

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
JABALPUR

C.A.No.452/2003

Hon'ble Shri Anand Kumar Bhatt, Admnv. Member
Hon'ble Shri G.Shanthappa, Judicial Member

This the 8th day of October, 2003

1. Sushil Gupta
s/o Shri I.P.Gupta
Scientist "D"
Central Ground Water Board
Ministry of Water Resources
Resident of Flat No.4, Green City
E-8, Arera Colony, Bhopal, M.P.
2. Mrs. Anita Gupta
w/o Shri Sushil Gupta
Scientist "D" Central Ground Water
Board, Ministry of Water Resources
r/o Flat No.4 Green City E-8
Arera Colony, Bhopal, M.P. . . . Applicants

(By Advocate: Shri Gopi Chaurasia)

Versus

1. Union of India through
The Secretary
Ministry of Water Resources
Shram Shakti Bhawan
New Delhi.
2. The Chairman
Central Ground Water Board
Ministry of Water Resources
C.G.W.Complex
NH-4, Faridabad.
3. Union Public Service Commission
Dholpur House
New Delhi through its Secretary.
4. Shri R.N.Singh
Superintending
Geophysicist Central Ground Water
Board, Ministry of Water Resources
Government of India,
CGO Complex, NH-IV, Faridabad.
5. Shri P.C.Chandra, Scientist 'D'
Northern Region Central Ground
Water Board, Ministry of Water Resources
Government of India
Bhujal Bhawan, Sector-B
Sitapur Road, Yojana Ram Ram Bank
Chauraha, LUCKNOW (UP).
6. Shri K.P.Singh,
Scientist 'D', Northern Region
Central Ground Water Board
Ministry of Water Resources
Government of India
6-A, Jhalana Doongri
Jaipur (Rajasthan). . . . Respondents

(By Advocate: Sh. S.P.Singh for official respondents
and Sh. Sudhep Deb with Mr. M.R.Chandra
for Respondents Nos.4 to 6.)

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O R D E R

By G. Shanthappa, Judicial Member:

Applicants have filed the OA seeking the following reliefs:

"i) It is therefore, prayed that this Hon'ble Tribunal may be pleased to summon the entire relevant record from the respondents for its kind perusal and reference.

ii) To direct the respondent No.1 to 3 to finalize the seniority list of the applicants viz. a viz. respondent No.4 to 6 firstly as Scientist "C" and to consider the applicants for further promotion to Scientist "D" on the basis of finalised seniority list in accordance with government instructions and rules i.e. earlier selectee through UPSC/incumbents who entered the same grade earlier to rank en block senior to those who were selected as a result of subsequent selection/joined the same grade on a subsequent date and seniority in the Scientist "D" Grade w.e.f. 1.1.1994 over and above the private respondents No.4 to 6 keeping in view the directions issued by this Hon'ble Tribunal Bench at Chandigarh in O.A.No.927-CH/97."

2. The case of the applicants is that they were appointed and joined as Junior Hydrogeologist on 6.7.1977 and 5.7.1977 respectively in the pay scale of Rs.700-1300 (revised to Rs.2200-4000 w.e.f. 1.1.1986). The respondents No.4 to 6 were appointed along with the applicants but joined later, i.e., on 5.7.1978, 25.4.1978 and 8.5.1978 respectively. The said post is Scientist 'B' - the feeder cadre. To prepare the combined seniority list, the date of joining in the grade is ^{the} only ~~the~~ factor. While preparing the seniority list,

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the official respondents have over-looked their cases.

3. The first respondent had introduced Flexible Complementing Scheme (in short as 'FCS') w.e.f. 6.6.1987 (Annexure A1). Under which the designation of Junior Hydrogeologist and Junior Geophysist was changed to that of Scientist 'B'. Under the said rules, the next promotion to Grade of Scientist 'C' in situ in the grade of Rs.3000-4500/- which was to be on the basis of five years regular service in the grade of Scientist 'B'. The applicants were initially ~~given~~ ^{given} graded the grade of Scientist 'C' w.e.f. 26.2.1992. The applicants ~~failed~~ felt that there was an injustice caused to them, they had approached the Chandigarh Bench of this Tribunal in OA No.927/CH/97. The said OA was decided on 11.7.1995 with certain directions as per Annexure A4. The relevant operative portion of the said order is extracted below:

"4., we are left with no option, but to direct the authorities to finalise the tentative seniority dated 10.5.1996, Annexure A-11 after considering the objections filed by the applicants Annexures A-12 & A-13 and thereafter issue a final seniority list as per the rules. It obviously goes without saying that the Respondents shall determine the seniority of the applicants and private respondents 4 to 6 for promotion to Scientist 'D'. we hope and expect that the respondents shall issue the final seniority list after disposing of the objections Annexures A-12 & A-13 within three months from the date of receipt by them a copy of this order.

