

50/600

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

9

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 46/95.....

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.5

O.A.No. . 46/95

Misc.Petn.

C.P.No.

R.Appl:

.....Smt. A. Jyotsna.....APPLICANT'S
 frs.

.....U. O. I. ... & ORS..... RESPONDENT'S

Mr. B.K. Sharma, Mr. M. Chandra FOR THE APPLICANTS

Mr. G. S. Sharma, Addl. FOR THE RESPONDENTS
 Case:

OFFICE NOTE ----- DATE ----- ORDER -----

The application is in
 form and within time
 S.F. of Rs. 50/-
 deposited vide
 IPO/BD No. 803883846
 Dated 20/3/95

27.3.95

Mr B.K. Sharma for the applicant.
 Mr S. Ali, Sr. C.G.S.C., for the respondents.
 By order dated ²¹29.11.1994 the appli-
 cant was appointed as Junior Clerk in the
 pay scale of Rs.950 - 1500 per month in the
 office of the respondent No.2 on terms and
 conditions contained in the offer of
 appointment (Annexure-11). The applicant
 joined service on 21.11.1994. However, by
 order dated 24.12.1994, shortly after a
 period of one month after her joining in
 service, ^{has elapsed} the respondent No.2 has passed the
 impugned order dater 24.12.1994 cancelling
 with retrospective effect the order dated
 21.11.1994, Annexure-13A. The reason for
 cancellation as stated in the order is that
 the applicant was overaged on the date
 (21.11.1994) as per the original documents
 produced by her. It is stated by the
 applicant that earlier she was serving with
 the Government of India, namely, National
 Malaria Eradication Programme under World
 Health Organisation and was posted at
 Shillong as typist-cum-clerk and was upgraded

Ans 24/3/95
 [Signature]

27.3.95

as Sr. Typist. The period of that service was between 10.11.1986 and 30.6.1989. Her service was terminated because the P.F.C. programme had ceased from 30.6.1989. In the experience certificate issued to her on 12.6.1989, the Co-ordinator, Government of India, NMEP, World Health Organisation, highly appreciated her performance. The Government of India also issued discharge certificate (Annexure-5) treating her as retrenched Central Government Employee. Thereafter she was appointed as Typist -cum-Clerk under the contract system in October 1989 in the office of the Project Director, N.R.C., Shillong, under the ICAR. That was terminated on 9.2.1990.

She was then appointed as part time Receptionist-cum-Typist with effect from May 1990 in the office of the Institute of Engineers, Shillong. Meanwhile she had registered her name with the local Employment Exchange. Her name was sponsored by the Employment Exchange in pursuance of a requisition from the respondent No.2. She applied for the post of Junior Clerk and was selected and appointed on 21.11.1994.

Prima facie it appears from Annexure-14 as well as Annexure-15, which are extracts from ICAR Administrative Manual, that the applicant could be covered by the concessions in respect of relaxation of age. Annexure-17 which is the schedule of delegation of powers for ICAR Institutes empowers the Management Committee to grant relaxation of age upto one year. According to the applicant she has been found to be overaged by about 10 months and 5 days.

OFFICE NOTE	Date	COURT'S ORDER
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27.3.95

It is not clear as to with reference to what particular date she has calculated that period which is not mentioned in the impugned order. The applicant seeks in this application that relaxation in age should be given to her as a retrenched Central Government Employee and she be ordered to be reinstated.

We think that the circumstances do call for a sympathetic consideration as it appears prima facie that the applicant fulfils the requirement for relaxation of age as per the Manual read with the Delegation of Powers referred to above. All the certificates relating to the previous services show that the applicant has been a very good worker, sincere and able. She ^{is} also sufficiently experienced. We think on the basis of the material produced that the applicant richly deserves to be given benefit of relaxation if she fulfils the requirement of the guidelines. Possibly the ^{question of} relaxation has escaped the attention of respondent No.2.

In the above circumstances the application deserves to be admitted. At the same time we find that the applicant has preferred an appeal to the Secretary, ICAR, New Delhi on 30.1.1995 against the impugned order and seeking relaxation and reinstatement and other reliefs. That appeal, however, is still pending. We, therefore, direct the appellate authority aforesaid to dispose of the appeal within a period of two months from the date of receipt of a certified copy of this order and supply copy of ^{the} decision ^{taken} to the

OFFICE NOTE

Date

COURT'S ORDER

1000

27.3.95

applicant immediately after the decision is taken.

