

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 8<sup>th</sup> 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.O.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. Sudeep Deb with Mr. M.R.Chandra  
for Respondents Nos.4 to 6.) Contd..2/-

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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 <sup>the</sup> 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 <sup>given</sup> ~~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.

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 this 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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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)  
Administrative Member

/rao/

**पतिलिपि**      **अर्थ मिलः**

- (1) सचिव, उच्च न्यायालय, रायपुर
- (2) ~~आवेदनक~~ श्री/श्रीमती
- (3) ~~...~~
- (4) ~~...~~

सत्यजी एवं आवश्यक कामवाही हेतु

Gopi Chouria - Adu  
 SP Singh, Adu & M R chandra  
 Adu.

*Prakash*  
उप-निर्देशक 9-10-03

Received  
on  
9/10/07