2006

Present: Hon'ble Sri K.V. Sachidanandar
Vice-Chairman.

Hon'ble Sri Gautam Ray,
Administrative Member.

No Rejoinder has
been filed.

My

No Rejoinder has
been filed.

My

18.8.06.

Learned counsel for the applicant
wanted time to file rejoinder. Post
on 18.08.2006.

My

mb

Member

Vice-Chairman

O.A. 6/2006

21.09.2006

Learned counsel for the applicant wanted to file rejoinder.

Post on 07.09.2006.

No Rejoinder has been filed.

23.10.06

Vice-Chairman

mb

27.10.06

24.10.2006

Mr.S.Nath, learned counsel for the applicant has filed rejoinder. Mr.G.Baishya, learned Sr.C.G.S.C. wanted time to go through it. Let it be done.

Rejoinder submitted by the Applicant.

post on 20.11.2006.

Vice-Chairman

Wls and rejoinder has been filed.

bb

20.11.2005 Present: Hon'ble Sri K.V. Sachidanandan Vice-Chairman.

Learned Counsel for the Applicant submitted that pleadings are over and this matter is connected with O.A. No. 11/2006. Post on 06.12.2006 for hearing alongwith O.A. 11/2006.

The case is ready for hearing.

5.12.06

Vice-Chairman

/mb/

06.12.2006 Present: Hon'ble Sri K.V. Sachidanandan Vice - Chairman.

Post after second week of January, 2007.

The case is ready for hearing.

19.3.07

Vice-Chairman

/mb/

20.03.2007

Let the case be listed before the next Division Bench.

The case is ready for hearing.

Member

nkm

Vice-Chairman

6.5.08.

07.05.2008

Heard Mr M. Chanda, learned Counsel appearing for the Applicant and Mr G. Baishya, learned Sr. Standing Counsel for the Union of India, in part.

Call this matter on 16.05.2008 for further hearing.

(Khushiram)
Member (A)

nkm

(M.R. Mohanty)
Vice-Chairman

The case is ready for hearing.

15.5.08.

22.5.08

Additional rejoinder submitted by the Applicant. Copy served.

16.05.2008

Mr M. Chanda, learned Counsel appearing for the Applicant, files an additional affidavit after serving a copy thereof on the learned Sr. Standing Counsel for the Union of India, who seeks time to obtain instructions.

Call this part-heard matter on 26.06.2008 for further hearing.

(Khushiram)
Member (A)

nkm

(M.R. Mohanty)
Vice-Chairman

The case is ready for hearing.

15.6.08

OA- 6/2016 -5-

26.06.08

In this case, at part heard stage, an additional rejoinder has been filed by the Applicant and reply thereto has not yet been filed by the Respondents.

Mr G. Baishya, learned Sr. Standing Counsel should take steps to file reply to the additional rejoinder and cause production of 1990 and 1992 circulars governing the field, by 11.08.2008.

Call this part heard matter on 11.08.2008 for giving further hearing.

The case is ready for hearing.

my
08.08.2008



(M.R. Mohanty)
Vice-Chairman

pg

11.08.2008

Mr. M. Chanda learned counsel appearing for the Applicant and Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Union of India are present.

Call this matter on 27.08.2008 for hearing.

The case is ready for hearing.

my
26.08.2008



(M.R. Mohanty)
Vice-Chairman

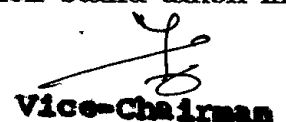
Lm

27.08.2008

Mr. M. Chanda, learned counsel appearing for the Applicant is present. Mr. G. Baishya, learned Sr. Standing counsel appearing for the Union of India seeks an adjournment of this part heard case to obtain instructions and to cause production of the Notification referred to in the counter/written statement.

In the aforesaid premises, call this matter on 29th September 2008, for further hearing ; when the Respondents should place materials to substantiate their stand taken in the written statement.

Member(A)


Vice-Chairman

O.A.6/2006

29.09.2008

Mr.M.Chanda, learned counsel appearing for the Applicant is present. Mr.G.Baishya, learned Sr. Standing counsel appearing for the Union of India is also present.

Call this matter on 28.11.2008 for hearing.

the case is ready for hearing.

27.11.08

/bb/

(S.N.Shukla)
Member (A)

(M.R.Mohanty)
Vice-Chairman

28.11.2008

Mr M. Chanda, learned Counsel appearing for the Applicant, is present. Mr G. Baishya, learned Sr. Standing Counsel for the Union of India, is also present.

Call this matter on 09.01.2009 for hearing.

the case is ready for hearing.

7.1.09

nkm

(M.R. Mohanty)
Vice-Chairman

09.01.2009

Mrs. U. Dutta, Advocate, representing the Applicant is present. Mr. M. U. Ahmed, learned Addl. Standing Counsel representing the Respondents is also present. He prays for more time to file reply to this E.P.

Call this matter on 17th March, 2009 awaiting reply from the Respondents.

Send copies of this order to the Respondents, who should comply with this order of this Tribunal rendered in O.A.No.122 of 2007.

lm

(M.R.Mohanty)
Vice-Chairman

09.01.2009

Mrs. U. Dutta, learned counsel appearing for the Applicant is present. Mr. G. Baishya, learned Sr. Standing Counsel for the Respondent is absent.

Call this matter on 17.02.2009 for hearing.

(M.R.Mohanty)
Vice-Chairman

lm

25.3.09

17.2.09 Bench if not available.

List on 26.3.09.

12/CO.

26.03.2009

Vide order dated 26.06.2008 learned counsel for the Respondents was directed to file circulars relating to year 1990 and 1992 governing the field. Two weeks time as a last opportunity is granted to Mr.G.Baishya, learned Sr. Standing counsel for the Respondents in this regard. No further time shall be granted to the Respondents in this regard in future.

List the matter on 13.05.2009.

(Khushiram)
Member (A)

(A.K.Gaur)
Member (J)

/bb/

13.05.2009

Call this matter on 29.06.2009 for hearing.

M.R.Mohanty
Vice-Chairman

lm

⑧
O.A. 6/2706


14.05.2009 Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Respondents prays to list this matter before Division Bench on 19.05.2009. Mrs. U. Dutta, learned counsel appearing for the Applicant, has no objection to list this matter on 19.05.2009.

Accordingly, list this matter on 19.05.2009 for hearing.


M.R. Mohanty
Vice-Chairman


lm

19.05.2009 On the prayer of the counsel for the parties, call this matter on 11.06.2009 for hearing.


(N.D. Dayal)
Member(A)


(M.R. Mohanty)
Vice-Chairman

11.06.2009 Call this matter on 06.08.2009.


(M.R. Mohanty)
Vice-Chairman

10-8-2009 lm

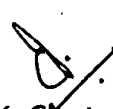
Copy of The Order Dated 6.8.09 prepared and send to D. Section for issuing of the same to the Respondents.

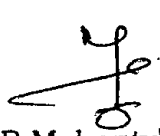
Vide D. No-9324-9328
Date- 10.8.09

06.08.2009 Mr. M. Chanda, learned counsel appearing for the Applicant is present.

Call this matter on 08.09.2009.

Send copies of this order to the Respondents who should come ready to participate of the hearing of this case on 08.09.2009.


(M.K. Chaturvedi)
Member(A)


(M.R. Mohanty)
Vice-Chairman

/lm/

The case is ready
for hearing.

3
3.11.09

10.09.2009 Mrs. U. Dutta, learned counsel for the Applicant is present. Ms. U.P. Bharadwaz, Advocate representing on behalf of the Respondents prays for an adjournment of this case.

Call this matter 04.11.2009.

(M. K. Chaturvedi)
Member (A)

(M. R. Mohanty)
Vice-Chairman

/lm/

04.11.2009 Mr M. Chanda, learned counsel appearing for the applicant is present. Mrs M. Das, learned Sr. Standing counsel states that she has been requested to appear in the matter. On the other hand Miss U. Das, learned Addl. Standing counsel states that she has been appearing in the matter for some time and all the official records have been provided to her.

Be that as it may, we adjourn the matter very reluctantly to 11.11.2009.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

/pg/

11.11.2009 Heard both sides. Hearing concluded. Order reserved.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

/pg/

The case is ready
for hearing.

3
10.11.09

O.A.6 of 2006

30.11.2009

For the reasons recorded separately,

this O.A. stands dismissed.

Mdan Kr. Chaturvedi
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/pb/

Received
Dutta
10/12/09

10-12-09

Judgment/Final order

dated 30/11/09 Sent to the

D/ Secy for issuing the

all the respondents by post

vide no — 12873 — 12877

dated — 10.12.2009

A copy for
M. Das
10/12/09

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.06 of 2006

With

Original Application No.11 of 2006

DATE OF DECISION: 30.11. 2009

1. Shri B. K. Khound (O.A.6/2006)

2. Smti Dipti Devi (O.A.11/2006)

APPLICANT(S)

Mr M. Chanda and Mrs U. Dutta

ADVOCATE(S) FOR THE
APPLICANT(S)

- versus -

Union of India & Ors.

.....RESPONDENT(S)

Mrs M. Das, Sr. C.G.S.C. (O.A.6/2006)

Ms U. Das, Addl. C.G.S.C. (O.A.11/2006)

ADVOCATE(S) FOR THE
RESPONDENT(S)

CORAM:

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Madan Kumar Chaturvedi, Administrative Member

1. Whether reporters of local newspapers
may be allowed to see the Judgment ?

✓
Yes/No

2. Whether to be referred to the Reporter or not?

✓
Yes/No

3. Whether their Lordships wish to see the fair copy
of the Judgment ?

✓
Yes/No


Member (J)/Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.06 of 2006

With

Original Application No.11 of 2006

Date of Order: This the 30th day of November 2009

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Madan Kumar Chaturvedi, Administrative Member

I. O.A.No.6/2006

Shri Binoy Kumar Khound,
S/o Late Purna Khound,
Village- Khoundpara, P.O.- Dergaon,
District- Golaghat (Assam).

II. O.A.No.11/2006

Smti Dipti Devi,
W/o Shri Mukul Sharma,
Village- Siratia Gaon,
P.O.- Pulibor, District- Jorhat,
Assam-785006.

..... Applicants

By Advocates Mr M. Chanda and Mrs U. Dutta.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Science and Technology,
New Delhi.
2. The Director General
Council of Scientific and Industrial Research (CSIR)
Rafi Marg, New Delhi.
3. The Director
Regional Research Laboratory (RRL)
Jorhat, Assam.
4. The Joint Secretary, CSIR,
Anusandhan Bhawan,
Rafi Marg, New Delhi.

5. The Controller of Administration
Regional Research Laboratory,
Jorhat, Assam.

..... Respondents

By Advocate Mrs M. Das, Sr. C.G.S.C.
and Ms U. Das, Addl. C.G.S.C.

.....

ORDER

MUKESH KUMAR GUPTA, JUDICIAL MEMBER

Since relief claimed in these two O.As being common grounded on virtually identical facts, same were heard analogously and dealt with by present common order.

2. The only difference is their date of engagement and disengagement. Applicant in O.A.06/2006 contends that he was appointed as Project Assistant with effect from 29.11.1983 and continued to work up to 31.07.1990. Though respondents' contention is that he was appointed only with effect from 17.04.1984, but there is no dispute that he continued to work up to 31st July 1990 as Project Assistant with usual breaks. In O.A.No.11/2006, applicant was initially appointed as Daily Wage Worker in December 1982, later vide order dated 13.04.1983 she was selected for apprenticeship training in the trade of Clerk (G) and completed one years training course in April 1984. Subsequently, she was appointed as Project Assistant with effect from 17.09.1984 and continued to work up to 15.04.1990.

3. Both of them were not continued in the Project after 31.07.1990 and 15.04.1990 respectively. Basic grievance raised is

that they ought to have been regularized in terms of the Scheme formulated by CSIR, and since the same had not been done, they initially filed Suit before civil court and later filed Civil Revision Petition No.249/1996 before Hon'ble High Court. Vice order dated 02.02.1999, applicant in O.A.No.06/2006 was advised to approach this Tribunal and therefore, he preferred O.A.308/1999. Similarly, applicant in O.A. No.11/2006 had filed O.A.No.303/1999 seeking regularization. Said O.A.s were disposed of vide order dated 30.11.2000 and 05.01.2001 respectively requiring the respondents to consider their claim for regularization as expeditiously as possible. Respondents were also directed that if it was found that they were overaged, it should be ignored and it shall not be a bar for regularization of their services. Said decisions were carried in Writ Petition (C) No.2018/2001 and 2019/2001 respectively before Hon'ble Gauhati High Court. Vide judgment and common order dated 02.12.2004, the same were disposed of holding that the only direction issued had been "to consider" their cases for regularization and same cannot be construed as direction to the authority for regularization. Authority concerned, after receipt of order passed by the Tribunal, ought to have passed a reasoned order whether said officials were covered by aforesaid scheme or not. As such the writ petitions were dismissed. In purported compliance of said order and direction, respondents passed order dated 22.03.2009, which is virtually identically worded. Their claim has been rejected by aforesaid impugned order precisely for following reasons:


- a) Applicants were not entitled to be regularized under the provisions of Merit and Normal Assessment Scheme




(MANAS) since said scheme is meant for assessment/promotion only and not for regularization.


- b) CSIR scheme circulated vide circular dated 13.01.1981 was meant for "existing persons" as on 13.01.1981, which was a one-time exercise. Since applicants had joined thereafter, they were not eligible for the benefit of such scheme.
- c) Cases of other applicants i.e. O.A.Nos. 16/1995, 17/1995, 18/1995 and 241/1994 decided by common order dated 14.05.1997 were not similar, as applicants therein were not regularized under the aforesaid scheme, but later they had applied against regular vacancies vide advertisement No.2/97 and gone through the selection procedure and also got themselves selected afresh as per their own performance. Said judgment would have no relevance. Said officials were granted age relaxation only.

4. Relief claimed in present O.A.s is for quashing of impugned communication dated 22.03.2005 as void ab initio as well as for a direction to the respondents to absorb/regularize them taking into account their past services in the light of judgment and order dated 30.11.2000 and 05.01.2001 in O.A.Nos.308/1999 and 303/1999 respectively, as upheld by Hon'ble High Court order dated 02.12.2004, with retrospective effect and consequential benefits and costs.



5. Mr M. Chanda, learned counsel appearing for applicants alongwith Mrs U. Dutta, advanced the following contentions:

- a) Findings recorded by this Tribunal in earlier round of litigation have been upheld by Hon'ble High Court vide its order dated 02.12.2004. Bare perusal of judgment passed by this Tribunal therein would show that said judgment and orders were based on earlier common order dated 14.05.1997 passed in O.A.Nos.16 to 18 of 1995 and O.A.No.241/1994, wherein it had been categorically observed that applicants were: "entitled to be regularized in their services as per the Scheme (MANAS) prepared, and more specifically as per revised scheme effective from 1.4.1992". Distinction sought to be drawn by the respondents stating that said applicants were appointed by direct recruitment and therefore, said judgment could not be made applicable to present applicants had been noticed by this Tribunal vide order dated 30.11.2000. Said order dated 30.11.2000 disposed of O.A.No.308/1999 in the light of order passed on 14.05.1997 requiring the respondents to consider the claim for regularisation. Since view taken therein has already attained finality, there is no further scope for interpretation of the scheme and respondents had no authority to rewrite the judgment of this Tribunal by giving a different twist, meaning and interpretation to the scheme. Therefore, impugned communication dated 22.03.2005 cannot be sustained in law.
- 

- b) Applicants were recruited through a regular selection process and work assigned to them was of permanent in nature and therefore, there was absolutely no justification in not regularizing them. Furthermore, as per doctrine of legitimate expectation, they deserve regularization.
- c) MANAS is a welfare scheme. Its benefits cannot be denied to them. Similarly situated persons have already been regularized even after their rendering services for 2 to 5 years only in comparison to applicants' 7/6 years of regular and satisfactory service.
- d) Applicant in O.A.No.06/2006 stood first in the merit list prepared in January 1990, considering his past services, but he had been ignored for further extension in service, without any rhyme or reason. Shri Prabin Gohain, who stood third in said merit list was continued in service, which led to discrimination. Drawing our attention to various provisions of MANAS, 1981 as extended vide communication dated 12.09.1990 as well as revised MANAS, made effective from 1.4.1992, it was strongly canvassed that respondents' contention that said scheme deals only with assessment/promotion and not with regularisation, is far from truth. Our attention was also invited to Scheme of 1990 which constituted a committee to look into the question of linking of technical assistance programmes with overall plans and resources and absorption of staff employed in externally funded projects/
- 

schemes, particularly to para 5.3, which provided that persons who have been continuously working for three years or more under an externally funded scheme and have not been regularized so far will be considered for absorption. Thus it was emphasized that plea raised by respondents vide impugned communication dated 22.03.2005 that said scheme deals only with assessment/promotion and not with regularisation/absorption is misconceived and misplaced and in ultimate analysis, said impugned communication is unsustainable in law.

6. Respondents in their written statement have taken specific plea that CSIR Scheme dated 13.01.1981 is purely a one-time measure and applicants not being on rolls as on 13.01.1981 having being appointed in the Project in 1984 were not entitled to benefits of such scheme. Applicant in O.A.Nos.16 to 18 of 1995 and 241/1994, decided by common order dated 14.05.1997 had applied against regular vacancies and were selected afresh against such vacancies and therefore, present applicants are not similarly placed with such persons. Applicants can apply against any advertised post of RRL, Jorhat and they will be considered subject to fulfilling eligibility criteria. They were engaged in various projects for different specified periods by issuing different appointment letters purely on temporary basis and there was no question of treating them as regular employees. List prepared in January 1990 was only for purpose of appointing them in future projects and same conferred no right either explicit or implicit for any regular appointment under CSIR. Respondent No.3 had spared no pains by honouring judgment and



order dated 30.11.2000 and 05.01.2001 respectively as upheld by Hon'ble High Court on 02.12.2004 and in compliance thereof a reasoned and speaking order dated 22.03.2005 was passed. Plea of res judicata was also raised. It was emphasized that Hon'ble High Court in its order dated 02.12.2004 vide para 7 very categorically stated that only direction issued by the Tribunal was "to consider their case for regularisation in service" and it did not amount to direction to the authority for regularisation. Said direction has been fully complied with. As nomenclature of the Scheme itself is Merit and Normal Assessment Scheme, it cannot be construed that it would be applicable either for absorption or regularisation. Said scheme is applicable to Scientific and Technical staff working under CSIR and not to persons working under the Project and it related to their assessment/promotion and nothing more. Applicants were engaged as Project Assistants on a consolidated salary and their services were coterminous with the duration of the project. Their claim is based on conjecture and surmises, emphasized learned counsel for the respondents.

7. We have heard Mr M. Chanda, learned counsel for the applicants and Mrs M. Das, learned Sr. C.G.S.C. for the respondents. The question that arises for consideration is whether CSIR Scheme of 13th January 1981 which is center point of the entire controversy is applicable or not. Therefore, it would be expedient to notice para 8 of said scheme, which reads thus:

"The existing persons who have rendered three years continuous service in a scheme should be absorbed either against existing regular vacancies in identical posts or by creating additional posts (by following prescribed procedure) if the work load in the Laboratory/Institute so

demands. The Supernumerary posts could be created to absorb the staff employed in such projects/schemes, initially being a one time effort only. The Laboratory/Institute shall not recruit further staff until all such staff is absorbed."