The application is admitted. Issue notice to the respondents. 8 weeks for written statement. To be listed for final hearing on 12.6.1995. If the applicant is aggrieved by the decision on the appeal liberty to amend the original application. Also liberty to apply for interim relief.

✓
✓
✓
The Appellate Authority shall dispose of the appeal ^{with due advantage to the} ~~in the right of the~~ observations made ^{above} ~~hereunder~~ in the order and subject to the provisions of the Manual. Pendency of the original application shall not be a bar for the respondent No.1 to proceed to dispose of the appeal filed on 30.1.1995, ^{and is pending as directed above} Mr S. Ali, Sr. C.G.S.C. assisted us at this hearing. He also now seeks to appear for the respondents and ^{his} appearance is noted. However, notices be directly issued to the respondents expeditiously. The applicant to make the Appellate Authority ~~is~~ as respondent in this application. Amendment to be carried out within two days. The notices to be issued thereafter.

Copy of the order to be supplied to the counsel.

W.C.
Vice-Chairman

W.C.
Member

nkm

Requisites of notices are signed & (C.M.)
vide no. 1471-73
d. 3.4.95

for
30/3
Order d. 27-3-95 issued
& counsel vide
no. 1515-26 d. 5/3/95

OFFICE NOTE

Date

COURT'S ORDER

5
OA NO 46195

OFFICE NOTE	Date	COURT'S ORDER
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1-8-95

Mr. B.K. Sharma for the applicant.
Mr. S. Ali, Sr. C.G.S.C. for the respondents.

The respondents have not filed written statement so far. It is not cleared as to what is the position of appeal. By order dated 27-3-95 we ^{had} expressed the hope that the ^{appellate} appeal authority will ^{dis}dispose of the appeal of the applicant filed on 30-1-95 within a reasonable time. So far ^{the} appeal ^{has} was not been decided. However, — that the order was communicated on 5-4-95. Hence in fairness we ^{now} direct the ^{appellate} appeal authority to dispose of the appeal within the period of two months from the date of receipt ^{of} copy of this order. The decision taken on appeal shall be communicated to the applicant and a copy thereof shall be submitted to this Tribunal ^{through} to the learned Sr. C.G.S.C. Liberty to file written statement. Adjourned to 16-10-95. Copy of the order be ~~issued~~ supplied to Mr. S. Ali as well as Mr. B.K. Sharma.

Service reports are still awaited.

STP
9/6
12.6.95

To be listed for hearing on 21.6.95

21.6.95
for hearing 1.8.95

Notice sent on R.M. 2.

1/10/95

W/ state mktg. has not been filed

2/1/97

lm
2/8

Order d. 1-8-95
(8nd)
to respondents & counsel of parties v. no. 3639-43
d. 14.8.95

17.10.95

Att on 11.12.95!

Bov

Vice-Chairman

Member

QA/TA/CP/RA/MP No. of 19

OFFICE NOTE

DATE

ORDER

OFFICE NOTE

DATE

ORDER

1) Mr. S. Ali's case is appearing from Admission stage.

14.2.96

Mr. B.K.Sharma for the applicant. Mr.G.Sarma, Addl. C.G.S.C. for the respondents 1,2 and 3.

2) Mr. G. Sarma, Addl. case also appearing for Resps No 1, 2 & 3.

The observations contained in our Interim Orders dated 27.3.95 and 1.8.95 have yielded positive result as Mr. B.K.Sharma the learned counsel for the applicant states that the applicant has now been appointed as Junior Clerk. We appreciate the approach of the respondents. Since the applicant has now been appointed no grievance survives and on her instruction Mr. Sharma ^{has asked} ~~place for~~ withdrawal of the application. The question of continuity of service from the date of impugned order till the appointment is left open to be dealt with by the respondents. The applicant is at liberty to agitate the same departmentally if necessary. The O.A. is accordingly disposed of. No order as to costs.

5/12

11.12.95

F.F.D.H. 31.1.96.