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The final seniority shall be issued as per the rules and if necessary after hearing the applicants on their objections as contained in Annexures A-12 & A-13. In case, the seniority of the applicants as reflected in the tentative seniority list Annexure A-11 is changed to the advantage of the applicants, they shall be granted the consequential benefits."

4. In pursuance of the said order of the CAT, the official respondents have published a draft seniority list of Scientific discipline(Gr.'A') in CGWB as on 31.12.2001. The said list was published on 21.3.2002 (Exhibited at Annexure A-5). The second applicant is at Sl. No.37 and the first applicant is at Sl. No.38. The applicants have submitted their objections to the said list contending that their designation may be corrected to scientist 'B' instead of senior HG in accordance with the Judgement of CAT, Chandigarh Bench. Since they did not receive any response to the said objections, the applicants submitted the representations dated 12.11.2002 to the official respondents with request to publish final seniority list on the basis of the said draft seniority list. When the official respondents have not accepted to consider their request, they have filed the present OA for finalisation of the seniority list of the applicants vis-a-vis Respondents No.4 to 6, firstly, as scientist 'C', and to consider the applicants for further promotion to scientist 'D' by following Government instructions and rules.

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5. while arguing the case, the Advocate for the applicant, submitted that the applicants and other three persons got the relief from the CAT, Chandigarh Bench, since the said judgement is not implemented, the applicants have filed present OA for the direction as prayed for in the present OA. He further contended that while they were working in the State of Chandigarh, the said Bench of Chandigarh has decided the case. Now the applicants are transferred and posted at Bhopal, the applicants have filed the present OA on the similar relief as prayed in the OA, though there is a judgement in their favour from the CAT, Chandigarh Bench, there is no bar in filing the OA before this Tribunal.

6. When the said judgement is not implemented, the applicants have approached this Tribunal on a similar relief. The learned counsel further stretched his arguments, even if the applicants are posted to some other State, they can file one more OA for the same relief on the same grounds on the same cause of action to be arose as on the date of posting at a particular place.

7. For non-implementation of the orders of the CAT, the applicants need not file Contempt Petition against the contemnor since the applicants have change of cause of action at the place where the applicants are working now, under the jurisdiction of this Tribunal.

8. We have heard the arguments of the learned counsel for applicants and also respondents' counsel on the admissibility of the OA.

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9. We have perused the pleadings and the documents and also heard either of the parties. The reliefs in the present OA are the similar reliefs in OA 927/CH/97 before the CAT, Chandigarh Bench. The parties are also similar in both the cases. The arguments put forth by learned counsel for applicants is not tenable in the eyes of law. The subject matter, and the issue in the present OA is hit by the principles of 'Res-Judicata'. When once the parties have obtained the reliefs from the Court of Law, on the same reliefs or issues, they cannot file similar case on a similar relief against the same respondents. When the issue was already heard and finally decided in a Court of Law, another case filed by the same parties on the same issue is not maintainable in view of the Judgement of the Tribunal in C.Subramanian v. Director of Accounts (Postal) Tamil Nadu Circle & Anr., 1988(7) ATC 365. CAT(Madras) and also in view of the Judgement of Apex Court in Commissioner of Income Tax, Bombay v. T.P.Kumaran 1996(6) Scale 403.

10. In view of the above, the present OA is not maintainable under the principles of Res-Judicata. The applicants have failed to prove their case on admissibility of OA.

11. Respondents' counsel has produced a copy of the Provisional Combined Eligibility List of Scientist-C as on 1.4.1992/1.6.1994 and Scientist 'D' as on 1.9.1997 in CGWB issued vide letter dated

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24.7.2003 and also produced before us a copy of the letter dated 22.8.2003 issued in compliance of the Judgement in OA No.927/CH/97 dated 19.7.2000. From the perusal of the above, it is apparent that respondents will take appropriate action to issue a final seniority list after receiving the objections from the concerned officials within a reasonable period.

12. In the result, for the foregoing reasons, the OA is dismissed as not maintainable. No costs.

G. Shantappa
(G. SHANTAPPA)
Judicial Member

Anand Kumar Bhatt
(ANAND KUMAR BHATT)
Administrative Member

/rao/

कृष्णगढ़ रोड/न्या.....जगलपुर, दि.....
परिविधि वार्ता विभाग

- (1) सरिय, उच्च लोकालय वा उच्च न्यायालय
- (2) आवेदन भी/वी रखी न
- (3) आवेदन भी/वी रखी न
- (4) आवेदन भी/वी रखी न

Hari Chouria - Adel
SP Singh, Adel & Mr. Chandra

Adel

Arif Saeed
उच्च न्यायालय

9-10-03

Arif Saeed
9-10-03