(emphasis supplied)

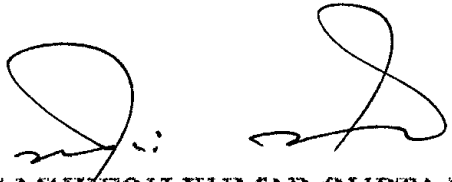
8. The term 'existing persons' under para 8 is of great significance. Learned counsel for applicant basically contends that para 5.3 of the report would be relevant and since it has been included in the scheme in 1990, which is nothing but an extension of CSIR's circular dated 13.01.1981, they would be eligible for regularisation. On the other hand, respondents' stand in clear terms is that said scheme of 1981 was a one time measure. As applicants were not in service in January 1981 they would not be covered by such scheme. We may observe that respondents vide impugned order dated 22.03.2005 have categorically asserted that CSIR Scheme of January 1981 was meant to "existing persons" i.e. any person who was on the rolls at the time of issue of circular dated 13.01.1981 and it was only a one time effort and not a continuous exercise. This view has been fortified by judgment of Bombay Bench of this Tribunal in R.B. Chavan and S.M. Kodikar Vs. NCL, Pune. Said plea has also been taken in the written statement filed by respondents. We may note at the outset that this plea raised by the respondents has not been either controverted, refuted or disputed by the applicants. Entire focus of learned counsel for the applicants is that para 5.3 of the report gives them a legal right of regularisation irrespective of the fact whether they were in employment either in 1981/1990 or not when the schemes were introduced and further reiterated. On examination of the matter we are not convinced with contention raised by learned

counsel for applicants for the simple reason that para 5.3 on which much stress has been laid is part of the report of the committee, which ultimately led to passing of CSIR Scheme dated 13.01.1981. Last 2 paragraphs of said scheme would show in specific that said report had been enclosed for information/guidance and necessary action. In other words para 8 of 1981 Scheme as noticed hereinabove has not been either reiterated or continued in MANAS notified on 12.09.1990, as well as revised MANAS made applicable from 01.04.1992. Thus, entire stand of applicants is misconceived, misplaced and unjustified. We may further note that applicants have placed copy of CSIR Scheme dated 13.01.1981 as Annexure-VII), which also contained and dealt with question of linking of Technical Assistance Programmes with Overall Plans and Resources as well as absorption of staff employed in externally funded Projects/Schemes. Said para 5.3 appears at page 56 of paper book. In corresponding provision, akin to para 8 of CSIR Scheme dated 13.01.1981 has not been pointed out with reference to MANAS circular dated 12.09.1990 or revised MANAS made applicable with effect from 01.04.1992. In other words para 8 of CSIR Scheme dated 13.01.1981 stands fully deleted. It is undisputed fact that applicants had not been 'existing persons' on the date when said scheme was initially notified. This being the case, we have no hesitation to conclude that said scheme being a one time measure is inapplicable to applicants. It was not a continuous process. We find justification in respondents' contention that said scheme is inapplicable to applicants. We may further note that analogous provisions which appeared in Scheme known as 'Casual Labourers (Grant of temporary Status and Regularisation)

Scheme 1993 issued by DOPT O.M. on 10.09.1993 contained such provision vide clause 4 (1) wherein, it was stated that, 'temporary status' would be conferred on all casual labourers who are in employment on the date of issue of said OM and who have rendered a continuous service of at least one year' Hon'ble Supreme Court in Union of India and others Vs. Mohan Pal, 2002 (2) ATJ 215 ruled that said scheme was not an ongoing scheme. Thus, we are of considered view that there is no substance and justification in applicants' contention that they are entitled to regularisation under CSIR Scheme of 13th January 1981. We may further note that only direction which had been issued by this Tribunal, as further clarified by Hon'ble High Court, had been "to consider their case as to whether applicants are covered by aforesaid scheme or not". This direction in our considered view has been fully complied with by passing detailed and speaking order dated 22.03.2005. We find no illegality or arbitrariness in said impugned order.

9. In view of discussion made hereinabove and finding no merits, O.A.s are dismissed. No costs.


(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER


(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

1. OA 6 of 2006, B.K. Khound, M. Chandra
2. OA 11 of 2006, D. Deni M. Chandra

May be listed on 19.05.09

Filed by
G. B. Singh
Success
14.5.09

W. Datta
14.05.09

Alland to be heard
on 19.5.09
by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O.A. No. 6/2006

Sri Binoy Kumar Khound

-Vs-

Union of India & Ors.

LIST OF DATES

- 13.01.1981- Pursuant to a scheme launched by the Council of Scientific and Industrial Research (CSIR), respondents issued memo dated 13.01.81 laying down some rules for absorption of staff employed in externally funded projects/schemes.
(Annexure- VII Page-50 of O.A.)
- 29.11.1983- Applicant joined as Project Assistant on temporary basis for 8 months, after being selected through a detailed selection process. Thereafter he was continuously engaged in different projects till 31.0.1990.
(Annexure- I Page- 19)
- January '90- Merit list was prepared considering the past services of the employees on temporary basis. Applicants name appeared at sl. No. 1, but his service was not extended after 31.7.1990 whereas person junior to him in the said merit list got extension.
- 1991- Applicant filed title suit No. 2/91 in the Court of Asstt. District Judge, Jorhat, which eventually led to Civil Revision Petition No. 249/96 before the Hon'ble Gauhati High Court.
- 14.05.1997- Hon'ble Tribunal was pleased to allow similar matters arising out of similar nature of termination/discontinuation orders passed by the respondent namely O.A. Nos. 241/94, S. Dutta- Vs- U.O.I and Others, 16 of 1995 (Dulal sahu-Vs- U.O.I ad others), 1 of 1995 (P. Kalita -Vs- U.O.I and Others) and 18 of 1995. Respondents implemented the judgment dated 14.05.07. (Annexure- VIII)
- 02.02.1999- Hon'ble High Court directed that the applicant may seek relief before the Central Administrative Tribunal.
- 1999- Applicant filed O.A No. 308/1999 before the CAT, Guwahati.
- 30.11.2000- Hon'ble CAT passed its judgment and order dated 30.11.2000 in O.A. No 308/99 and directed the respondents to regularise the service of the applicant within two months even by ignoring his overage, if any.
(Annexure-III)

To Consider
the
Case for Reg.

- 2001- Respondents filed WP (C) No. 2018/2001 before the Hon'ble Gauhati High Court assailing the judgment and order dated 30.11.2000 of the Hon'ble C.A.T.
- 02.12.2004- Hon'ble High Court passed its order dated 2.12.2004 in WP(C) No. 2018/2001 whereby the said writ petition was dismissed on merit.
(Annexure-IV)
- 22.03.2005- Respondents issued the impugned order rejecting the prayer of the applicant.
(Annexure-V)
- 18.05.2005- Applicant submitted representation rebutting the grounds of rejection of his prayer and prayed for regularisation of his services in terms of the orders of the Hon'ble CAT and the Hon'ble High Court, and in accordance with the provisions of the scheme namely merit and normal assessment scheme (for short, MANAS), 1981 (reintroduced in 1990 and 1992) but to no response.
(Annexure-VI and VII)

Pet 15 case

P.37 Annex 3 - order of CAT

P.42 Annex 4 - order of HC

P.44 - Impugned order

Ranking case.

Advs from P.44, 45 & 1A

Index - P.151
Entry I

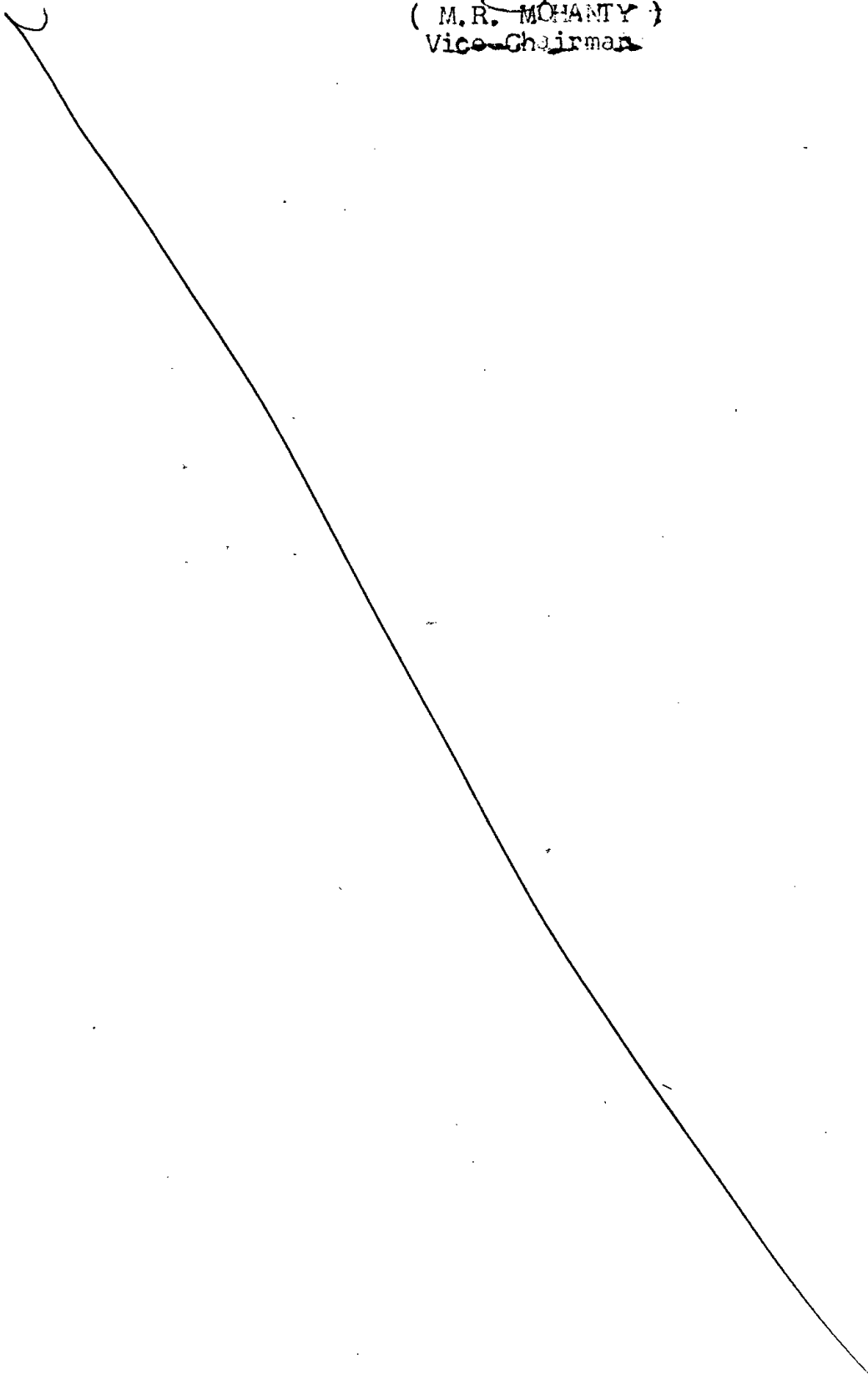
✓ OA/CP/RA/MI No. 6 /2006

Order dated 25.3.2008

Call the matter for hearing
on 7-5-08.



(M.R. MOHANTY)
Vice-Chairman



27

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

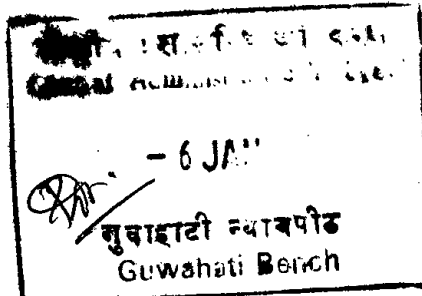
Original Application No. _____

6/2006

1. a) Name of the Applicant:- Binooy Kr. Khound
b) Respondants:- Union of India & Ors.
c) No. of Applicant(S):-
2. Is the application is the proper form:- Yes / No.
3. Whether name & description and address of the all the papers been furnished in cause title :- Yes / No.
4. Has the application been duly signed and verified :- Yes / No.
5. Have the copies duly signed :- Yes / No.
6. Have sufficient number of copies of the application been filed :- Yes / No.
7. Whether all the annexure ~~parties~~ are impleaded :- Yes / No.
8. Whether ~~English~~ translation of documents in the Language:- Yes / No.
9. ~~Has~~ the application is in time :- Yes / No.
10. ~~Has~~ the Vokatlatnama/Memo of appearance /Authorisation is filed:- Yes / No.
11. Is the application by IPO/BD/for Rs.50/- 260 317796
12. Has the application is maintainable :- Yes / No.
13. Has the Impugned order original duly attested been filed:- Yes / No.
14. Has the legible copies of the annexurea duly attested filed:- Yes / No.
15. Has the Index of the documents been filed all available :- Yes / No.
16. Has the required number of enveloped bearing full address of the respondents been filed:- Yes / No.
17. Has the declaration as required by item 17 of the form:- Yes / No.
18. Whether the relief sought for arises out of the Single: Yes / No.
19. Whether interim relief is prayed for :- Yes / No.
20. Is case of Condonation of delay is filed is it Supported :- Yes / No.
21. ~~Whether~~ this Case can be heard by ~~Single Bench/~~ Division Bench:
22. Any other pointd :-
23. Result of the Scrutiny with initial of the Scrutiny Clerk:
The application is in order

SECTION OFFICER(J)

9.1.06
DEPUTY REGISTRAR



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O.A. No. 6 /2006

Sri Binoy Kumar Khound

-Vs-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

29.11.1983- Applicant joined as Project Assistant on temporary basis for 8 months, after being selected through a detailed selection process. Thereafter he was continuously engaged in different projects till 31.0.1990.
?

January '90- Merit list was prepared considering the pas services of the employees on temporary basis. Applicants name appeared at sl. No. 1. But applicants service not extended after 31.7.1990 whereas person junior to him in the said merit list got extension.

1991- Being aggrieved, applicant filed title suit No. 2/91 in the Court of Asstt. District Judge, Jorhat, which eventually led to Civil Revision Petition No. 249/96 before the Hon'ble Gauhati High Court.

02.02.1999- Hon'ble High Court directed that the applicant may seek relief before the Central Administrative Tribunal.

1999- Applicant filed O.A No. 308/199 before the Central Administrative Tribunal (CAT), Guwahati.

30.11.2000- Hon'ble CAT passed its judgment and order dated 30.11.2000 in O.A. No 308/99 and directed the respondents to regularise the service of the applicant within two months even by ignoring his overage, if any. (Annexure-III)

2001- Respondents fled WP (C) No. 2018/2001 before the Hon'ble Gauhati High Court assailing the judgment and order dated 30.11.2000 of the Hon'ble C.A.T.

02.12.2004- Hon'ble High Court passed its order dated 2.12.2004 in WP(C) No. 2018/2001 whereby the said writ petition was dismissed on merit.

Binoy Kr Khound

Applicant submitted representation praying for his regularisation as per courts order. (Annexure-IV)

22.03.2005- Respondents issued the impugned order ejecting the prayer of the applicant. (Annexure-V)

18.05.2005- Applicant submitted representation rebutting the grounds of ejection of his prayer and prayed for regularisation of his services in terms of the orders of the Hon'ble CAT and the Hon'ble High Court, and in accordance with the provisions of the scheme namely merit and normal assessment scheme (for short, MANAS), 1981 (reintroduced in 1990 and 1992) but to no response. (Annexure-VI and VII)

Hence this O.A before this Hon'ble Tribunal.

PRAYERS

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned order No. LJ-18 107-Viz/1999 dated 22.03.2005 (Annexure-V) issued by the respondent No. 3 as void-ab-initio.
2. To direct the respondents to absorb/regularise the applicant taking into account his past services, in the light of the judgment and order dated 30.11.2000 in O.A. No. 308/1999 passed by his Tribunal and the judgment and order dated 02.12.2004 in W.P (C) No. 2018/2001 of the Hon'ble Gauhati Court, with retrospective effect and all consequential benefits thereof.
3. Costs of the application.
4. Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for.

During pendency of this application, the Hon'ble Tribunal be pleased to grant the following relief: -

1. That the Hon'ble Tribunal be pleased to direct the respondents that pendency of this application shall not be a bar to the respondents for considering the case of the applicant for regularisation of his service.

Prima re Khanda

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI**

(An Application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O.A. No. 6/2006

Sri Binoy Kumar Khound : Applicant.

- Versus -

Union of India & Others : Respondents.

INDEX

SL. No.	Annexure	Particulars	Page No.
01	—	Application	1-17
02	---	Verification	-18-
03	I	Copy of the order dated 25.11.1983	-19-
04	II	Copies of the orders dated 2.12.1983, 30.7.1984, 3.9.1983, 13.9.1984, 29.4.1985, 5.7.85, 31.10.85, 10.1.1986, 10.2.1986, 15.5.1986, 19.8.1986, 11.2.1987, 19.6.1987, 21.9.1987, 30.6.1988, 11.9.1989 and 22.3.1990	20-36
05	III	Copy of judgment dated 30.11.2000	37-39
06	IV	Copy of the judgment and order dated 02.12.2004	40-43
07	V	Copy of impugned order dtd. 22.3.2005	44-47
08	VI	Copy of representation dtd. 18.05.2005	48-49
09	VII	Copy of memo dated 13.01.1981	50-58
10	VIII	Copy of the order dated 14.5.1997	59-64

Date: 9-1-06

Filed by

Advocate

Binoy K. Khound

30
Filed by the applicant
through advocate in
G. N. Chakravarty
9-1-06.

31
Filed by me applicant
through: Adv. G. N. Choudhary
on: 9-1-06
[Signature]

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI**

(An Application under Section 19 of the Administrative Tribunals Act, 1985)

O. A. No. 6 /2006

BETWEEN

1. **Shri Binay Kumar Khound .**

S/o- Late Purna Khound.
Village- Khoundpara,
P.O- Dergaon,
District- Golaghat (Assam).

...Applicant.

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Science and Technology.
2. The Director General,
Council of Scientific and industrial Research, (CSIR),
Rafi Marg,
New Delhi.
3. The Director,
Regional Research Laboratory (RRL),
Jorhat. Assam.
4. The Joint Secretary, CSIR,
Anusandhan Bhawan,
Rafi Marg, New Delhi.
5. The Controller of administration,
Regional Research Laboratory,
Jorhat. Assam.

...Respondents.

Binay K. Khound

DETAILS OF THE APPLICATION

1. Particulars of order(s) against which this application is made.

This application is made against the impugned order bearing No. RLJ-18 (107)- Vig/1999 dated 22.03.2005 (Annexure- V), issued by the respondent No. 3, whereby the claim of the applicant for regularization of his service has been rejected even inspite of the fact that the 1981 Scheme has been examined and held to be in favour of the applicant in the judgment passed by the learned Tribunal which attained finality and the direction passed by the Hon'ble Tribunal on 30.11.2000 in O.A No. 308/1999 upon the respondents to regularise his service which was also upheld by the Hon'ble Gauhati Court vide its judgment and order dated 02.12.2004 in WP (C) No. 2018/2001.

2. Jurisdiction of the Tribunal

The applicant declares that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation

The applicant further declares that this application is filed within the limitation prescribed under Section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case

- 4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That the applicant is a bachelor degree holder of Science (B.Sc.) and fully qualified to hold the post of Project Asstt./Project fellow/Junior Scientific Asstt./Junior Technical Asstt. Grade-III under the Regional Research Laboratory (RRL), Jorhat.

Biraj Kr. Rana

- 4.3 That the applicant applied for the post of Project Asstt. under the RRL Jorhat and his such application was considered and the Director RRL Jorhat was pleased to approved his appointment as Project Asstt. on a consolidated pay of Rs. 5000/- on temporary basis for 8 months only. After receipt of the aforesaid order of appointment, the applicant joined the duty w.e.f 29.11.1983. To that effect the Director RRL, Jorhat issued an order vide No. RLJ-9(59)-Estt/79 dated 25.11.1983 by which his appointment was approved.

(Copy of the order dated 25.11.1983 is annexed herewith and marked as Annexure-I)

- 4.4 That thereafter the respondents issued various orders by which the services of he applicant was extended from time to time and he has been continued in the aforesaid post of Project Asstt. till the last order issued on 11.9.89 whereby his services was finally extended upto March, 1990. Thereafter the respondents issued yet another order by which the applicant was given appointment as project fellow-III upto 31.7.90. It is pertinent to mention here that in the aforesaid appointment orders the applicant has been given appointment under various schemes under the respondents and through out his appointment and his pay has been refixed during the aforesaid period and all along he has been treated as regular employees of the RRL, Jorhat.

(Copies of the orders dated 2.12.1983, 30.7.1984, 3.9.1983, 13.9.1984, 29.4.1985, 5.7.85, 31.10.85, 10.1.1986, 10.2.1986, 15.5.1986, 19.8.1986, 11.2.1987, 19.6.1987, 21.9.1987, 30.6.1988, 11.9.1989 and 22.3.1990 are annexed herewith and marked as Annexure-II (series)).

- 4.5 That the respondents in the month of January, 1990 prepared a list on the basis of merit considering the past services rendered by the employees like that of the applicant wherein the applicant was at Sl. No.1 and on the other hand one Shri Prabin Gohain who was at Sl. No. 3 of the said list.

Srinoy Kr Khound

After the issuance of last appointment order dated 22.3.1990 by which the applicant was appointed as Project Fellow-III till 31.7.1990, he was no longer given any further appointment on extension order whereas said Shri Gohain was given appointment by extending his temporary service ignoring the case of the applicant. The applicant being the first in the merit list his case should have been considered for regular appointment under the respondents.

4.6 That being aggrieved, the applicant filed a Title Suit No. 2/91 in the Court of the Asstt. District Judge, Jorhat. But since the said Court is not the appropriate forum to decide the issue and lacks jurisdiction, the applicant eventually approached this Hon'ble Tribunal by filing one O.A. No. 308 of 1999.

4.7 That this Hon'ble Tribunal thoroughly examined the case of the applicant, including 1981 Scheme, rules and various contentions raised by the respondents in their written statement. After hearing both the parties and perusal of record, this Hon'ble Tribunal passed its judgment and order dated 30.11.2000 in O.A. No. 308/1999, directing the respondents as under; -

"5. In the light of the orders of this Tribunal in O.A's referred to above and the scheme mentioned above the respondents are accordingly directed to consider the case of the applicant to regularize his service as expeditiously as possible preferably within a period of two months from today. Seemingly the applicant must be overaged in the meantime, if at the time of regularization the applicant is found to be overaged that should be ignored and this shall not be a bar for regularistaion of the service of the applicant.

6. With the directions made above, the application is stands allowed. However there shall be no order as to costs."

Binay Kr. Khound

It is quite clear from the decision of the learned Tribunal, that the Tribunal has examined the Scheme of the CSIR and it is found that the case of the applicant is covered by the Scheme and therefore, the learned Tribunal directed to consider the case of the applicant to regularise the service of the applicant. The decision of the learned Tribunal has been confirmed by the Hon'ble Gauhati High Court and therefore judgment of the learned Tribunal attained finality.

(Copy of judgment dated 30.11.2000 is annexed hereto as Annexure-III).

- 4.8 That thereafter, the respondents filed the writ petition numbered as WP(C) No. 2018 of 2001 in the Hon'ble Gauhati High Court assailing the judgment and order dated 30.11.2000 aforesaid passed by this Tribunal in O.A N. 308/99. The Hon'ble Gauhati High Court, after thoroughly examining the case, passed its common judgment and order dated 02.12.2004 in WP(C) No. 2018/2001 and the operative portion of the judgment is reproduced below-

"8. In that view of the matter, in our considered opinion, we should not interfere with the orders passed by the learned Central Administrative Tribunal, Guwahati in O.A No. 308/99 and 303/99 and, accordingly, we dismiss both the writ petitions.

9. There shall be no order as to costs."

The above quoted order of the Hon'ble High Court leads to the inescapable conclusion that the Hon'ble High Court has upheld the judgment and order dated 30.11.2000 in O.A No. 308/99 of this Hon'ble Tribunal.

(Copy of the judgment and order dated 02.12.2004 is annexed hereto as Annexure-IV).

Biraj Kr Khound

4.9 That thereafter, the applicant submitted a representation enclosing therewith a copy of the judgment and order dtd. 02.12.2004 to the respondents and prayed for early regularization of his service in terms of the judgment and order dated 30.11.2000 in O.A No. 308/99 of this Hon'ble Tribunal, read with the judgment and order dtd. 02.12.2004 of the Hon'ble High Court in WP(C) No. 2018/2001.

4.10 That thereafter, the respondent No. 3 has issued the impugned order No. RLJ-18 (107)-Viz/1999 dated 22.03.2005 rejecting the prayer of the applicant and denying his regularization of service, mainly on the following pleas; -

(i) Applicant is not entitled to be regularised under the provisions of merit and normal assessment scheme (MANAS) since the said scheme is meant for assessment promotion only (and) not for regularization,

(ii) CSIR scheme circulated vide circular dated 13.01.1981 was meant for existing persons as on 13.01.1981 which was an one time exercise, but the applicant joined after that i.e. on 29.11.1983 only. The respondent also referred to para 8 of the said circular dated 13.1.1981.

✓ (iii) The case of other applicants covered the judgments and orders of the Tribunal in O.A No. 161/95, 17/95, 18/95 and 241/94 are not similar and are distinguished from the case of this applicant.

On a mere reading of the impugned order dated 22.03.2005 it appears that the respondent authorities have now made an attempt to re-write the judgment passed by the learned Tribunal as per their own interpretation and understanding of the scheme, without having any

Singh K. Khanna

jurisdiction or sanction of law and on that score alone the impugned order dated 22.03.2005 is liable to be set aside and quashed.

(Copy of impugned order dated 22.03.2005 is annexed hereto as Annexure-V).

- 4.11 That on receipt of the impugned order dated 22.03.2005, the applicant submitted one representation dated 18.5.2005 rebutting all the grounds pleaded by the respondents and prayed for regularisation of his service in the light of the judgment and order dtd. 30.11.2000 in O.A. No. 308/99 of this Hon'ble Tribunal and the judgment and order dated 02.12.2004 in WP(C) No. 2018/2001 of the Hon'ble Gauhati High Court.

(Copy of representation dated 18.05.2005 is annexed hereto as Annexure-VI).

- 4.12 That the applicant most respectfully begs to state that the respondent department i.e. the Council of Scientific and Industrial Research (for short CSIR), launched a special scheme meant for absorption of staff employed in externally funded projects/schemes. The said scheme is named as merit and normal assessment scheme (for short, MANAS). Pursuant to this scheme, the respondents vide memo No. 169150/68-E (Pt. II) dtd. 13.01.1981, laid down some rules for absorption of staff which interalia, provides under para-8 as follows; -

"The (existing persons) who have rendered three years continuous service in a scheme should be absorbed either against existing regular vacancies in identical posts or by creating additional posts (by following prescribed procedure) if the work load in the Laboratory/Institute so demands. The supernumerary posts could be created to absorb the staff employed in such projects/schemes,

Biraj K. Khound

initially being a onetime effort only. The laboratories/Institutes should not recruit further staff until all such staff is absorbed."

It is relevant to state that the applicant has rendered services about 7 years and as such he is legitimately entitled for absorption as per the provisions quoted above, more so, when the aforesaid scheme is a welfare scheme aimed at extending benefit to the staff employed under the respondents. The said scheme was subsequently re-introduced in 1990 and again in 1992. The very word "absorbed" used in the scheme, itself makes it abundantly clear that the scheme is introduced, for recruitment of the existing employees working in the project.

(Copy of memo dated 13.01.1981 is annexed hereto as Annexure-VII.)

- 4.13 That the applicant most respectfully begs to state that all the three grounds pleaded by the respondents for rejecting the claim of the applicant as stated in para 4.10 hereinabove, have been duly examined/considered by this Hon'ble Tribunal and the Hon'ble High Court before passing their respective judgments and orders aforesaid whereby the said contentions of the respondents have been rejected and thereafter only it has been held that the applicants case be regularized by the respondents. Since the same contentions repeated and adhered to by the respondents in their impugned letter dated 22.3.2005 is not only violative of the directions passed by the Hon'ble Tribunal and the Hon'ble High court but contemptuous as well.

It is relevant to mention here that the applicability of the scheme MANAS as contended by the respondents in their impugned letter dtd. 22.3.2005 has already been discussed/examined by the Hon'ble Tribunal and the High court in their respective judgments aforesaid. Similarly the contention of the respondents that the cases under O.A. No. 16/1995, 17/1995, 18/1995 and 241/1994 decided by this Tribunal are

Bimoy kr Khound

distinguished from that of this applicant have also been scanned by this Hon'ble Tribunal in its judgment and order dated 30.11.2000 in O.A No. 308/99, and both the contentions have been rejected thereby.

Further, regarding the contention of the respondents that the CSIR scheme dtd. 13.01.1981 is not applicable in case of the applicant since he joined his services on 29.11.1983 is irrelevant here, since the applicant is entitled for regularisation in terms of the scheme MANAS aforesaid which although introduced in 1981, but was re-introduced n 4.10.1990 and again in 1992 as admitted by the respondents in their impugned letter dated 22.3.2005 and also held by the Hon'ble High Court in its judgment dated 30.11.2000. This apart, para 8 of the CSIR circular dated 13.01.1981 has clearly spelt out that-

"The existing persons who have rendered three years continuous service in a scheme should be absorbed either against existing regular vacancies in identical posts or by creating additional posts_

-----"

The above quoted provisions when reintroduced in 1990 and 1992 are very much applicable on the applicant and it is clearly evident from the above that it is meant for absorption and not for promotion only as averred by the respondents.

- 4.14 That the applicant begs to state that after his initial appointment the applicant has all along been issued various appointment orders extending his appointment period on the strength of which he has been continuing in his service without any break. His service has been extended by the respondents by issuing the Annexure-2 orders and on the strength of these orders he has been serving continuously till 31.7.1990. Be it stated here that all along the applicant has been serving under the respondents.

as a regular employee.

Binay Kr Khanna

4.15 That after issuance of the last extension order dated 22.3.90, whereby the applicant was given appointment till 31.7.90, his service was never extended but some of the juniors to him have been kept in the service. Thus it will be evident that the respondents are favouring their blue-eyed boy resulting in hostile discrimination in violation of Article 14 and 16 of the Constitution of India.

4.16 That the applicant begs to state that the respondents have been preparing various schemes of regularisation of the Scientific and Technical staff working under CSIR like that of the applicant who has completed three years of continuous service or more. The said scheme is known as merit and normal assessment scheme.

4.17 That in view of the aforesaid factual position the service of the applicant is required to be regularised with retrospective effect more so in view of the fact that he entered the service of the respondents as per their own indent and the applicant was appointed under the respondents after proper selection and under the rule, no further selection is contemplated. The respondents cannot utilize the service of the applicant in a exploitative term and the constitutional provisions demand that his service should be regularised. In this connection the applicant crave leave of this Hon'ble Tribunal to refer to the constitutional provisions as well as dictums of the Apex Court and benches of the Hon'ble Tribunal.

4.18 That the applicant states that at present there are several posts of Junior Scientific Asstt./Junior Technical Asstt Gr-III lying vacant under the respondents. The respondents have earlier regularised the services of the Project Asstt. who are similarly situated like that of the applicant. The some of the incumbents were regularised after rendering 2-5 years of service. Some of the names are given below;

1. Sri Dipak Bardoloi.
2. Sri K.C. Likhok.

Binao K. Khanna

3. Sri R.C. Bharali.
4. Sri Ananta Sharma.
5. Sri Anjul Barma.
6. Sri Samiran Borthakur.
7. Sri U.S. Bhattacharjee.
8. Sri D. Borthakur, etc.

The above persons are similarly situated like that of the applicant and their services have been regularised after rendering only 2-5 years of service against the service rendered by the applicant for long seven years. The above examples are only illustrative not exhaustive. Further more since large numbers of employees have been regularised, there is no earthly reason as to why the service of the applicant should not be regularised taking into consideration of his past services rendered to the department in the light of the judgment and order dated 30.11.2000 in O.A. No. 308/1999 passed by this Hon'ble Tribunal and the judgment and order dated 02.12.2004 passed in W.P (C) No. 2018/2001 by the Hon'ble Gauhati High Court, with retrospective effect and consequential service benefits thereof. The respondents instead of being a model employer cannot resort to the pick and choose policy in the matter of regularisation of service and they are bound by the Constitutional provisions.

- 4.19 That the applicant begs to state that Hon'ble Tribunal had occasions to deal with some similar matters arising out of similar nature of termination/discontinuation orders passed by the respondent namely O.A. Nos. 241/94, S. Dutta - Vs- U.O.I and Others, 16 of 1995 (Dulal sahu - Vs- U.O.I ad others), 1 of 1995 (P. Kalita - Vs- U.O.I and Others) and 18 of 1995 (P.P. Sarma - Vs- U.O.I and others) and the Hon'ble Tribunal was pleased to allow all the four cases by its common judgment and order dated 14.5.1997, which was accepted and implemented by the respondents department.

Binyo K. Khound

(Copy of the order dated 14.5.1997 is annexed herewith and marked a Annexure-VIII).

- 4.20 That the applicant states that after the aforesaid Annexure-6 judgment all the applicants of these cases have been given appointment under the scheme mentioned in the said order and presently they are working under the respondents. It is stated that the case of the applicant is also similar to the above cases and Annexure- 6 order dated 14.05.1997 squarely covers the case of the applicant. The respondent being a model employer should have adopted similar method for regularisation of the services of the applicant also. Having not done so the respondents have violated the settled principles of law and the constitutional provisions. ✓
- 4.21 That the applicant begs to state that presently he is the only bread earner of his family consists of wife, minor son of 5 years and he being out of job, the entire family is leaving hand to mouth. Apart from that the father of the applicant died in the year 1989 and his lone sister who was also suffering from cancer died very recently in the year 1998. It is therefore, he is in need of his service very badly so as to save the entire family from distress and hence pray before the Hon'ble Tribunal for an interim order directing the respondents to provide him any post commensurating to his educational qualification as well as past service pending disposal of this application.
- 4.22 That your applicant most respectfully begs to state that due to non-consideration of his case for regularisation of his service, he has been suffering extreme hardships. As such finding no other alternative the applicant is approaching this Hon'ble Tribunal for protection of his legitimate rights and it is a fit case for the Hon'ble Tribunal to interfere with and to protect the rights and interest of the applicant, directing the respondents to regularise the service of the applicant with retrospective effect and all consequential service benefits.

Bijoy K. Khanna

4.23 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

5.1 For that the judgment of the learned Tribunal dated 30.11.2000 in O.A. No. 308/99, has attained finality, which discussed and examined the relevant scheme and found that the case of the applicant is covered by the scheme, therefore, the respondent authority has no scope for further interpretation of the scheme as well as of the judgment passed by the learned Tribunal.

5.2 For that, respondent authority has no scope or authority of law to re-write the judgment of the Tribunal by giving a different interpretation of the scheme that too after passing of the judgment by the impugned order dated 22.03.2005.

5.3 For that, the respondent authority has no jurisdiction under the law to pass the impugned order dated 22.03.2005, giving further interpretation of the scheme as such impugned order dated 22.03.2005 is liable to be set aside and quashed.

5.4 For that, the applicant has rendered services for about 7 (seven) years continuously in different schemes under the respondents and as such he has acquired a valuable right for his permanent absorption/regularisation in the department.

→ 5.5 For that, the applicant was initially recruited through a regular selection process and the works assigned to him are also of permanent nature. As such here is no reason as to why his services cannot be regularised.

5.6 For that, as per the doctrine of legitimate expectation the applicant deserves all considerations for regularisation of his services.

5.7 For that, the applicant is legitimately entitled for permanent absorption/regularisation as per the provisions of the special scheme namely merit

Bijoy K. Khound

and normal assessment scheme for short MANAS), 1981 launched by the respondent department.

- 5.8 For that, the departmental scheme MANAS is a welfare scheme and as such the applicant cannot be denied the benefits of the scheme.
- 5.9 For that, the services of some other similarly situated employees have been regularised even after their rendering services for 2-5 years only, as against 7 years of service rendered by the applicant. Hence it is a discrimination and violative of article 14 and 16 of the Constitution of India.
- 5.10 For that, the case of this applicant is covered by the judgments and order passed by his Hon'ble Tribunal on 30.11.2000 in O.A No. 308/1999.
- 5.11 For that, the applicant is entitled for regularisation of service in terms of the judgment and order dated 30.11.2000 in O.A. No. 308 of 1999 passed by this Hon'ble Tribunal which has also been upheld by the Hon'ble Gauhati High Court vide its judgment and order dated 02.12.2004 in WP(C) No. 2018/2001.
- 5.12 For that, denial of permanent absorption/regularisation of the applicant despite his rendering services for long seven years, is violative of the principles of natural justice and opposed to the established laws.
- 5.13 For that, there are vacant posts of Junior Scientific Assistant/Junior Technical Assistant in the respondent department and the applicant has got requisite qualifications/eligibility for such post and he has already served in such posts for about 7 years. As such there is no cogent reason whatsoever to deprive the applicant of his legitimate absorption/regularisation in one of those vacant posts.

Biraj Kr. Khound

✓ 5.14 For that, the contention of the respondents raised in the impugned order dated 22.3.2005 that the "MANAS" scheme deals only assessment of promotion of the staff and not the regularisation of any person is totally wrong in as much as the word "absorbed" is very much available in the scheme, which makes it abundantly clear that the scheme MANAS has been framed with the view of intention to provide absorption to the existing employees working under the said scheme as such applicant is entitled to benefit of absorption.

5.15 For that, the grounds raised in the impugned order dated 22.03.2005 to the effect that the said MANAS scheme was a one time effort and not a continuous exercise is self contradictory and also contrary to the records in as much as the said scheme was extended in 1990 and 1992 to the person who were working under the MANAS scheme and similarly situated like the present applicant and as such applicant is entitled to absorption in the light of the aforesaid scheme.

5.16 For that, the word absorption/absorbed/ means the act of process of absorbing is specifically used in paragraph 8 of the MANAS scheme as such contention of the respondents that the scheme is absolutely meant for assessment of promotion is totally false and misleading as such applicant is entitled to benefit of absorption, more particularly in view of the provision laid down in paragraph 8 of the said scheme.

6. Details of remedies exhausted.

That the applicant states that he has exhausted all the remedies available to him and there is no other alternative and efficacious remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicant further declares that save and except the filing of O.A No. 308/1999, decided on 30.11.2000 by this Hon'ble Tribunal, he had not

Binnay Kr Khareend

previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly pray that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned order No. LJ-18 107-Viz/1999 dated 22.03.2005 (Annexure-V) issued by the respondent No. 3 as void-ab-initio.

8.2 To direct the respondents to absorb/regularise the applicant taking into account his past services, in the light of the judgment and order dated 30.11.2000 in O.A. No. 308/1999 passed by his Tribunal and the judgment and order dated 02.12.2004 in W.P (C) No. 2018/2001 of the Hon'ble Gauhati Court, with retrospective effect and all consequential benefits thereof.

8.3 Costs of the application.

8.4 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the Hon'ble Tribunal be pleased to grant the following relief: -

Bina K. Khanda

- 9.1 That the Hon'ble Tribunal be pleased to direct the respondents that pendency of this application shall not be a bar to the respondents for considering the case of the applicant for regularisation of his service.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

- | | | | |
|------|---------------|---|-------------------|
| i) | I. P. O. No. | : | 26 G 317796. |
| ii) | Date of Issue | : | 23.12.05. |
| iii) | Issued from | : | G. P. O. Guwahati |
| iv) | Payable at | : | G. P. O. Guwahati |

12. List of enclosures

As given in the index.

Prinay Kr Khound.

49

VERIFICATION

I, Shri Binay Kr. Khound, S/o Late Purna Kanta Khound, aged about 48 years, resident of village Khoundpara, P.O Dergaon, District-Colaghat, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 8th day of ^{January} ~~December~~, 2006.

Binay Kr Khound.

- 19 - ANNEXURE-I

REGIONAL RESEARCH LABORATORY, JORHAT (ASSAM)
(Council of Scientific & Industrial Research)

No. RLJ-9(59)-Estt/79

Dated: 25.11.65

From:

The Director,
R.R.L. Jorhat,

To

Shri Biney Kr. Khound,
O/O Berah,
A.T.O., Ltd.,
P.O. Oimamara,
Jorhat

SUB :- Appointment as Project Assistant.

Sir,

I am directed to inform you that the Director, RRL, Jorhat has been pleased to approve your appointment as Project Assistant on a consolidated pay of Rs. 500/- (Rupees Five hundred only) for a period of 8 eight months only. The appointment is terminable without notice and on clear understanding that this offer will not confer any right on you for any regular appointment in this laboratory after the aforesaid period. Further you will have to work in shift as when necessary.

If you are willing to accept the appointment on these terms & conditions, you are requested to report for duty in this laboratory immediately.

N.B. The appointment is subject to Production of Medical Certificate from the District Health Officer, Jorhat.

Yours faithfully

(H.O. Barmah)

SECTION OFFICER

Copy to :-

1. Accounts Section.
2. Bull Section.
3. Personal File.
4. Employer, if any

The undersigned is to be
detained from the present date
by order of the
Jorhat

- True copy -
Suchika Des Choudhury
Advocate

(H.O. Barmah)

SECTION OFFICER

REGIONAL RESEARCH LABORATORY JORHAT, ASSAM
(Council of Scientific & Industrial Research)

No. RLJ- 13(565)- Estt/ 83

Dated 2.12.83

M E M O R A N D U M

Subj:- Appointment of Project Asstt. In the RRL, Jorhat.

Having accepted the terms and conditions as laid down in the offer of appointment letter No RLJ-3(59)-Estt/79 dated 25.11.83 Shri Binoy Kumar Khound has reported for duty as Project Assistant in the RRL, Jorhat with effect from 20.11.83 on a consolidated pay of Rs 500/- for a period of 8(eight) months w.e.f 29.11.83 (EN).

(H.O. Barmah)
SECTION OFFICER.

To
✓ Shri Binoy Kr. Khound
Project Assistant, RRL, Jorhat.

- True copy -
Suchita Das Chowdhury
Advocate

-21- 11/2

REGIONAL RESEARCH LABORATORY, JORHAT ASSAM
(Council of Scientific & Industrial Research)

No. RLJ-9(95)-Satt/84

Date: 30 - 7 - 84

OFFICE MEMORANDUM

The Director, RRL, Jorhat has been pleased to approve the appointment of the following Project Assistants for a further period of 3 (three) months w.e.f. the date shown against each on existing terms and conditions:-

1. Shri Binoy Khound w.e.f. 9 - 7 - 84
2. Shri Mukibur Rahman, w.e.f. -do-
3. Shri Annujjal Sarmah, w.e.f. -do-

(N.C. Sarmah)
Section Officer

To

1. Shri Binoy Khound,
Project Assistant, Pet & Natural Gas Divn.
2. Shri Mukibur Rahman,
Project Assistant, Pet. & Natural Gas Divn.
3. Shri Annujjal Sarmah,
Project Assistant, Pet. & Natural Gas Divn.

Copy to :-

1. Accts. 2. Bills. 3. P/file. (3 copies)
4. Head, Petroleum & Natural Gas Divn., RRL, Jorhat.

(S.U. Sarmah)
Section Officer

- 22 -

A/2. 52

(38)

REGIONAL RESEARCH LABORATORY, JORHAT (ASSAM)
(Council of Scientific & Industrial Research)

NO. RLJ-9(2)Estt/C4

Dated : _____

OFFICE MEMORANDUM

The Director R.R.L. Jorhat has been pleased to approve the appointment of the following staff posted in Petroleum & Natural Gas Division for a further period of 3 months w.e.f. 1-4-66.

1. Project Assistant

1. Shri Binoy Khound
2. Shri Mukibur Rahman
3. Shri Anujjal Sarmah

2. Plant Technician

1. Shri Hiren Ch. Saikia
2. Shri Jatin Ch. Baruah
3. Shri Jagannatho Barua
4. Shri Umakanta Saikia

3. Daily wage workers

engaged.

- 2
1. Accounts Section.
 2. Bill Section.
 3. Person. File.
 4. Head of Division.

SECTION OFFICER (2)

SECTION OFFICER.

- 23 -

A/2

(38) 53

REGIONAL RESEARCH LABORATORY: JORHAT (ASSAM)
(Council of Scientific & Industrial Research)

No. RLJ-9(95)-Batt/79

Date: 13/9/84

From :

The Director
R.R.L. Jorhat.

To

Shri Binay Khound
Pet. & Natural Gas Division,
R.R.L., Jorhat.

Sub : Appointment as Project Assistant.

Dear Sir,

I am directed to inform you that the Director, R.R.L. Jorhat has been pleased to approve your Appointment as Project Assistant on a consolidated pay of Rs. 500/- P.M. (Rupees Five hundred only) for a period of 6 (six) months upto 17.10.84.

The appointment is terminable without notice and on clear understanding that this offer will not confer any right on you for any regular appointment in this laboratory after the aforesaid period. No other benefit / allowance is admissible on this account.

If you are willing to accept the appointment on these terms and conditions, you are requested to report for duty in this laboratory immediately.

Yours faithfully

[Signature]
SECTION OFFICER.

Copy to :-

1. Accounts Section
2. Bill Section.
3. Personal File.
4. Employer if any.

The expenditure is to be debited
from the project- STAT-106

[Signature]
SECTION OFFICER.

-24- A/2.

(39)

24

REGIONAL RESEARCH LABORATORY, JORHAT, ASSAM
(Council of Scientific & Industrial Research)

No. RLJ-9(95)-Estt/85

Date 29 - 4 - 85

From: The Director
R.R.L., Jorhat.

To
Shri Biney Kheund
Pet., & Natural Gas Division,
R.R.L., Jorhat.

Sub:- Appointment as Project Assistant

Dear Sir,

I am directed to inform you that the Director, R.R.L., Jorhat has been pleased to approve your appointment as Project Assistant on a consolidated pay of Rs. 500/- p.m. (Rupees Five hundred only ~~per month~~ w.e.f. 22.4.85 to 31.5.85). The appointment is terminable without notice and on clear understanding that this offer will not confer any right on you for any regular appointment in this laboratory after the aforesaid period. No other benefit/allowance is admissible on this account.

If you are willing to accept the appointment on these terms & conditions, you are requested to report for duty in this laboratory immediately.

Yours faithfully

SECTION OFFICER

Copy to :-

1. Accounts Section.
2. Bills.
3. Personal file.
4. Employer if any.

The Expenditure is to be debited from the Project "Plan In-charge" RLJ-D.

SECTION OFFICER

- 25 -

1/2

40

REGIONAL RESEARCH LABORATORY, JORHAT (ASSAM)
(Council of Scientific & Industrial Research)

Date: 5-7-85

No. RLJ-9(95)-Att/85

From : The Director
R.R.L., Jorhat.

To : Shri Biney Khound
C/O. Chemical Engineering Div.,
R.R.L., Jorhat.

Subj: Appointment as Project Assistant

Dear Sir,

I am directed to inform you that the Director, R.R.L., Jorhat has been pleased to approve your appointment as Project Assistant on a consolidated pay of Rs. 500/- p.m. (Rupees Five hundred only) for a period of 3 1/2 months w.e.f. date of joining. The appointment is terminable without notice and on clear understanding that this offer will not confer any right on you for any regular CSIR appointment in this laboratory after the aforesaid period. No other benefit/allowance is admissible on this account. Please note this appointment is not a CSIR appointment and does not entitle you to any claim, implicit or explicit, at any CSIR post.

If you are willing to accept the appointment on these terms and conditions, you are requested to report for duty in this laboratory immediately.

Yours faithfully

SECTION OFFICER

Copy to :-

1. Accounts Section.
2. Bills.
3. Personal file.
4. Employer if any.

The expenditure is to be debited from the project in R.R.L. Jorhat

SECTION OFFICER

- 26 -

A/2

26
(4)

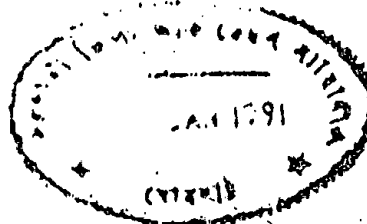
REGIONAL RESEARCH LABORATORY: JORHAT: ASSAM
(Council of Scientific & Industrial Research)

No. RLJ-9(95)Estt/85

Dated: 31-10-05

From: The Director
Regional Research Laboratory,
Jorhat-785 006 (Assam)

To: Shri Ranoy Kumar Khound
O/O. Chemical Engineering Division,
Regional Research Laboratory,
Jorhat-6 (Assam)



Subj: Appointment as Project Assistant

Dear Sir,

I am directed to inform you that the Director, R.R.L., Jorhat has been pleased to approve your appointment as Project Assistant on a consolidated pay of Rs. 500/- P.M. (Rupees Five hundred only for a period of 2 1/2 months w.e.f. 21.10.05). The appointment is terminable without notice and on clear understanding that this offer will not confer any right on you for any regular CSIR appointment in this laboratory after the aforesaid period. No. other benefit/allowance is admissible on this account. Planned in this appointment is not a CSIR appointment and does not entitle you to any claim, implicit or explicit or any CSIR post.

If you are willing to accept the appointment on these terms & conditions, you are requested to report for duty in this laboratory immediately.

Yours faithfully

SECTION OFFICER

Copy to :-

1. Accounts Section.
2. Bills.
3. P/file.
4. Employer if any.
- 5.

The expenditure is to be debited from the Project M/s. Allied Resins Chemicals Ltd. Calcutta.

SECTION OFFICER

- 27 -

15/2

(42/1)

REGIONAL RESEARCH LABORATORY, JORHAT (ASSAM)

NJ. ALJ. 9(2)-Estt/86

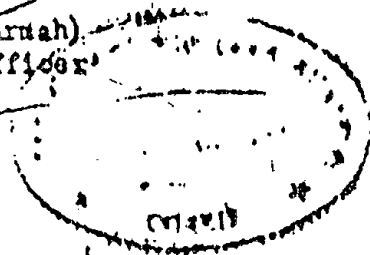
Dated 10th. January, 1986.

OFFICE MEMORANDUM

The Director, R.R.L., Jorhat has been requested to approve the appointment of Shri B.K. Khaund as Project Assistant for a further period of 1 month on the existing terms and conditions. The expenditure will be debited to the consultancy fees paid by M/S Ahimsa Chemicals, Nalbari. This is in continuation of his appointment as Project Assistant which expired on 6.1.86.

To
Shri B.K. Khaund,
Project Assistant,
RRL, Jorhat-6.

(N.O. Jarnah)
Section Officer



- Copy to:-
1. Accounts
 2. Billo.
 3. P/file
 4. Head of Deptt.

(N. C. Samah)
Section Officer

91

28
A/2 58
(47)

REGIONAL RESEARCH LABORATORY JORHAT ASSAM
(Council of Scientific & Industrial Research)

No. LR-9(55)-Bett/86

Dated : 10 - 2 - 86

From : The Director
Regional Research Laboratory,
Jorhat-6 (Assam)

To : Shri Biney Kr. Kheund
O/o. Chemical Engineering Division,
Regional Research Laboratory,
Jorhat-6 (Assam)

Subj:- Appointment as Project Assistant

Dear Sir,

I am directed to inform you that the Director, R.R.L., Jorhat has been pleased to approve your appointment as Project Assistant on a consolidated pay of Rs. 500/- P.M. (Rupees Five hundred only for a period of 3 (Three) months w.e.f. 10.2.86. The appointment is terminable without notice and on clear understanding that this offer will not confer any right on you for any regular CSIR appointment in this laboratory after the aforesaid period. No other benefit/allowance is admissible on this account. Please note this appointment is not a CSIR appointment and does not entitle you to any claim, implicit or explicit or any CSIR post.

If you are willing to accept the appointment on these terms & conditions, you are requested to report for duty in this laboratory immediately.

Yours faithfully

Copy to :-

1. Account Section
2. Bills.
3. P/file.
4. Employer if any.

SECTION OFFICER.

The expenditure is to be debited from the Project Consultancy assignment A/c. Assam Gas Company for TEFK.

SECTION OFFICER:

-24-29- 11/2

(44/89)

REGIONAL RESEARCH LABORATORY JORHAT (ASSEM)
(Council of Scientific & Industrial Research)

No. RLJ-9(95)-Estt/86

Date: 15-5-86

From: The Director
Regional Research Laboratory,
Jorhat- 785 006 (Assem)

To: Shri Binoy Kr. Khound
G/O. Chemical Engineering Division,
R.I.L., Jorhat.

Subj: Appointment as Project Assistant

Dear Sir,

I am directed to inform you that the Director, Regional Research Laboratory, Jorhat has been pleased to approve your appointment as Project Assistant on a consolidated pay of Rs. 500/- (Rupees Five hundred only) for a period of 3 (three) months i.e. 13.5.86.

The appointment is terminable with notice and on clear understanding that the offer will not confer any right on you for any regular CSIR appointment in this laboratory after the aforesaid period. No other benefit/allowance is admissible on this account. Please note this appointment is not a CSIR appointment and does not entitle you to any claim, implicit or explicit or any CSIR post.

If you are willing to accept the appointment on these terms and conditions, you are requested to report for duty in this laboratory immediately.

Yours faithfully

SECTION OFFICER

Copy to:-

1. Accounts Section.
2. Bills.
3. Personal file.
4. Employer if any.
- 5.

The expenditure is to be debited from the project "Channel Block Project."

SECTION OFFICER.

-30- N/2
(45 68)

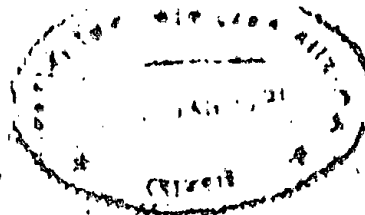
REGIONAL RESEARCH LABORATORY JORHAT (ASSAM)
(Council of Scientific & Industrial Research)

No. RLJ-9(95)-Estt/86

Date: 19-8-86

From : The Director
Regional Research Laboratory,
Jorhat- 785 006 (Assam)

To
Shri Binay Kr. Khound
O/O. Chemical Engineering Division,
R.R.L., Jorhat.



PROJECT ASSISTANT

Subject: Appointment as

Dear Sir,

I am directed to inform you that the Director, Regional Research Laboratory, Jorhat has been pleased to approve your appointment as Project Assistant on a consolidated pay of Rs. 500/- (Rupees Five hundred only) for a period of 4 (four) months w.e.f. 19.8.86.

The appointment is terminable without notice and on clear understanding that this offer will not confer any right on you for any regular CSIR - appointment in this laboratory after the aforesaid period. No. other benefit/allowance is admissible on this account. Please note this appointment is not a CSIR appointment and does not entitle you to any claim, implicit or explicit or any CSIR post.

If you are willing to accept the appointment on these terms and conditions, you are requested to report for duty in this laboratory immediately.

Yours faithfully

[Signature]
SECTION OFFICER

Copy to :-

1. Accounts Section.
2. Bills.
3. Personal file.
4. Employer if any.
- 5.

The expenditure is to be debited from the project Beneficiation Additive Receipt of M/s. AROL, Calcutta.

SECTION OFFICER.

-31- A/2 61

REGIONAL RESEARCH LABORATORY, JORHAT, ASSAM,
(Council of Scientific & Industrial Research)

NR.LJ-9(2)-Estt/8

Dt. 41-2-87

From : The Director
R.R.L., Jorhat-6 (Assam)

To : Sri Binoi Khound
O/O. Chemical Engg. Division,
RRL-Jorhat.

Sub:- Appointment as Project Assistant

Sr/Sr,

I am directed to inform you that the Director, Regional Research Laboratory, Jorhat has been pleased to approve your appointment as Project Asstt. on a consolidated pay of Rs. 500/- P.M.

(Rupees Five-hundred only for a period of 6 (six) months w.e.f. 19-12-86).

The appointment is terminable without notice and on clear understanding that this offer will not confer any right on you for any regular CSIR appointment in this Laboratory after the aforesaid period. No other benefit/allowance is admissible on this account. Please note this appointment is not a CSIR appointment and does not entitle you to any claim, implicit or explicit in any CSIR post.

If you are willing to accept the appointment on these terms and conditions, you are requested to report for duty in this Laboratory immediately.

Yours faithfully

SECTION OFFICER

Copy to :-

1. Accounts.
2. Bills.
3. P/file.
4. Employer, if any.
- 5.

The expenditure is to be met from
the project M/s. Allied Resins & Chemicals Ltd.,
Calcutta,

SECTION OFFICER

REGIONAL RESEARCH LABORATORY, JORHAT, ASSAM
(Council of Scientific & Industrial Research)

Dt. 19.6.87

K.R.L.J-9(2)-Batt/8

From : The Director
R.R.L., Jorhat-6 (Assam)

To
Shri Binoy Khound
C/O. Chemical Engineering Divn.,
R.R.L., Jorhat.

Subject: Appointment as PROJECT ASSISTANT

D/Sir,

I am directed to inform you that the Director, Regional Research Laboratory, Jorhat has been pleased to approve your appointment as Project Assistant on a consolidated pay of Rs. 1000/- PM (fixed) (Rupees One thousand only) for a period of 3 (three) months 22.6.87. The appointment is terminable without notice and on clear understanding that this offer will not confer any right on you for any regular CSI appointment in this Laboratory after the aforesaid period. No other benefit/allowance is admissible on this account. Please note this appointment is not a CSI appointment and does not entitle you to any claim, implicit or explicit or any CSI benefit.

If you are willing to accept the appointment on these terms and conditions, you are requested to report for duty in this Laboratory immediately.

Yours faithfully

SECTION OFFICER

Copy to:-

1. Accounts.
2. Silos.
3. F/ile.
4. Encl. if any.
- 5.

The expenditure is to be debited from
the project NOCIL, BOMBAI

SECTION OFFICER

-33-

A/2

3

(4)

REGIONAL RESEARCH LABORATORY, JORHAT, ASSAM
(Council of Scientific & Industrial Research)

No. RLJ-9(2)-Estt/87

Date: 21.9.87

From : The Director
R.R.L., Jorhat.

To

Shri Biney Kr. Kheund
O/O. Chemical Engineering Divn.,
RRL, Jorhat.

Subj:- Appointment as PROJECT ASSISTANT

D/Sir,

I am directed to inform you that the Director, Regional Research Laboratory, Jorhat has been pleased to approve your appointment as Project Assistant on a consolidated pay of Rs. 1250/- P.M.

(Rupees One thousand two hundred for a period of 6 (six) months w.e.f. 24.9.87) Fifty only

only. The appointment is terminable without notice and on clear understanding that this offer will not confer any right on you for any regular CSIR appointment in this Laboratory after said period. No other benefit/allowance is admissible on this account. Please note, this appointment is not a CSIR appointment and does not entitle you any claim, implicit or explicit on any CSIR post.

If you are interested to accept the appointment on these terms and conditions, you may report for duty in this Laboratory immediately and submit your joining report accordingly.

Yours faithfully

[Signature]
SECTION OFFICER

Copy to :-

REGIONAL RESEARCH LABORATORY, JORHAT, ASSAM
(Council of Scientific & Industrial Research)

No. RLJ-9(2)-Estt/87

Date: 30.6.88

From : The Director
R.R.L., Jorhat.

To : Shri Biney Kr. Kheund
Coal Division,
RRL-Jorhat.

Sub:- Appointment as PROJECT ASSISTANT

D/Sir,

I am directed to inform you that the Director, Regional Research Laboratory, Jorhat has been pleased to approve your appointment as Project Assistant on a consolidated pay of Rs. 1000/-p.m. (fixed)

Rupees One thousand only for a period from July '88 to August '89 only. The appointment is terminable without

notice and on clear understanding that this offer will not confer any right on you for any regular CSIR appointment in this Laboratory after said period. No other benefit/allowance is admissible on this account. Please note, this appointment is not a CSIR appointment and does not entitle you any claim, implicit or explicit on any CSIR post.

If you are interested to accept the appointment on these terms and conditions, you may report for duty in this Laboratory immediately and submit your joining report accordingly.

Yours faithfully

SECTION OFFICER

Copy to :-

1. Accounts.
2. Bills.
3. P/file.
4. Employer if any.
5. Head of Division.

The expenditure is to debited from
the project LTC PROJECT

The incumbent may be allowed to join only, if he is agreed to join on the aforesaid terms & conditions, otherwise not.

SECTION OFFICER

-35- A/2 (5065)

REGIONAL RESEARCH LABORATORY: JORHAT: ASSAM
(Council of Scientific & Industrial Research)

No. RLJ-9(2)-Estt/89

Date 11-9-89

From: The Director
RRL-Jorhat.

To: Shri Binoy Kr. Khound
C/O. Coal Division,
RRL-Jorhat.

Sub:- Appointment as PROJECT ASSISTANT

D/Sir; I am directed to inform you that the Director, RRL-Jorhat has been pleased to approve your appointment as Project Assistant on a consolidated pay of Rs. 1100/- p.m. (Rupees One thousand one hundred only) for a period ~~of~~ ^(fixed) from 4.9.89 to March 1990.

The appointment is terminable without notice and on clear understanding that this offer will not confer any right on you for any regular CSIR appointment in this Laboratory after the aforesaid period. No other benefit/allowance is admissible on this account. Please note this appointment is not a CSIR appointment and does not entitle you to any claim, implicit or explicit on any CSIR post.

If you are willing to accept the appointment on these terms and conditions, you are requested to report for duty in this Laboratory immediately.

Yours faithfully

SECTION OFFICER 11/9/89

Copy to :-

1. Accounts Section.
2. Bill Section.
3. P/file.
4. Employer, if any.

The expenditure is to be debited from the project 'LTU NE Coal' for Rs. 7,700/-

The incumbent may be allowed to join only, if he is agreed to join the aforesaid terms & conditions, otherwise not.

SECTION OFFICER

-36- A/2

(51) 66

REGIONAL RESEARCH LABORATORY: JORHAT: ASSAM
(Council of Scientific & Industrial Research)

No. RLJ-D(2)-Estt/90

Date 22.3.90

From : The Director
R.R.L., Jorhat.

To

Shri Binoy Khound
Regional Research Laboratory,
Jorhat-6 (Assam)

Sub: Appointment as PROJECT FELLOW-III

Dear Sir,

I am directed to inform you that the Director, Regional Research Laboratory, Jorhat has been pleased to approve your appointment as Project Fellow-III on a consolidated pay of Rs. 1500/- p.m. for a period of Four months w.e.f. 1-4-90 to 31-7-90 only. This appointment is against the Project 31-7-90 funded by M/s. L.T.C. of N.E. Coals and is terminable without notice and on clear understanding that this offer will not confer any right on you for any regular C.S.I.R. appointment in this laboratory after the aforesaid period. No other benefit/allowance is admissible on this account. Please note that this appointment is not a CSIR appointment and does not entitle you to any claim implicit or explicit on any CSIR post.

If you are interested to accept the appointment on these terms & conditions, you may report for duty in this laboratory immediately and submit your joining report accordingly alongwith the enclosed undertaking form.

Yours faithfully

SECTION OFFICER

Copy to :-

1. Accounts Section: The expenditure to be debited
 2. Bill Section: to the Project L.T.C. of N.E. Coals
 3. Project file.
 4. Employee, if any. The incumbent may be allowed to
 5. Head of Division. join only, if he is agreeable to
- join on the aforesaid terms & conditions, otherwise not.

SECTION OFFICER

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 308 of 1999.

Date of decision : This the 30th day of November, 2000.

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

Shri. Binay Kr. Khound
Son of late Purna Khound
Village - Koundpara
P.O. Dergaon
District - Golaghat.

...Applicant

By Advocate Mr. S. Sarma.

-versus-

1. Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Science and Technology,

2. The Director General,
Council of Scientific & Industrial Research,
Rafi Marg,
New Delhi.

3. The Director,
Regional Research Laboratory (RRL)
Jorhat.

4. The Joint Secretary, CSIR,
Anusandhan Bhawan,
Rafi Marg, New Delhi.

5. The Controller of Administration,
Regional Research Laboratory,
Jorhat.

...Respondents

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

O R D E R (ORAL)

CHOWDHURY J. (V.C.).

By this application the applicant has sought for a direction for regularisation of his services in the Regional Research Laboratory, Jorhat under the following circumstances.

2. The applicant is a bachelor degree holder of science applied for the post of Project Assistant under the Regional Research Laboratory (hereinafter referred to as RRL) controlled by Council of Scientific and Industrial

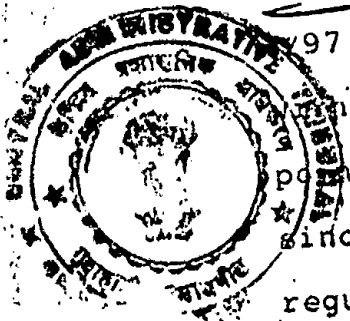
True Copy -
Suchita Das Chowdhury
Advocate

Research. Accordingly the applicant was appointed as Project Assistant on consolidated pay of Rs. 500.00 initially vide order No. RLJ-9(59)-Estt/79 dated 25.11.1983 for a period of eight months only. The appointment of the applicant was extended from time to time and he continued as such till 1.7.1990. Thereafter there was no extension of the service of the applicant. Being aggrieved the applicant instituted a Title Suit praying for appropriate relief. Finally, it was held that Civil Court is not the appropriate forum. Accordingly the applicant has moved this Tribunal by filing the instant application.

3. Heard Mr. S.Sarma, learned counsel appearing on behalf of the applicant and Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.

4. Mr. S. Sarma, learned counsel for the applicant submitted that this case is squarely covered by the judgement and orders passed by this Tribunal in O.A. Nos. 16/95, 17/95, 18/95 and 241/1994 decided on 14.5.1997. In those O.A.s the Tribunal directed the respondents to regularise the services of those applicants as per the scheme. The respondents contested the case and submitted its written statement. According to the respondents the case of the applicant is distinguishable from the O.A.s as mentioned above, since the other applicants were appointed by direct recruitment as per advertisement No. 197 and the appointment of the applicant have no nexus with the judgement of the aforementioned O.A.s. It is also pointed out that the posts were advertised in 1997 and since the applicant did not apply for the post question of regularisation did not arise. In the earlier O.A.s the Tribunal dealt with the scheme prepared by the Council of Scientific and Industrial Research dated 13.1.1981. The

Contd...



Scheme was known as Merit and Normal Assessment Scheme (for short MANAS). The period of aforementioned scheme expired and again reintroduced on 4.10.1990, thereafter again introduced in the year 1992. In the aforementioned O.A.s Tribunal considered that those applicants since rendered required service their case, ^{was} required to be regularised as the scheme of 1981 enjoin that the existing person who have rendered three years continuous service in a scheme should be absorbed either against existing regular vacancies in identical posts or by creating additional posts if the workload so demands. It ^{is} also observed that supernumerary posts could be created to absorb the applicants initially being a one time effort only. The scope of the scheme was extended in 1990 and 1992 also. The applicant served under the respondents for long seven years. The persons similarly situated were ordered to be regularised in service as per the scheme. There is no justification for not giving the benefit of the scheme to the applicant also.

5. In the light of the orders of this Tribunal in O.A.s referred to above and the scheme mentioned above the respondents are accordingly directed to consider the case of the applicant to regularise his service as expeditiously as possible preferably within a period of two months from today. Seemingly the applicant must be overaged in the meantime, if at the time of regularisation applicant is found to be overaged that should be ignored and this shall not be a bar for regularisation of the service of the applicant.

6. With the directions made above, the application is stands allowed. However, there shall be no order as to costs.



TRUE COPY

प्रतिनिधि

04/10/01

Section Officer (J)

प्रमुख अधिकारी (न्यायिक शाखा)

Central Administrative Tribunal

प्रमुख न्यायिक अधिकारी

Guwahati Bench, Guwahati-8

न्यायिक शाखा, गुवाहाटी-8

Sd/- VICE CHAIRMAN

दिनांक Date of application for notifying	संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	देने की तारीख Date of delivery of the requisite stamps and folios.	प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	तारीख Date of making over the copy to the applicant.
13/12/05	13/12/05	13/12/05	13/12/05	13/12/05

ANNEXURE-IV

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA,
MANIPUR, TRIPURA, MIZORAM & ARUNACHAL PRADESH)

(WP(C) NO.2018/2001 and 2019/2001).

IN WP(C) NO.2018/2001.

1. The Director General,
Council of Scientific & Industrial Research,
Rafi Marg, New Delhi.
2. The Director,
Regional Research Laboratory, Jorhat.
3. The Joint Secretary,
Council of Scientific & Industrial Research,
Rafi Marg, New Delhi.
4. The Controller of Administration,
Regional Research Laboratory, Jorhat.
5. Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Science & Technology,
New Delhi.

... Petitioners.

-Versus-

Sri Binay Kr. Khound,
S/o Late Purna Khound,
Village: Khoundpara, P.O. Dergaon,
District: Golaghat(Assam).

... Respondent.

S. J. Verelopy -
Suchika Das Choudhury
Advocate

P R E S E N T

THE HON'BLE THE CHIEF JUSTICE (ACTG.)
THE HON'BLE JUSTICE SMT. A. HAZARIKA

For the petitioners

: Mr P. Bhowmick
Advocate.

For the Respondent

: Mr S. Sharma.
Advocate.

Date of hearing & judgment : 02.12.2004.

J U D G M E N T A N D O R D E R (O R A L)

Hazarika, J.

By this common judgment, the WP(C) No.2018/2001 and 2019/2001 are being disposed of as they pose a common question of law.

2. In both the writ petitions, the petitioners have assailed the orders dated 20th November, 2000 and 5th January, 2001 passed by the learned Central Administrative Tribunal, Guwahati Bench in O.A. No. 308/99 and 303/99 respectively whereby the Respondents were directed to consider the case of the applicants to regularize their services as expeditiously as possible, preferably within a period of two months from the date of passing of the judgments.

3. We have heard Mr P. Bhowmick, the learned counsel for the petitioners and Mr S. Sharma, the learned counsel for the Respondents.

4. The Respondent in WP(C) No.2013/2001 was appointed as Project Assistant on a consolidated pay of Rs.500/- per month by the order dated 25th November, 1983 in the Regional Research Laboratory, Jorhat, Assam while the Respondent in WP(C) No.2019/2001 was appointed as Project Assistant on a consolidated pay of Rs.400/- per month vide order dated 14th September, 1984. The tenure of appointment of both the Respondents was for a period of 8 months only. The services of the Respondent in WP(C) No.2018/2001 were extended from time to time and he continued as such till 1.7.90. Thereafter, no extension was given to him. The services of the latter were not extended beyond the initial period of 8 months. Being aggrieved, they had preferred Title Suits before the learned Civil Court for ventilating their grievances. The learned Court below held that it is not the appropriate forum. Thereafter, they had approached the learned Central Administrative Tribunal, Guwahati by way of filing the aforesaid Original Applications.

original
order
in 9.13.81
before 1.7.90
his appointment
should have
been regularized
C.B.T. may be
now again to
direct the
regularization
on 3 years
from 25.11.83

when?
can it be?

5. In the case at hand, we have seen a Scheme, namely, Merit and Normal Assessment Scheme (For short, MANAS) formulated by the authority. On expiry of this Scheme, it was reintroduced on 4.10.90 and again introduced in the year 1992. As per this Scheme, persons who have rendered three years continuous service in a scheme should be absorbed either against existing regular vacancies in identical posts or by creating additional posts (by following prescribed procedure) if the work load so demands.

6. It is the case of the Respondents that the services of similarly situated persons were regularized as per this Scheme, but Mr Bhowmik, the learned

14

क्षेत्रीय अनुसंधान प्रयोगशाला, जोरहाट, आसाम
REGIONAL RESEARCH LABORATORY, JORHAT, ASSAM
(वै. औ. अ. प. का एक स्थायी ईकाई)
(Council of Scientific & Industrial Research)

फाईल संख्या आर.एल.जे.-18(107)-सतर्कता/1999
No.RLJ-18(107)-Vig./1999

दिनांक: मार्च 22, 2005

PLACE OF ISSUE: JORHAT

निदेश
ORDER

Common judgment and order dated 02.12.2004 passed by the Hon'ble Gauhati High Court, Guwahati in W.P.(C) No.2018/2001 & 2019/2001, DG-CSIR Vs. Shri Binoy Kumar Khaund, has been accepted by the Competent Authority of the petitioners. The case of Shri Binoy Kumar Khaund as per the judgment of the Hon'ble High Court read with the judgment of Hon'ble Central Administrative Tribunal in OA No.308/89 has been considered and ordered as under:

The operative part of the aforesaid order contained in para 5 is reproduced below:

"In the light of the orders of this Tribunal in O.As referred to above and the scheme mentioned above the respondents are accordingly directed to consider the case of the applicant to regularize his service as expeditiously as possible preferably within a period of two months from to-day. Seemingly the applicant must be over aged in the meantime, if at the time of regularization the applicant is found to be over aged that should be ignored and this shall not be a bar for regularization of the service of the applicant."

The para 4 of the order passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati is reproduced as under:

"Mr. S. Sarma, the learned counsel for the applicant submitted that this case is squarely covered by the judgments and orders passed by this Tribunal in OA Nos. 16/1995, 17/1995, 18/1995 and 241/1994 decided on 14.05.1997. In those O.As the Tribunal directed the respondents to regularize the services of those applicants as per the Scheme. The respondents contested the case and submitted its written statements. According to the respondents the case of the applicant is distinguishable from the O.As as mentioned above, since the other applicants were appointed by direct recruitment as per advertisement No.2/97 and the appointment of the applicant have no nexus with the judgment of the

Cont.....2

True copy -
Sudhita Das Choudhury
Advocate

above-mentioned O.As. It is also pointed out that posts were advertised in 1997 and since the applicant did not apply for the post, question of regularization did not arise. In the earlier O.As, the Tribunal dealt with the Scheme prepared by the Council of Scientific & Industrial Research dated 13.01.1981. The Scheme was known as Merit and Normal Assessment Scheme (for short MANAS). The period of afore-mentioned Scheme expired and again re-introduced on 04.10.1990, thereafter again introduced in the year 1992. In afore-mentioned O.As Tribunal considered that those applicants since rendered required service their case were required to be regularized as the Scheme of 1981 and enjoined that existing persons who have rendered 3 years continuous service in a Scheme would be absorbed either against existing regular vacancies in identical posts or by creating additional post if the workload so demands. It was also observed that supernumerary posts could be created to absorb the applicants initially being a one-time effort only. The scope of the Scheme was extended in 1990 and 1992 also. The applicants served under the respondents for long 7 years. The persons similarly situated were ordered to be regularized in service as per the Scheme. There is no justification for not giving the benefit of the Scheme to the applicant also."

As said earlier, the undersigned being appropriate appointing authority in RRL, Jorhat has considered the order passed by the Hon'ble Tribunal as above, and feels appropriate to consider the submission made by Shri Binoy Kumar Khaund as recorded in para 4 of the said judgment. Merit and Normal Assessment Scheme (MANAS) is meant for scientific and technical staff who are in position/regular service. Mere perusal of the scheme called MANAS makes it crystal clear that the MANAS i.e. Merit and Normal Assessment Scheme for S&T staff deals only with the assessment promotion of the staff and not the regularization of any person as similar to the applicant. It is pertinent to mention here that CSIR Scheme, as circulated vide Circular No 16(150)/60-E.II(Pt.II) dt. 13.01.1981 was meant for existing persons i.e. any person who was in existence at the time of issue of that circular i.e. 13.01.1981 and it was only a one time effort and not a continuous exercise. This is also fortified by the judgment of the Hon'ble Court in the case of Shri R.B. Chavan & S.M. Kulkarni Vs. NCL, Pune. As per the record available, Shri Binoy Kumar Khaund came into existence as Project Assistant in a sponsored project on 29.11.1983 only i.e. much after issue of the said circular by which the scheme of 13.01.1981 was circulated and the same was not applicable to him. As per the terms and conditions of the scheme the case of Shri Binoy Kumar Khaund is not covered under the aforesaid scheme. It further states that in sub para 2 of para 5, "In sponsored project, however, the recruitment should be on behalf of sponsor for a fixed period for the duration of the scheme only and it should be so made clear in the appointment letter of the candidate that candidate besides stipulating therein that the appointment is not a CSIR appointment, temporary or otherwise and does not entitle the incumbent to any claim implicit or explicit on any CSIR post."

Accordingly, the appointment letter issued to him from time to time against sponsored projects made it ample clear to him about the said provisions of the aforesaid circular.

The undersigned has also perused the records of Shri Binoy Kumar Khaund and found that no adverse order was ever passed to terminate his services and in fact, his services engaged for 6 months under a sponsored project of M/S. L.T.C. of N. E. Coals had been automatically expired after 4 months from 01.04.1990 to 31.07.1990 as per his appointment letter dated 22.03.1990.

No representation was ever filed by Shri Binoy Kumar Khaund with any valid grounds for regularization as claimed by him except the applications submitted by him along with the Order of the Hon'ble CAT, Guwahati Bench, Guwahati and the Hon'ble Gauhati High Court, Guwahati.

Reference is invited to his letter dated Nil, which was submitted by him after the common judgment dated 02.12.2004 of the Hon'ble High Court of Guwahati which is reproduced as hereunder.

"This is to inform you that by a common judgment and order Dt. 02.12.04 passed in W.P. (C) No. 23018/01 and 2019/01, the honourable high court after hearing the parties to the proceeding was passed to dismiss both the writ petitions upholding the judgments and order that 20.11.2000. Passed by the central administrative tribunal in O.A. No. 308/99 (copy of the judgment and order that 02.12.04. is enclosed herewith for your ready reference).

That Sir, in view of the dismissal of the writ petition the judgment passed by the Honourable tribunal has attained its finality and I may be reinstated in my service with full back wages in terms of the schemes holding the field

I hope and trust that your honour would be graciously be pleased to pass immediately to meet the hardship "

I have considered the points raised by Shri Binoy Kumar Khaund very carefully and found that neither the Hon'ble CAT nor the Hon'ble High Court ever ordered his reinstatement in service with full back wages, therefore, his submission is not only factually incorrect but rather misinterpretation of judgment of the Hon'ble courts with misleading intentions.

The scheme MANAS read with circular dated 13.01.1981, used by him in support of his case and used in his letter dated Nil at no stage refers to recruitment or regularization of persons as similar to Shri Binoy Kumar Khaund. MANAS is not meant for regularization (or) recruitment. It is only meant for assessment and promotion purpose. As on date, CSIR has its own recruitment Rules called CSIR Service Rules, 1994 for recruitment of technical and support staff. Shri Khaund can visit the Library and see the rules for the sake of his information and knowledge.

The Hon'ble CAT also passed direction to take action in the manner as done in OA No.16/95, 17/95, 18/95 and 241/94, for which the judgment was passed on 14.05.1997 in case of other applicants.

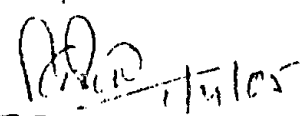
Contd.....4

In this connection, it is informed to Shri Khaund that none of the applicants in the aforesaid O.As was regularized in the service as per said judgment as they were not covered under the Scheme. However, the applicants namely S/Shri Santanu Dutta, Paresb Kalita, Pabitra Pran Samah and Dulal Sahu had applied against regular vacancy vide Advt. No.2/97 and gone through the selection procedure and got themselves selected afresh as per their performance in the interview. Only the benefit of age relaxation was given to them.

Accordingly, if he applies against any advertised post of RRL, Jorhat as and when notified, his case shall also be considered as per rules giving him the benefit of age relaxation as admissible to him provided he fulfils the eligibility criteria.

I, therefore, find that his claim for regularization as per above-said 4 persons is also not factually tenable.

In view of the above, I am of the firm view that Shri Binoy Kumar Khaund cannot be regularized in RRL service as he does not fulfil the terms and conditions of the CSIR Circular No.16(750)68-E. II (Pt. II) dated 13-01-1981 particularly para 8 as has already been explained above and, therefore, his claim for regularization cannot be acceded to as he is not covered under the extant rules. However, he may apply for the advertised post whenever any posts are advertised as per his qualification and experience.


पि. गंगाधर राव/P. Gangadhar Rao
निदेशक/DIRECTOR

Shri Binoy Kumar Khaund,
S/O Late Purna Khaund
Village Khaund Para
P.O. Dergaon
District - Golaghat
Assam.

being not to
disturb ever any

Date: 18.5.05

To,
The Director,
RRL, Jorhat.

Sub:- Order issued under memo no. RLJ-18(107)-vig/1999
dated 22.3.2005

Sir,

With due respect I beg to lay the following few lines for your kind consideration and necessary action thereof.

That claiming regularisation of my service in RRL Jorhat, I preferred OA No.308/99 before the Central Administrative Tribunal, Guwahati Bench. The Hon'ble Central Administrative Tribunal, Guwahati Bench while considering the schemes and its subsequent clarifications issued from time to time observed that my case is covered by the scheme MANAS in its judgment and order dated 30.11.2000 and it is also observed that there has been no justification for not providing the benefit of the scheme to me. The Hon'ble Tribunal also observed that the scheme i.e. MANAS after its initial date of effect i.e. 31.1.81 once again introduced on 4.10.90 and 1.4.92. The Hon'ble Tribunal while dropping those hints directed you to consider my case for regularisation by providing age relaxation. The aforesaid judgment passed by the Hon'ble Central Administrative Tribunal, Guwahati was challenged by the RRL Jorhat in WP(c) No.s 2018, 2019/01 before the Hon'ble Gauhati High Court. The Hon'ble High Court on 2.12.2004 after hearing the parties to the proceeding was pleased to observe in para 5 regarding the formulation of scheme (MANAS). The Hon'ble Court also observed its date of reintroduction on 4.10.90 and 1.4.92 and also noticed as to how person covered under the scheme should be observed either against regular existing vacancies or by creating additional posts. The Hon'ble High Court while discussing the case dismissed both the writ petitions on merit without interfering with the order passed by the Central Administrative Tribunal. The order of dismissal of the writ petitions was forwarded to this office vide my representation indicating regarding upholding of Hon'ble Tribunal's order.

In response to my aforesaid representation I have received the aforementioned communication dated 22.3.05 rejecting my claim for regularisation mainly on the ground of non applicability of MANAS Scheme for regular absorption/regularisation. The other ground of such rejection is that other & similarly situated persons were absorbed under different mode of recruitment. However in the concluding paragraph while contradicting the earlier stand in the above mentioned order it has been observed that I do not fulfill para 8 of the Circular dated 13.1.81.

That Sir, the judgment passed by the Hon'ble Central Administrative Tribunal has not been interfered with by the Hon'ble High Court reflection of the same is apparent in

True copy
Suchika Das Choudhury
Advocate

para 8 of the judgment and order dated 2.12.04. It is therefore the stand taken in the aforementioned order dated 22.3.05 is a nullity. While passing the aforesaid order dated 22.3.05 concern authority failed to take into consideration the directives of the Hon'ble Court as well Tribunal along with its observations, more particularly para 4 of the judgment passed by the Hon'ble Central Administrative Tribunal wherein Hon'ble Tribunal has found no justification for not providing benefit of the scheme to me. The aforesaid stand contrary to the observation passed by the Hon'ble Tribunal's judgment while passing the aforementioned order dated 22.3.05 is not only illegal but also contemptuous in nature.

It is therefore I once again request your honour to reconsider my case in true prospective in the light of the observations made by the Hon'ble Tribunal and thereafter to regularise my service providing all the consequential service benefits.

Thanking you,

Sincerely yours

Binoy K. Khound
Binoy Kr. Khound

Date: 18.5.05

- Encl: 1. Judgment and order dated 30.11.2000 passed in OA No.308/99.
2. Judgment and order dated 2.12.2004 passed in WP(c) No.2018,2019/2001.

Copy to:

1. The Director General
CSIR, Rafi Marg,
New Delhi.
2. The Registrar
Central Administrative Tribunal,
Guwahati Bench,
Rajgarh Road, Guwahati

For favourable order by drawing up
suo-moto contempt proceeding against
each of the respondents.

Binoy K. Khound
Binoy Kr. Khound

COUNCIL OF SCIENTIFIC & INDUSTRIAL RESEARCH

Rafi Marg,

No. 16(150)/68-E.II(Pt.II)

New Delhi-1, the 13th Jan., 1981.

From:

Chief (Administration),
Council of Scientific & Industrial Research

To:

The Directors/Heads of all the National
Laboratories/Institutes/Research Associations.

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

Sir,

I am directed to invite your kind attention to this office letter No. 4/3/78-CIE dated 8.6.1979 regarding the constitution of a Committee to look into the question of linking of the technical assistance programmes with overall plans and resources and absorption of staff employed in externally funded projects/schemes and to state that the Report of the Committee was placed for consideration of the Governing Body at its meeting held on 30.9.1980.

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

1. The sponsored projects/schemes under different categories should be accepted/undertaken on a selective basis i.e. (i) these should be in consonance with the approved objectives, goals and charter of the Laboratory/Institute; (ii) be in the areas/fields of the regular activities of the Institute; (iii) form part of the total plans of the Laboratory; (iv) be included in the Annual/Five Year Plan of the Institute; and (v) be of a major benefit to the country.
2. The projects should not serve merely as data bases for more advanced countries or provide a chance for dumping obsolete plants/technology in India and retard our growth. These should not also become a tool of diverting the Institute away from its approved priorities by lure of equipment etc. Where equipment is capital intensive, one should normally not look for the

True copy -

Sudhakar Das Choudhary
Advocate

1981

acquisition of such equipment through sponsored schemes, but C.S.I.R. should take up the responsibility for this. There could be special situations where there are clear advantages of using a Scheme for this purpose.

3. Such Projects/schemes should first be cleared by the Research Advisory Council of the concerned Laboratory/Institute from the viewpoint of scientific merit/national relevance. Thereafter, these would be discussed with CSIR Headquarters, the nodal point for such discussions being the Planning Division. After the projects/schemes are cleared by the CSIR, the same would be placed before the Executive Committee of the concerned Laboratory for approval.
4. The work relating to these projects should, as far as possible, be managed with the regular staff instead of making them a vehicle for additional manpower. The Laboratories/Institute should themselves have inherent capability to provide the major inputs for infrastructure to take on the sponsored schemes and the incremental staff should be minimal. While planning to take up sponsored schemes, adequate thought should be given to aspects relating to the building up of staff as also for tapering it off when the scheme gets completed.
5. The prescribed procedure, as applicable for regular posts/staff, should be followed both for creating additional posts and recruiting additional staff, if any, required for UNDP, PL-480 and other Bilateral projects. It should be ensured that while making recruitment for schemes/projects posts, there should be no dilution of quality. The staff recruited for such projects will be treated as temporary CSIR staff.

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

2

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

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

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

7. The staff earlier appointed in the sponsored projects/schemes, PL-480 schemes etc., who have since been absorbed on the regular side in the same Lab./Instt. in which the scheme was under operation, will be entitled to count their service rendered under the scheme in an identical post for purpose of assessment for promotion to the next higher grade. The advantage of assessment on this basis will, however, be available with effect from 1.10.1980 or the date of completing the prescribed number of qualifying years for assessment, whichever is later.

8. The existing persons who have rendered three years continuous service in a scheme should be absorbed either against existing regular vacancies in identical posts or by creating additional posts (by following prescribed procedure) if the work load in the Laboratory/Institute so demands. The Supernumerary posts could be created to absorb the staff employed in such projects/schemes, initially being a one time effort only. The Laboratories/Institutes should not recruit further staff until all such staff is absorbed.

Ratio is 99

9. The grant made for such projects should be treated as an adhoc grant to the Institute and the same should clearly figure in the overall "Income - Expenditure" and "Assets - Liabilities" statements of the Institute.

10. More opportunities should be given to younger scientists to visit abroad for training etc. in the schemes sponsored by U.R.D.P. etc.

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

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

Yours faithfully,

C. L. Malhotra

(C.L. Malhotra)
Under Secretary

Copy to:-

1. The Sr. Finance & Accounts Officers/Finance & Accounts Officers of all the National Laboratories/Institutes/CSIR Headquarters (including CSIR Complex).
2. The Directors/Heads of all the transferred Laboratories/Institutes/Research Associations for information.
3. All the Divisions/Sections at CSIR Headquarters/CSIR Complex.
4. P.S. to DCSIR.
5. Chief (Finance).
6. Chief (Planning).
7. Chief (Administration).
8. D.S. (E).
9. Dy. Chief (Finance).

C. L. Malhotra

Under Secretary

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

1. This Committee was appointed by the Director General, CSIR in pursuance of the recommendations of the 29th Conference of Directors held at CIPRI, Mysore on 2-3.6.1978. The letter appointing the Committee, nominating its Chairman, and the meetings held are appended (Appendices I, II & III respectively).
2. The Committee was provided with the relevant documents by the CSIR Secretariat. The list of these is given in letter No.16(150)/78-E.II (Pt.II) dated 29/30.6.1979 from the Chief (Administration) (Appendix IV).
3. The Committee did not invite any suggestions, as the Directors could forward their suggestions to this Committee as indicated to them in Council's letter No.4/3/78-Cto. dated 8.6.1979 communicating the constitution of the Committee. Some suggestions were received from some of the Directors of the National Laboratories. These were duly considered by the Committee. Some representations made by the 'Scheme personnel' regarding their service conditions put up to the Committee, were also considered.
4. The Committee held a preliminary discussion in its meeting held at Hyderabad on 23.8.1979 and also went through the various orders already existing on the subject. In its final meeting held on 12.3.1980, the Committee reviewed the existing procedures/practices prevailing in CSIR and also in other organisations like ICAR vis a vis the scope and the need for taking up projects funded by outside agencies.

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

- 1.0 Criteria of Project Selection.
- 1.1 It should be in consonance with the approved objectives and goals of the Institute as enumerated in its Charter.
- 1.2. The project to be undertaken should be in area/field of the regular activities of the Institute.
- 1.3. It should form a part of the planned growth of the Institute and should result in an increase in the general level of capability of the Institute in its line of growth.

- 1.4 It should be a part of the Annual/Five Year Plan of the Institute or should first be included in such plan before being put up for further processing.
- 1.5 It should be of major benefit to the country.
- 2.0 Approvals before an approach is made to the Govt. of India/Funding agencies etc.
- 2.1 It should have the approval of the Institute's Research Advisory Council (RAC) and Executive Committee (E.C.).
- 2.2 It should be discussed with Chief (Planning), Chief (Admn.) and Chief (Finance) before seeking approval of E.C. to (a) ensure and certify proper counterpart budget provision and (b) to avoid unnecessary duplication of the capabilities existing in one or the other CSIR Institutes.
- 3.0 Objectives which such projects should not serve.
- 3.1 Such projects should not become a vehicle of augmentation of manpower in the Laboratory by the back-door. The UNDP projects, Bilateral projects, and other sponsored projects should not be used as a vehicle for additional manpower and the work relating to these projects should as far as possible be managed with the regular staff.
- 3.2 Projects should not serve merely as data bases for more advanced countries or provide a chance for dumping obsolete plants/technology in India and retard our growth.
- 3.3 Projects should not become a tool of diverting the Institute into by-lanes away from the main path of its approved priorities by lure of equipment etc.
- 4.0 Recruitment of additional staff, service conditions and service benefits etc. of such project staff.
- 4.1 Any grant to meet expenditure in such projects should be classified as an ad hoc grant to CSIR/Institute.
- 4.2 As an obvious corollary to this, additional staff, if any, recruited under such projects will be treated as temporary CSIR staff and their methods of recruitment, service conditions and benefits will be automatically regulated accordingly.

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

5.0 Suggested solution of problems relating to existing Staff in such Projects/Schemes etc.

5.1 The existing staff who were earlier employed under the sponsored projects/schemes, PL-48? Schemes etc. and have since been appointed on regular side will be entitled for assessment for promotion to the next higher grade on the basis of total combined service under the scheme(s) and on regular side in the grade on fulfilment of the given conditions. The advantage of assessment on this basis, will, however, become available to them from 1.4.1980 or the date of completing the prescribed number of qualifying years for assessment, if such date is later than 1.4.1980.

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

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

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

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

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

6.0 Distinction between Sponsored Research and Above types of Projects.

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

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

7.0 Guidelines for Staff Recruitment in Sponsored Projects/Schemes.

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

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

7.2.1 is not a CSIR appointment, temporary or otherwise;

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

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

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

7.5 Presently, Deputation(duty) Allowance is governed by the Ministry of Finance O.M. dated 27-1-1970 as quoted in CSIR letter No.16(150)/68-S.I. dated 16th June, 1970 to the Director, National Chemical Laboratory, Poona. No consensus could be reached on giving deputation allowance to Institute staff seconded to sponsored projects.

.....

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

- Original Application No.16 of 1995
- Original Application No.17 of 1995
- Original Application No.18 of 1995
- Original Application No.241 of 1994

89

Date of decision: This the 14th day of May 1997 ✓

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

The Hon'ble Mr G.L. Sanglyine, Administrative Member

O.A.No.16/95

Shri Dulal Sahu,
Ex-Project Assistant,
Geo-Science Division,
Regional Research Laboratory,
Jorhat.

.....Applicant

By Advocate Mr B.K. Sharma and Mr S. Sarma.

-versus-

1. Union of India, represented by the Secretary to the Government of India, Ministry of Science & Technology, New Delhi.
2. The Director General, Council of Scientific & Industrial Research, New Delhi.
3. The Director, Regional Research Laboratory, Jorhat.
4. The Joint Secretary, Council of Scientific & Industrial Research, New Delhi.
5. The Controller of Administration, Regional Research Laboratory, Jorhat.

.....Respondents

By Advocate Mr S. Ali, Sr. C.G.S.C.
.....

O.A.No.17/95

Shri Paresh Kalita,
Project Fellow, Grade-III,
Geo-Science Division,
Regional Research Laboratory, under CSIR,
Jorhat.

.....Applicant

By Advocate Mr B.K. Sharma and Mr S. Sarma.

-versus-

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



SB
True copy -
Suchitka Das Choudhury
Advocate

-60-
90

2. The Director General,
Council of Scientific & Industrial Research(CSIR),
New Delhi.

3. The Director,
Regional Research Laboratory, Jorhat.

4. The Joint Secretary,
Council of Scientific & Industrial Research,
New Delhi.

5. The Controller of Administration,
Regional Research Laboratory, Jorhat.

.....Respondents

By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

.....

O.A.No.18/95

Shri Pabitra Pran Sarma,
Project Fellow-III,
Geo-Science Division,
Regional Research Laboratory,
Jorhat.

.....Applicant

By Advocate Mr B.K. Sharma and Mr S. Sarma.

-versus-

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

2. The Director General,
Council of Scientific & Industrial Research (CSIR),
New Delhi.

3. The Director,
Regional Science Laboratory, Jorhat.

4. The Joint Secretary,
Council of Scientific & Industrial Research,
New Delhi.

5. The Controller of Administration,
Regional Research Laboratory, Jorhat.

.....Respondents

By Advocate Mr S. Ali, Sr. C.G.S.C.

.....

O.A.No.241/94

Shri Shantanu Dutta,
Project Fellow, Grade-III,
Applied Civil Engineering Division,
Regional Research Laboratory, Jorhat.

.....Applicant

By Advocate Mr B.K. Sharma and Mr S. Sarma.

-versus-

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

2. The Director General,
Council of Scientific & Industrial Research(CSIR), New Delhi.

3. The Director,
Regional Research Laboratory, Jorhat.

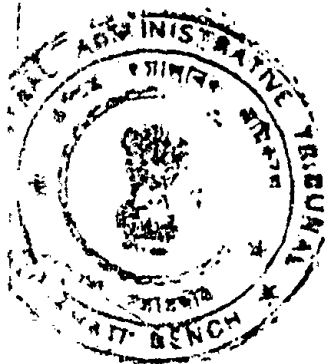
4. The Joint Secretary,
Council of Scientific & Industrial Research, New Delhi.

5. The Controller of Administration,
Regional Research Laboratory, Jorhat.

.....Respondents

By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

.....



ORDERBARUAH.J. (V.C.)

The above applications involve common questions of law and similar facts. Therefore, we propose to dispose of all the applications by a common judgment.

2. Facts for the purpose of disposal of the applications are:

All the applicants were appointed in the Regional Research Laboratory by respondent No.3 on various dates and they have been continuously working as such. Initially, all the applicants had been appointed Project Assistant at a consolidated pay of Rs.500/-. The consolidated pay was enhanced from time to time and at present the pay is Rs.1800/-. They were so appointed in sponsored project. In 1981 a scheme was prepared by the respondent No.2, namely, Council of Scientific and Industrial Research (CSIR for short). The said scheme was known as Merit and Normal Assessment Scheme (for short MANAS). The period of the said Scheme expired and again reintroduced in a revised form and became effective from 1.4.1992. The contention of the applicants is that they fulfilled all the conditions laid down in the Scheme for regularisation of their services inasmuch as they had completed more than three years of service. However, the authorities refused to regularise them on the plea that the Scheme was no longer in existence. Hence the present applications.

3. We have heard Mr B.K. Sharma, learned counsel for the applicants, and Mr S. Ali, learned Sr. C.G.S.C., for the respondents in O.A.Nos.16 and 18 of 1995, and Mr A.K. Choudhury, for the respondents in O.A.Nos.17/95 and 241/94. According to Mr Sharma the applicants were discharging their duties continuously except only for short ~~and~~ breaks. The learned counsel further submits that these breaks are artificially created

just to deprive the applicants from the benefits of the Scheme.

Mr. Ali and Mr. Choudhury, on the other hand, submit that

the applicants are not entitled to get their services regularised

in view of the fact that their services were not continuous

inasmuch as there has been breaks in their services from time

to time. However, the allegation of Mr B.K. Sharma is that

the breaks were artificial and not for any bonafide necessity.

The learned counsel for the respondents are not in a position

to refute this submission.

4. On the submission of the learned counsel for the parties

it is now to be seen whether the respondents' refusal to regularise

the services of the applicants can sustain in law and whether

the applicants are eligible to be regularised in their services.

5. It is an admitted fact that the applicants had

been working for several years with, however, short breaks

of one or two days. According to the learned counsel for the

applicants, these breaks were artificially created just to deprive

them from the benefit of the Scheme.

6. We have perused the application, as well as the

written statement and heard the learned counsel for the parties.

We find that these one or two days breaks are not for any

administrative necessity. At least there is nothing on the record

to indicate that. The learned counsel for the respondents have

also not been able to show that those breaks were necessary

for administrative purpose.

7. In view of the above we hold that the applicants

were working continuously for more than three years which

was a condition for the purpose of regularisation of their

services. From the pleadings and other records available before

us, we are of the opinion that the short breaks were artificially


created - there was no administrative necessity. These artificial

breaks.....



5: 1-63- Q3

breaks cannot deprive the applicants, the benefit of the Scheme (See AIR 1990 SC 2228, 1992 (2) SCC 29, and 1987(3) SLJ (CAT) 569). An attempt has been made by the learned counsel for the respondents to show that at times the applicants were not in service for a long time, and therefore, they would not be regarded as being in continuous service. But, if Annexure-A to the rejoinder, the revised Scheme of MANAS effective from 1.4.1992, is taken into consideration this will show that the applicants had been working for more than three years, with, however, short breaks as indicated above. Therefore, they are entitled to the benefit of the Scheme. It may be mentioned here that the respondents have clearly stated in paragraph 32 of the written statement in O.A.No.16/95 that the name of the applicant was sponsored by the Employment Exchange and after having selected by the Selection Committee, he was appointed as Project Assistant for six months only on contractual basis. This itself indicates that the applicant fulfilled the requirements mentioned in the Scheme. Similar averments have been made in the written statements of the other applications also.



8. Considering all the aspects of the matter we hold that all the applicants are entitled to be regularised in their services as per the Scheme (MANAS) prepared, and more specifically as per the revised Scheme effective from 1.4.1992. Accordingly we direct the respondents to regularise the services of the applicants within a period of one month from today in terms of the Scheme. If at the time of regularisation the applicants are found to be overaged that should be ignored and this shall not be a bar for regularisation. Till regularisation the applicants should not be removed from their services. ✓

✍

: 6 :

9. The applications are accordingly allowed. However, considering all the facts and circumstances of the cases we make no order as to costs.

Sd/- VICE CHAIRMAN
Sd/- MEMBER (A)

nkml



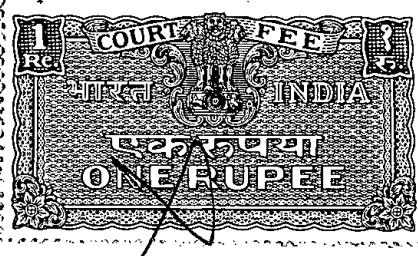
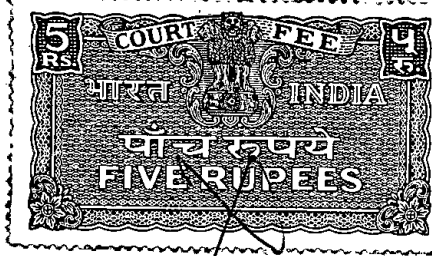
Certified to be true Copy
प्रमाणित प्रतिलिपि

[Signature] 14/10/97

COURT OFFICER

Central Administrative Tribunal
Guwahati Bench, Guwahati

14/10



as

Binoy Kr Khound

VAKALATNAMA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O. A. No. _____/2006

Sri Binoy Kumar Khound

...Applicant(s)

-Vs-

Union of India and others

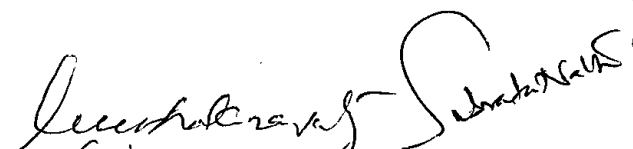
...Respondent(s)

Know all men by these presents that the above named Applicant do hereby appoint, nominate and constitute Sri Manik Chanda, Sri Subrata Nath, ^{Sri L. N. Chakraborty} and ^{Smt. Suchita Das Chowdhary} Advocate(s) and such of below mentioned Advocate(s) as shall accept this VAKALATNAMA to be my/our true and lawful Advocate(s) to appear and act for me/us in the above noted case and for that purpose to do all acts whatsoever in that connection including depositing or drawing money, filing in or taking out papers, deeds of composition etc. for me/us and on my/our behalf and I/We agree to ratify and confirm all such acts to be mine/our for all intends and purposes. In case of non-payment of the stipulated fee in full, no Advocate(s) shall be bound to appear and/or act on my/our behalf.

In witness whereof, I/We hereunto set my/our hand on this the 9/12 day of Jan 2006.

Received from the Executant, Mr. _____
satisfied and accepted.

And accepted
Senior Advocate will lead me/us in the case.


Advocate

Advocate


Advocate

Advocate

Notice

96

From,
Suchita Das Choudhury
Advocate

To,
Shri G. Baishya &
Sr. C.G.S.C.
Sub: O.A. No. _____/06 (Shri B.K. Khound vs. U.O. 2205)

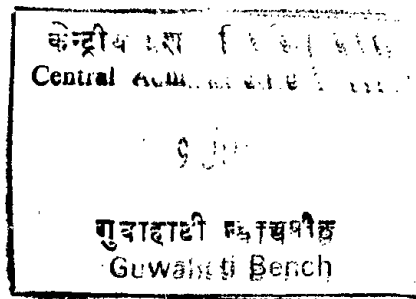
Find please enclosed herewith a copy of the original
Application in the case of Sri Binoy Kumar Khound vs- Union of India
and others.

This is for your kind information and necessary action.
Please, acknowledge receipt of the same.

Received copy
Alsha Das,

For (G. Baishya)
Sr. C.G.S.C.
9/1/06

Yours faithfully
Suchita Das Choudhury
Advocate
9-1-06.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI

Filed by the respondents
through Gopinath
Sr Case
9.8.06

O.A. NO. 6 OF 2006

Sri B.K. Khound ...Applicant

-VS-

Union of India & Ors...Respondents

The written statement on behalf of
the Respondents above named-

WRITTEN STATEMENT OF THE RESPONDENTS

MOST RESPECTFULLY SHEWETH:

1. That the instant case is not maintainable and as preliminary submissions the respondents beg to state that the applicant was appointed as Project Assistant w.e.f. 17.4.1984 to 16.3.1985 under the Regional Research Laboratory (hereinafter referred to RRL) controlled by the Council of Scientific & Industrial Research (hereinafter referred to as the CSIR) on a consolidated pay of Rs.400/- for a period of six months only. The appointment letter of the respondent clearly stated that the appointment of the applicant is terminable without notice and on clear understanding that this offer will

Contd....P/-

mko

ab

[1A]

not confer any right for any regular appointment under the RRL on expiry of the aforesaid period of six months.

The appointment of the applicant was extended from time to time and he continued as much for about 6 years.

Thereafter when there was no further extension of service of the applicant. He raised a claim for regularisation of his service before various courts. It is pertinent to mention that CSIR Scheme dt. 13.1.1981 is a purely one time measure as upheld by CAT Mumbai in RB Chavan's case and the applicant was not on rolls on 13.1.1981 as he was appointed in the project w.e.f. 17.4.1984 i.e. much after the above said circular.

Further it is submitted that applicants in OA No.16/95, 17/95, 18/95 and 241/95 namely Sri Santanu Dutta, Paresh Kalita, Pabitra Pran Sarmah and Dulal Sahu were not considered under 13.1.1981 Scheme but has applied against regular vacancy vide advertisement No. 2/97 and were selected afresh against such vacancy in accordance with their performance in the interview. Only the benefit of age relaxation was given to them. The applicant has been assured that his case shall also be considered for giving him benefit of age relaxation provided he fulfill the other eligibility criteria if he applies against any advertised post of RRL (Jorhat) as and when notified.

Contd....P/-

In view of the aforesaid it is humbly submitted to this Hon'ble Tribunal that the reliefs sought for by the applicant are untenable and the OA deserves to be dismissed with cost.

1A. That with regards to the statement made in paragraph 1 of the instant application the respondents beg to state that those are incorrect and untrue and the hence the same are denied.

2. That with regards to the statement made in paragraph 2 and 3 of the instant application the answering respondents have no comment.

3. That with regards to the statements made in paragraph 4.1, 4.2 and 4.3. of the instant application the answering respondents have no comment.

infed
 विधुमान सचिवकी सहायता एवं विधिक अनुभाग
 SECTION OFFICER (POLICE & LEGAL SECTION)
 क्षेत्रीय अनुसंधान प्रयोगशाला, जोरहाट, असम
 REGIONAL RESEARCH LABORATORY, JORHAT, ASSAM

Contd....P/-

4. That with regard to the statements made in paragraph 4.4 of the instant application the respondents beg to state that the applicant was engaged in various projects for different specified periods by issuing different appointment letters on purely temporary basis. There is no question of treating him as a regular employee as alleged by the applicant because in each appointment letter issued to him, it was clearly mentioned that the appointment was purely temporary, terminable without notice and that it would not confer any right for regular appointment in the laboratory.

5. That with regard to the statements made in paragraph 4.5 of the instant application the respondents /RRL-Jorhat beg to state that a list of successful candidates was prepared by the office and it was meant for appointing project assistants in different future projects and the offer of appointment was given to the concerned candidates having identical knowledge and experience in the relevant projects. It has already been mentioned that the job of project assistant in which the applicant was appointed did not confer any right explicit or implicit for any regular appointment under the CSIR. Although the applicant was a successful candidate in the list prepared by the Laboratory, his working experience did not warrant him to appoint him any more in any other project where some other project assistants

Contd....P/-

with their experience hands were already working in those projects.

6. That with regard to the statements made in paragraph 4.6 of the instant application the respondents beg to offer no comment.

7. That with regard to the statements made in paragraph 4.7 of the instant application the respondents beg to state that the Respondent No.3 i.e. the Director, RRL-Jorhat, on receipt of the judgment of the Hon'ble High Court, Guwahati had spared no pains by honouring the direction dated 30.11.2000 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench Guwahati as well as the direction dated 2.12.2004 passed by the Hon'ble Gauhati High Court, Guwahati in O.A. No. 308/1999 and WP(C) No. 2018/2001 respectively and in full compliance of the same, the Director has passed the speaking order bearing No. RLJ-18(107)-Vig/1999 dated March 22, 2005. Considering the facts and circumstances of the case, as stated hereinabove, the respondents/RRL-Jorhat, beg to submit before the Hon'ble Tribunal that the present application No. 6 of 2006 as has been filed previously by the same applicant in O.A. No. 308 of 1999 i.e. Sri Binoy Kumar Khound is barred by the principles of "resjudicata" since the respondent No.3 i.e. the Director, RRL-Jorhat has considered the case of the applicant fully and finally by reading

Contd....P/-

between the lines of the extant rules as made available to and for the council employees.

8. That with regard to the statements made in paragraph 4.8 of the instant application the respondents beg to offer no comment in the first part of this para. On the other hand the contention as made by the applicant that the order of the Hon'ble High Court leads to the inescapable conclusion that the Hon'ble High Court has upheld the judgment and order dated 30.11.2000 in DA No. 308/99 of the Hon'ble Tribunal, it is averred that the respondents/RRL-Jorhat after critically examining/ considering the case of the applicant, passed the speaking order dated 22.3.2005 with crystal clarity in its substance as per direction of the Hon'ble CAT vis-a-vis the direction of the Hon'ble Gauhati High Court, Guwahati. The respondents/RRL-Jorhat further submit that the judgment and order dated 2.12.2004 passed by the Hon'ble High Court, Guwahati specifically emphasized in para No.7 in the operative portion of the judgment that the order of the Hon'ble CAT was not a direction for regularisation although at the same time, due regards were given to see whether the extant rules favours the applicant for regularisation or not.

The whole para 7 is quoted below for its sufficient clarity.

Contd....P/-

"7. After hearing the learned counsel for both the parties, we have come to the conclusion that the learned CAT directed the authority to consider the case of the applicant for regularisation in service but the same is not a direction to the authority for regularisation. The authority after receipt of the order, should have passed a reasoned order whether the Respondents are covered by the aforesaid scheme or not"

9. That with regard to the statements made in paragraph 4.9 of the instant application the respondents beg to state that the same are within the personal knowledge of the applicant and hence the Respondents have no comment.

10. That with regard to the statements made in paragraph 4.10 of the instant application the respondents beg to state that the order No. RLJ-18(107)-Vig/1999 dated 22.3.2005 passed by the Director, RRL-Jorhat was issued in terms of the clear provisions of MANAS and other extant rules as mentioned in the said order and there is no question of interpreting the rules as per whims of the respondents as has been alleged by the petitioner. Being based on clear provisions of rules, the said order is/was a valid order and cannot be set aside and quashed.

Contd....P/-

11. That with regard to the statements made in paragraph 4.11 of the instant application the respondents/RRL-Jorhat beg to offer no comments and state that the order dated 22.3.2005 passed by the respondents was a speaking order which was passed after taking into account the judgment of Hon'ble CAT and High Court vis-a-vis the position of the applicant.

12. That with regard to the statements made in paragraph 4.12 of the instant application the respondents beg to state that the contention as made by the applicant that the respondents/RRL Authorities had launched a special scheme meant for absorption of staff employed in externally funded projects/Schemes is/was not at all a fact connected with the case of the applicant. It was only meant prevailed at that time for regularisation of those scientific and technical staff, working under CSIR and not like that of the applicant. The Merit and Normal Assessment Scheme as has been mentioned by the applicant is a scheme where all instructions and procedures relating to assessment of scientific and technical employees of the CSIR were covered. There has been lot of changes in assessing the scientific and technical employees of CSIR even after introduction of this scheme. So far as the duties and responsibilities of the applicant are concerned, the applicant cannot and could not be treated either as

Contd....P/-

technical or as scientific employee of the Laboratories. ✓

Since the applicant worked as a project assistant on a consolidated amount and co-terminus with the duration of the project, his case is/was not covered under the said scheme.

13. That with regard to the statements made in paragraph 4.13 of the instant application the respondents beg to state that the order dated 22.3.2005 was passed by the Director, RRL-Jorhat after critically examining/considering the case of the applicant and the aforesaid order was a speaking order having crystal clarity in its substance as per direction of the Hon'ble CAT vis-a-vis the direction of the Hon'ble Gauhati High Court, Guwahati. The respondents further submit that the judgment and order dated 2.12.2004 passed by the Hon'ble Gauhati High Court, Guwahati specifically emphasized in para No.7 in the operative portion of the judgment that the order of the Hon'ble CAT was not a direction for regularisation. ✓ The respondent/RRL-Jorhat begs to submit that whatever the order passed, it was passed by putting the best foot forward and with a positive mindset and in sincere and good faith, best interest of the establishment vis-a-vis the prospect of the applicant and as the extant rules did not and do not cover his case for regularisation, his case for regularisation could not be materialised.

Contd....P/-

106.

The respondents/RRL-Jorhat beg to submit that the applicant is/was not legitimately entitled for absorption as per the provisions quoted above and it has been averred time and again that the special scheme meant for regularisation of those scientific and technical staff, working under CSIR. The scheme which is alleged to have been introduced in 1990 and again in 1992 is/was the schemes meant only for assessment/promotion all scientific and technical staff and thus these schemes were not at all relevant for regularisation of any employee.

14. That with regard to the statements made in paragraph 4:14 of the instant application the respondents beg to state that the same are untrue and concocted and hence the same are denied. The applicant was serving in the Laboratory as project assistant under different projects with certain breaks from time to time, but at the same time, it is a blatant lie on the part of the applicant that his services were continued without any break. Due to the stricture framed against each Project for appointing project assistants on purely temporary basis, the service of the applicant could not be extended any longer. Moreover, the applicant all along never served under the respondents/RRL- Jorhat as a regular employee.

Contd....P/-

15. That with regard to the statements made in paragraph 4.15 of the instant application the respondents beg to state that the CSIR Laboratories/ Institutes available in the country are only among fewer institutions where nobody is/was favoured as blue-eyed and as such there is no such resultant hostile discrimination in violation of Article 14 and 16 of the Constitution of India. ✓

16. That with regard to the statements made in paragraph 4.16 of the instant application the respondents beg to state that what has been stated by the applicant is a mere conjecture which is not based on any fact or figure and there is absolutely no iota of truth and the same does not hold good in the long run.

17. That with regard to the statements made in paragraph 4.17 of the instant application the respondents beg to state that no such situation demands that the service of the applicant is required to be regularised not to speak of effecting her service retrospectively and thus the applicant has miserably failed to understand the situation under which muster manpower against such projects very temporarily and terminable on completion of the project leaving no right on the project workers explicit or implicit for regularisation of service against any such project. Moreover, no such ✓

Contd....P/-

m/ro

अनुभाग अधिकारी सतर्कता एवं विधिक अनुभाग
SECTION OFFICER VIGILANCE & LEGAL SECTION

क्षेत्रीय अनुसंधान प्रयोगशाला, जोरहाट, असम
REGIONAL RESEARCH LABORATORY, JORHAT-785036, ASSAM

[10]

project assistant were utilised against any such project in an exploitative term and the constitutional provisions also does not/did not demand that the service of the applicant should/can be regularised.

18. That with regard to the statements made in paragraph 4.18 of the instant application the respondents beg to state that it is not at all fact that several posts of Junior Scientific Assistant/Junior Technical Assistant Grade III are lying vacant under the respondents/RRL-Jorhat. The employees who were claimed to be regularised by the respondents/RRL-Jorhat, as mentioned by the applicant in this para, they were appointed through direct recruitment and through open interview. In view of the above contention as made by the applicant in the last part of the para is totally infructuous.

19. That with regard to the statements made in paragraph 4.19 of the instant application the respondents beg to state that all these cases cited by the applicant were selected through open interview only.

20. That with regard to the statements made in paragraph 4.20 of the instant application the respondents beg to state all these cases cited by the that applicant were selected through open interview only and if the applicant's case been squarely covered, he could

Contd....P/-

also apply for the aforesaid posts and thus he could become a candidate like those employees. It is worth mentioning that instead of applying for posts connected with the case of those employees, he played a total neutral role, the reasons best known to him. Thus the question of violating the settled principles of law and the constitutional provisions do not/did not arise at all.

21. That with regard to the statements made in paragraph 4.21 of the instant application the answering respondents had no comment.

22. That with regard to the statements made in paragraph 4.22 of the instant application the respondents beg to state that no such rights with legitimacy have been left out by the respondents/RRL-Jorhat and it is not at all a fit case for the Hon'ble Tribunal to interfere with and to protect the rights and interest of the applicant in any way or manner, not to speak of directing the respondents/RRL-Jorhat to regularise the service of the applicant with retrospective effect and with all consequential benefits.

23. That with regard to the statements made in paragraph 4.23 of the instant application the respondents beg to state that the application is made with malafide intention only to harass the respondent/RRL-

Contd....P/-

[12]

Jorhat and to secure misfeasance of justice. The respondents/RRL-Jorhat also beg to state that the averments are totally denied.

24. That with regard to the statements made in paragraph 5.1 of the instant application the respondents beg to state that the same are untrue and incorrect and hence the same are denied. The respondents/RRL-Jorhat has made all efforts by critically examining/considering the case of the applicant and sufficient attention was paid whether the case of applicant is covered by the extant rules or not.

25. That with regard to the statements made in paragraph 5.2 of the instant application the answering respondents denied the same being untrue, false and baseless. The respondents/RRL-Jorhat has in no way rewritten the judgment of the Hon'ble Tribunal by giving different interpretation of the scheme. On receipt of the judgment of the Hon'ble High Court, Guwahati vis-a-vis the judgment passed by the Hon'ble CAT, Guwahati Bench, Guwahati, the respondents/RRL-Jorhat had critically examined/considered the case of the applicant and passed a speaking order that the case of the applicant is not covered by the extant rules available to and within the ambit of CSIR system.

info

26. That with regard to the statements made in paragraph 5.3 of the instant application the respondents denied the same in toto. The respondents/RRL-Jorhat have not done anything beyond its direction and there is no question of giving any further interpretation of the scheme and as such the order passed by the respondent/RRL-Jorhat dated 22.3.2005 is not liable to be set aside and quashed.

27. That with regard to the statements made in paragraph 5.4 of the instant application the respondents denied the same. The case of the applicant is nothing extra special or an isolated case in the system. Since the case did not/does not cover as per the extant rules available with the respondents/RRL-Jorhat, he could not be given the benefit of that scheme by regularising his services. ✓

28. That with regard to the statements made in paragraph 5.5 of the instant application the respondents denied the same in toto. As and when any person is recruited against a project, it is the bounden duty of the respondents/RRL-Jorhat to follow the rules for which every body has to pass through a regular selection process and infringement of such procedures shall definitely be the tantamount to the violation of extant rules of CSIR system. ✓

mp200

Contd....P/-

अनुभाग अधिकारी सतर्कता एवं विधिक अनुभाग
SECTION OFFICER VIGILANCE & LEGAL SECTION

क्षेत्रीय अनुसंधान प्रयोगशाला, जोरहाट, असम
REGIONAL RESEARCH LABORATORY, JORHAT-785006, ASSAM

29. That with regard to the statements made in paragraph 5.6 of the instant application the respondents denied the same. The case of the applicant was considered fully and finally.

30. That with regard to the statements made in paragraph 5.7 of the instant application the respondents denied the same. The applicant is not in any way entitled for permanent absorption/regularisation as per the provisions of the special scheme as mentioned by the applicant.

31. That with regard to the statements made in paragraph 5.8 of the instant application the respondents denied the same. Since the case of the applicant did not cover as per the extant rules, the applicant could not be regularised.

32. That with regard to the statements made in paragraph 5.9 of the instant application the respondents denied the same as the same are untrue and false.

33. That with regard to the statements made in paragraph 5.10 of the instant application are incorrect and hence the same are denied by the respondents.

info

34. That with regard to the statements made in paragraph 5.11 of the instant application are baseless and incorrect and hence the same are denied. The applicant is in no way entitled for regularisation of service in terms of the judgment and order dated 30.11.2000 passed in OA No. 308 as has been contended by the applicant and in this context, speaking order dated 22.3.2005 has been passed by the respondents/RRL-Jorhat.

35. That with regard to the statements made in paragraph 5.12 of the instant application the respondents denied the contention of the applicant. The disposal of the case of the applicant after critically examining/considering his case cannot be violative of principle of natural justice and opposed to established law.

36. That with regard to the statements made in paragraph 5.13 of the instant application the respondents denied the same in toto. There was no such iota of truth that any person other than those Project Assistants who had requisite qualification were regularised.

37. That with regard to the statements made in paragraph 5.14 of the instant application the respondents denied the same. It has already been mention again that the Scheme MANAS deals only with assessment promotion of staff and not a scheme for regularisation of any

Contd....P/-

114
'person other than those scientific and technically skilled workers. The word "absorb" thus, meant for those skilled workers only.

38. That with regard to the statements made in paragraph 5.15 of the instant application the respondents denied the same in toto. The applicant is unable to make out the meaning of the scheme. Hence, the extension of the scheme made in 1990 and 1992 for promotion of existing employees is clubbing together by the applicant with the old scheme of absorption for technical and scientific workers of pre 1981 tenure.

39. That with regard to the statements made in paragraph 5.16 of the instant application the respondents denied the same. The respondents further beg to state that the grounds set forth in the instant application are not at all good grounds for filing this application and hence the application is liable to be dismissed.

40. That with regard to the statements made in paragraph 6 of the instant application the respondents have no comment.

41. That with regard to the statements made in paragraph 7 of the instant application the respondents begs to state that those are within the personal know-

Contd....P/-

ledge of the applicants and therefore the respondents can not admit or deny the same.

42. That with regard to the statements made in paragraph 8 and 9 of the instant application the respondents beg to state that in view of the facts and circumstances above the applicant is not entitled to any relief or interim relief as prayed for and the application is liable to be dismissed.

mfao

वसुधैव कुटुम्बकम्
राष्ट्रीय अनुसंधान संस्थान
राष्ट्रीय अनुसंधान संस्थान, जयपुर-302004
NATIONAL RESEARCH CORPORATION, JODHPUR-302004, INDIA

VERIFICATION

I, J.L Khongsai S/o late Thangkhalet Khongsai
 aged 3 about 31 years, R/o RRL Jorhat
 District Jorhat and competent officer of the
 answering respondents, do hereby verify that the state-
 ment made in paras 1 to 42 are true to my
 knowledge and those made in paras being
 matters of record are true to my information derived
 therefrom which I believe to be true and the rests are
 my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this 30th day
 of May 2006 at Guwahati. Jorhat

inf
 SECTION OFFICER VIGILANCE & LEGAL SECTION
 REGIONAL RESEARCH LABORATORY, JORHAT-785006, ASSAM

117

NOTICE

From

Mr. G. Baishya

Sr. C.C., S.C., CAT.

To,

Mr. M. Chanda

Advocate, G.H.C.

O.A. No. 6 of 2006

Sri B. K. Khound
— Applicant

- vs -

Union of India
— Respondents

Please find herewith a copy of written statement which is going to be filed on behalf of the abovesaid respondents in connection with the abovesaid case.

Kindly acknowledge the receipt thereof.

Thanking you

Yours faithfully

Received Copy

Rabi Gogoi
Advocate

Advocate

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
24 SEP 2006
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

In the matter of:-

O.A.No. ³⁴6 of 2006

Shri Binoy Kumar Khound.
Shri Binoy Kumar Khound.

.... Applicant.

-Vs-

Union of India and others.

.... Respondents.

-And-

In the matter of:-

Rejoinder submitted by the applicant
against the written statement filed by
the respondents.

The applicant most respectfully begs to state as follows:-

1. That the applicant denies the statements made in para 1 of the written statement and begs to state that the applicant was appointed as Project Assistant for a period of 8 (eight) months w.e.f 29.11.1983 and served upto 31.07.1990 in different schemes under the respondents and not w.e.f 17.04.1984 to 16.03.1985 as stated by the respondents. He was also appointed on a pay of Rs. 500/- pm and not Rs. 400/- p.m as stated in the written statement.

Further, the contention of the respondents that the cases of the applicants under O.A.No. 16/95, 17/95, 18/95 ad 241/95 were not considered under the 13.01.1981 scheme is a misrepresentation of facts. This Hon'ble Tribunal in its judgment and order dated 14.05.1997 in the abovementioned O.A's clearly held that those

Filed by me applicant
through S. K. Kishor
Advocate
24.10.2006

applicants were entitled to be regularised in their services as per 13.01.1981 scheme (MANAS) and revised scheme of 01.04.1992 and directed to respondents to regularised their services.

It was only after that, that the services of those applicants were regularised and even age relaxation was granted to them as directed in the said judgment. As such the statement was now made in the written statement in a deliberate false statement only in order to mislead this Tribunal.

2. That the applicant denies the statements made in para 1A, 9, 16, 32, 33, 36 and 41 of the written statement and reaffirms that the averments made and grounds stated therein are all true and based on facts.
3. That the applicant categorically denies the statements made in para 4, 15, 22, 23, 27, 29, 30, 31, 34, 39 and 42 of the written statement and begs to state that although the applicant was initially appointed on purely temporary basis but eventually his services were extracted for a long period of more than 6(six) years and therefore he was acquired a valuable and legal right for absorption/regularization in his service. The contention that the temporary appointment would not confer him any right for regular appointment is therefore a unfair labour practice and opposed to the settled position of law as well as the principles of natural justice. Such contention of the respondents is more irrelevant and is not sustainable since some other similarly situated employees have been regularised in service and as such denying the same benefit to the applicant under the scheme MANAS is discriminatory, hostile and violative of Article 14 and 16 of the Constitution of India. The applicant is therefore legitimately entitled for his regularization in

service and this O.A is made bonafide and based on strong and valid grounds mentioned therein and the applicant is entitled to get the relief's prayed therein.

4. That the applicant categorically denies the statements made in para 5 and 17 of the written statement and begs to state that when the applicant has gained working experience in the post of Project Assistant for more than 6 years in the respondent department and when he has topped the list of successful candidates prepared by the respondents specially for appointment of Project Assistants in different future projects, then the respondents do not have any right to say subsequently that "his working experience did not warrant him to appoint him any more in any other project" and cannot appoint others on selective manner by ignoring the applicant. In all fitness of the things, the applicant is legitimately entitled for regularization in service which also gains support from the judgment and order dated 14.05.1997 in O.A. Nos. 16/95, 17/95 18/95 and 241/95 passed by this Hon'ble Tribunal in case of some similarly situated other employees. As such, depriving the applicant of regularization in his services is unfair, arbitrary, malafide, illegal and opposed to the procedures established by law.
5. That the applicant emphatically denies the statements made in para 7,8,10,11,12,13,24,25,26,28,35,37 and 38 of the written statement and most respectfully begs to submit that this Hon'ble Tribunal in its earlier judgment and order dated 30.11.2000 in O.A. no. 308/1999 has clearly held as follows;

"5. In the light of the orders of this Tribunal in OA's referred to above and the scheme mentioned above the respondents are accordingly directed to consider the case of the applicant to regularize his service as expeditiously as possible preferably within a period of two months from today. Seemingly the applicant must be overaged in the meantime, if at the time of regularization the applicant is found to be overaged that should be ignored and this shall not be a bar for regularization of the service of the applicant."

The order quoted above was crystal clear and the direction was to consider for regularization of the applicant within two months time even by ignoring his overage. The tribunal nowhere directed the respondents to issue any speaking order else they could issue the same after receipt of the Tribunal's order aforesaid. But since the direction was clear and it was against the linking's of the respondents, the respondents challenged the order before the Hon'ble Gauhati High Court vide its common judgment and order dated 01.12.2004 in WP (C) No.2018/2001 was pleased to observe that;

"5. In the case at hand, we have seen a scheme (for short, MANAS) formulated by the authority. On expiry of the scheme, it was reintroduced on 4.10.90 and again introduced in the year 1992. As per this scheme, persons who have rendered three years continuous service in a scheme should be absorbed either against existing regular vacancies in identical posts or by creating posts (by

following prescribed procedure) if the workload so demands.

The Hon'ble High Court did not find anything wrong in the direction of the CAT in its judgment dated 30.11.2000 assailed before it and dismissed the writ petition observing interalia that:-

"The Authority, after receipt of the order, should have passed a reasoned order whether the respondents are covered by the aforesaid scheme or not."

From the above it is adequately clear that the Hon'ble High Court did not interfere with the order of the Tribunal, rather observed the provisions of the scheme "MANAS" that the persons who have rendered three years continuous service in a scheme should be absorbed either against existing regular vacancies or by creating posts, with further observation that the respondents did not pass any reasoned order there against. The observations are significant enough and the order dated 30.11.2000 attained finality. Even thereafter, the denial of regularization to the applicant is against the spirit and dictum of the Tribunal's order and the High Court's order and issuance of the so called speaking order dated 22.03.2005 by the respondents at this stage is unwarranted, malafide and after thought of the respondents. Further, the provisions of the scheme "MANAS" vis-à-vis the entitlement of the applicant for regularization in service has been thoroughly scanned by this Hon'ble Tribunal during the adjudication of O.A.No. 308/1999 and thereafter only, the judgment and order dated 30.11.2000 was passed by the Tribunal in O.A.No. 308/1999 with the directions stated hereinabove. This apart the same matter was

thoroughly examined by this Hon'ble Tribunal in O.A.No. 16/1995, 17/1995, 18/1995 and 241/1995 in case of similarly situated employees also and passed direction for regularization of those applicants. As such, the law is settled and the respondents do not have any right to pass a motivated speaking order dated 22.03.2005 to plead now that this applicant's case is not covered by the provisions of the scheme "MANAS" and the impugned speaking order dated 22.03.2005 is liable to be quashed and set aside.

Further, the principles of res-judicata as pleaded by the respondents in para 7 of the written statement has been misconstrued and misinterpreted by the respondents which is not applicable here.

The contention of the respondents that the special scheme "MANAS" was meant for regularization of those scientific and technical staff, working under CSIR and not like that of the applicant, is not sustainable since the scheme has clearly provided only criteria i.e those who rendered three years service in a scheme". Accordingly persons appointed as project assistant in different schemes who are similarly situated as that of the applicant, have been regularised, as stated by the respondents themselves in para 5 of the written statement. As such, there is no reason for denying the same benefit to the applicant. Since the writ petition against the judgment and order of this Hon'ble Tribunal has been dismissed by the Hon'ble High Court, hence the order dated 30.11.2000 in O.A.No. 308/1999 passed by the Tribunal attained finality and the respondents are required to comply with the directions given in the said order only and the contentions made in the impugned speaking order dated 22.03.2005 are

unwarranted and unsustainable since those contentions have already been examined by this Hon'ble Tribunal and have rejected the same.

6. That the applicant categorically denies the statements made in para 14, 18, 19 and 20 of the written statement and begs to submit that the contention of the respondents that there were breaks of service in case of the applicant and his service was not a continuous one, is not tenable in the sense that those breaks were artificial breaks for short durations only, created by the respondents with the motive of depriving the applicant of his legitimate claim, even after his rendering services for more than 6(six) years. This is unfair labour practice.

Further, the plea that the case of the applicants of O.A. no. 16/95, 17/95, 18/95 and 241/95 are distinguishable from that of the applicant since they were selected through open interview in the afterthoughts of the respondents and misrepresentation of facts. It is relevant to mention here that the respondents entertained other persons when the applicants case was lying before them for regularization and he had already served under them for more then 6 (six) years. As such the respondents ought to have regularised the applicant prior to holding of open interview for others, if any, as stated by the respondents. Such acts of the respondents are malafide, motivated, unfair and arbitrary.

It is further categorically submitted that in the earlier decision rendered by this Learned Tribunal in case of the present applicant in O.A 308 of 1999 was confirmed by the Hon'ble High Court in WP © 2018/2001 and thereby the decision of the leaned Tribunal has attained finality hence the contention of the respondents U.O.I which

V.S.

is contrary to the decision rendered on 30.11.2000 in O.A. 308 of 1999 cannot be sustained in the eye of law as because the earlier judgment has attained finality. -

7. That in the facts and circumstances the applicant most humbly submits that he is entitled to all the reliefs prayed for, and the O.A. deserves to be allowed with cost.

VERIFICATION

I, Shri Binay Kr. Khound, S/o Late Purna Kanta Khound, aged about 48 years, resident of village Khoundpara, P.O Dergaon, District-Golaghat, do hereby verify that the statements made in Paragraph 1 to 7 are true to my knowledge which I believe to be true and I have not suppressed any material fact.

And I sign this verification on this the 23rd day of October, 2006.

Binay Kr Khound

127

NOTICE

from:-

S. Nath
Advocate

To.

Mr. G. Baishya.
Sr. C.G.S.C

Sub:- Rejoinder in O.A. NO. 6/2006 (B.K. Khuntia - B - U.O.I for.)

Sir, Find please enclosed herewith a copy of rejoinder, which is being filed on today. This is for your information and necessary action.

Please acknowledge receipt.

Received

24/10/06

(G. Baishya)

Sr. C.G.S.C

Yours Sincerely

S. Nath.
Advocate
24/10

File in Court on.....16/5/08
Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

138
Filed by the applicant
through U. Dutta, advocate
on 16.05.08

In the matter of:-

O.A. No. 6 of 2006

Sri Binoy kumar Khound

.....Applicant.

-Versus-

Union of India and Others.

..... Respondents.

-And-

In the matter of: -

Additional Rejoinder submitted by the
applicant against the written statement
filed by the respondents.

The applicant above named most respectfully begs to state as follows: -

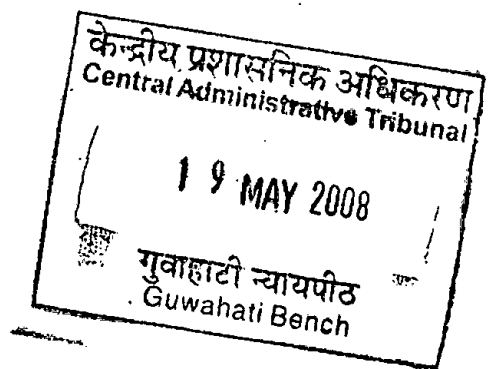
1. That your applicant further begs to say that a similar scheme of absorption/regularization like that of Scheme dated 31.08.1981 (Annexure- VII of the O.A) has been issued by the respondents on two different occasion i.e. in 1990 as well as on 01.04.1992, which would be evident from Director General CSIR's communication dated 31.08.1994. It is further evident from the aforesaid communication that the revised scheme is effective till 01.04.1992, as such the present applicant is also entitled to the benefit of the aforesaid scheme of regularization/absorption in view of the prolonged service rendered by the applicant. It is further submitted that the applicant in spite of his best effort could not collect the 1990 circular/order whereby the scheme of 1981 has been reintroduced. As such Hon'ble Court be pleased to direct the respondents to produce the 1990 scheme for perusal of the Hon'ble Tribunal.

Received
Binoy Kumar Khound
S. K. Khound
16.05.08

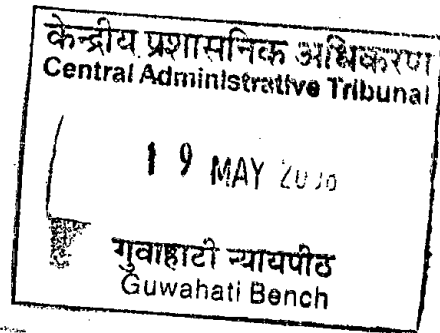
Binoy Kumar Khound.

Copy of the communication dated 31.08.1994 is enclosed herewith and marked as Annexure- A.

2. That it is stated that the case of the applicant for regular absorption/regularization is squarely covered under the 1981 circular/order, 1990 circular as well as 1992 circular/order. Therefore Hon'ble Court be pleased to direct the respondents to consider the case of the applicant for regular absorption in the light of the aforesaid schemes.
3. That in the facts and circumstances as stated above the Original Application deserves to be allowed with cost



Bina kr Khanna



VERIFICATION

I Shri Binoy Kumar Khound, S/o Late Purna Kumar Khound, aged about 50 years, resident of Village- Khoundpara, P.O- Dergaon, Dist- Colaghat, applicant in the instant original application, do hereby verify that the statements made in paragraph 1 to 3 of the additional rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on the 15th day of May 2008.

Binoy Kr Khound.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

गुवाहाटी न्यायपीठ
Guwahati Bench

4-
MERIT AND NORMAL ASSESSMENT SCHEME
(MANAS)

FOR
SCIENTIFIC, TECHNICAL & SUPPORT STAFF

Revised and Effective from 1-4-1992



Attested
Advocate

COUNCIL OF SCIENTIFIC AND
INDUSTRIAL RESEARCH,
NEW DELHI

5
PREFACE

The Merit and Normal Assessment Scheme (MANAS), implemented from 1988 envisaged integration of normal and merit assessments, on the basis of quantification marks and thresholds. However, over a period of time, some operational difficulties were noticed. The scheme also contained certain provisions which were to be reviewed after two years of its operation, thus necessitating a review of the scheme.

Accordingly, the scheme was reviewed; and revised provisions of the scheme were approved by the Governing Body of CSIR in its 129th and 130th meetings held on 23rd April and 18th May, 1993. Based on the decisions of the Governing Body, the revised document of MANAS has been prepared.

While preparing this document, efforts have been made to improve upon the old scheme (MANAS) and simplify the text/substance of some of its existing provisions. A few provisions of the old scheme which had become redundant, have been dropped, while some new provisions have been added, keeping in view the instructions/clarifications issued from time to time.

Thus, the revised MANAS is not a new scheme but an improved and updated version of the old MANAS which had been in operation till 31.3.1992.

I hope the revised MANAS, which is to come into operation retrospectively from 1.4.1992, will prove to be a simple, coherent and comprehensive scheme.

Px-90:21

(S K JOSHI)
Director-General, CSIR

Dated : 31st August, 1994

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

19 MAY 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

Affected
with
Admission

132

New Delhi-1, the 13th Jan., 1981.

Chief (Administration)
Council of Scientific and Industrial Research

To

The Directors/Heads of all the National
Laboratories/Institutes/Research Associations.

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

Sir,

I am directed to invite your kind attention to this office
letter No. 4/3/78-CTR dated 8.6.1979 regarding the constitution
of a Committee to look into the question of linking of the
technical assistance programmes with overall plans and resources
and absorption of staff employed in externally funded
projects/schemes and to state that the Report of the Committee
was placed for consideration of the Governing Body at its meeting
held on 30.9.1980.

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

1. The sponsored projects/Schemes under different
categories should be accepted/undertaken on a selective
basis i.e. (i) these should be in consonance with the
approved objectives, goals and charter of the
Laboratory/Institute; (ii) be in the areas/fields of
the regular activities of the Institute; (iii) form
part of the total plans of the Laboratory; (iv) be
included in the Annual/Five Year Plan of the Institute;
and (v) be of a major benefit to the country.
2. The projects should not serve merely as data bases for
more advanced countries or provide a chance for dumping
obsolete plants/technology in India and retard our
growth. These should not also become a tool of
diverting the Institute away from its approved
priorities by lure of equipment etc. Where equipment

the acquisition of such equipment through sponsored
schemes, but CSIR should take up the responsibility for
this. There could be special situations where there
are clear advantages of using a Scheme for this purpose.

3. Such Projects/Schemes should first be cleared by the
Research Advisory Council of the concerned
Laboratory/Institute from the viewpoint of scientific
merit/national relevance. Thereafter, these would be
discussed with CSIR Headquarters, the nodal point for
such discussions being the Planning Division. After the
projects/schemes are cleared, by the CSIR, the same
would be placed before the Executive Committee of the
concerned Laboratory for approval.

4. The work relating to these projects should, as far as
possible, be managed with the regular staff instead of
making them a vehicle for additional manpower. The
Laboratories/Institutes should themselves have inherent
capability to provide the major inputs for
infrastructure to take on the sponsored schemes and the
incremental staff should be minimal. While planning to
take up sponsored schemes, adequate thought should be
given to aspects relating to the building up of staff
as also for tapering it off when the scheme gets
completed.

5. The prescribed procedure, as applicable for regular
posts/staff, should be followed both for creating
additional posts and recruiting additional staff, if
any, required for UNDP, PL-480 and other Bilateral
projects. It should be ensured that while making
recruitment for schemes/projects posts, there should be
no dilution of quality. The staff recruited for such
projects will be treated as temporary CSIR staff.

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

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

sponsor
position
and re
complex

6. The
presen
requir
appoi
posts
taken
varie
Leave

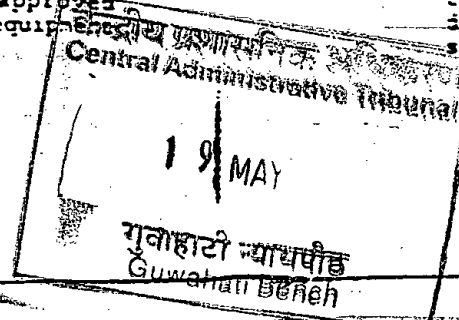
7. The
proj
been
Lab
will
the
asse
adv
ava
com
for

8. The
com
civ
pov
pov
Lab
be
pro
only
fur

9. The
an
ch
"A

10. Ma
Se
sc

A copy
information.



Accepted
Advocate

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

6. The staff recruited for schemes by following the prescribed recruitment procedure, should not be required to undergo this procedure afresh for their appointment/absorption on regular side in identical posts. On such absorption their scheme service will be taken into account for purposes of entitlement to various service benefits in CSIR such as Leave, Study Leave etc.
7. The staff earlier appointed in the sponsored projects/schemes, PL-480 schemes etc., who have since been absorbed on the regular side in the same Lab./Instt. in which the scheme was under operation, will be entitled to count their service rendered under the scheme in an identical post for purpose of assessment for promotion to the next higher grade. The advantage of assessment on this basis will, however, be available with effect from 1.10.1980 or the date of completing the prescribed number of qualifying years for assessment, whichever is later.

8. The existing persons who have rendered three years continuous service in a scheme should be absorbed either against existing regular vacancies in identical posts or by creating additional posts (by following prescribed procedure) if the work load in the Lab./Instt. so demands. The supernumerary posts could be created to absorb the staff employed in such projects/schemes, initially being a one time effort only. The Laboratories/Institutes should not recruit further staff until all such staff is absorbed.

9. The grant made for such projects should be treated as an add-on grant to the Institute and the same should clearly figure in the overall "Income-Expenditure" and "Assets-Liabilities" statements of the Institute.

10. More opportunities should be given to younger Scientists to visit abroad for training etc. in the scheme sponsored by UNDP etc.

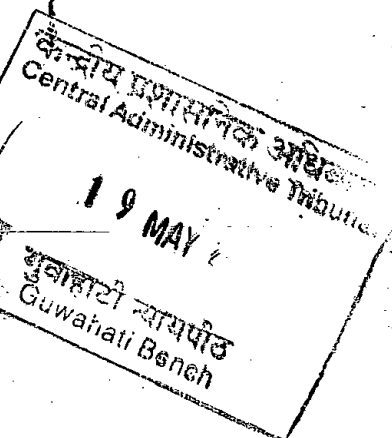
A copy of the report of the Committee is enclosed for your information, guidance and necessary action.

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

Yours faithfully,

Sc/-

(C. Malhotra)
Under Secretary



NOTICE

135

From

U. Dutta
Advocate

To

Sri G. Baishya
Sr. C.G. S.C

Sir,

Please find herewith a copy of the additional rejoinder submitted by the applicant in O.A. 6/2006, Sri Binoy Khound vs- U.O.I & ors for your kind perusal. Kindly acknowledge the receipt of the same.

Received

G. Baishya

16.05.08 Sir (CSC)
(G. Baishya)

Thanking you,

U. Dutta

— (U. Dutta)