By order

31.1.96

for leaving on 18.3.96

Bov


Member

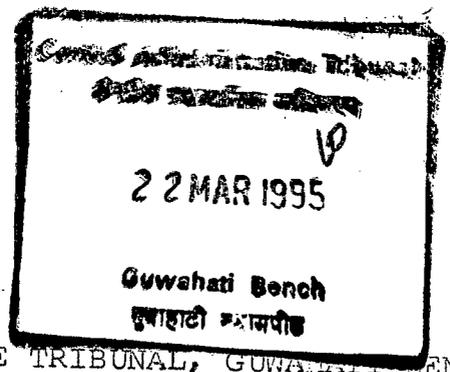

Vice-Chairman

23/8/96

trd

Copy of order issued to the L/Advs. of the parties vide J. No 2828 & 2829 D. 28.8.76

23/8



Filed by the applicant-
through M. Chandra
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
GUWAHATI

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

O. A. No. *AB* /95

Smti. Amita Goswami

..... Applicant

-versus-

Union of India & Ors.

..... Respondents.

I N D E X

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3	1	Appointment letter dt. 10.11.86	18
4	2	Upgradation order dt. 31.1.89	19
5	3	Termination order dt. 21.6.89	20
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7	5	Discharge Certificate dt. 2.6.89	22
8	6	Certificate of Contract service in ICAR dt. 9.2.90.	23
9	7	Certificate in respect of Part time Receptionist cum Typist dated 1.5.93.	24
	8	Employment Exchange Care	25

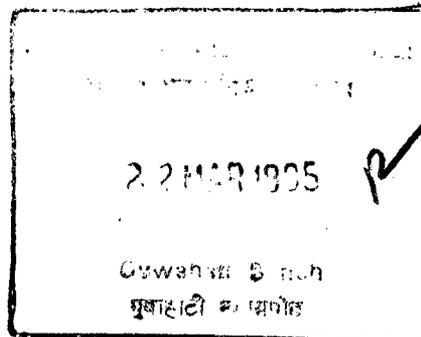
Recd GPM
Golap Sama¹⁰
10/11/94
CA T
Gurukul
25/12/94

22 MAR 1995

M
2Gwahati Bench
गुवाहाटी बेंच

Sl.No.	Annexure	Particulars	Page No.
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16	14	Extract of ICAR Administrative Manual as regard age relaxation/concession of Retrenched Central Govt. employees.	33
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21	19	An appeal before the competent authority dt. 24.12.94 30.1.95.	38-48

(M.S. S.)



1. Particulars of the applicant.

Smt. Amita Goswami,
Junior Clerk
Office of the Director,
Indian Council of Agricultural Research
~~NORTH EASTERN REGION~~ N.E.H.
Region Research Complex,
ICAR Umroi Road
Shillong.

2. Particulars of the Respondents.

1. Union of India,
through the Secretary,
Govt. of India,
Ministry of Agriculture,
New Delhi.

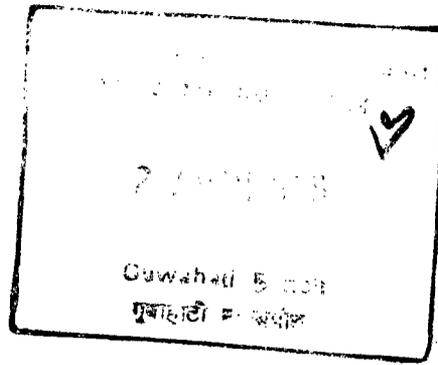
2. The Director,
ICAR Research Complex,
for N.E.H. Region,
Umroi Road,
Barapani-793103

3. The Secretary, ICAR,
Krishi Bhawan
New Delhi.

Amended as per order
27.27.3.95.

3. Particulars for which this application is made.

This application is made against the termination order No. RC(P) 32/94 dated 24th December, 1994 issued by the Director, Indian Council of Agricultural Research, ICAR Research Complex for N.E.H. Region, Barapani, Meghalaya on the ground alleged over-aged without following principle of natural justice and without consideration of past service of the applicant rendered under the Government of India.



4. Limitation.

The applicant declares that this application is made within the time period prescribed in the ~~Central~~ ~~Administrative~~ Administrative Tribunals Act, 1985.

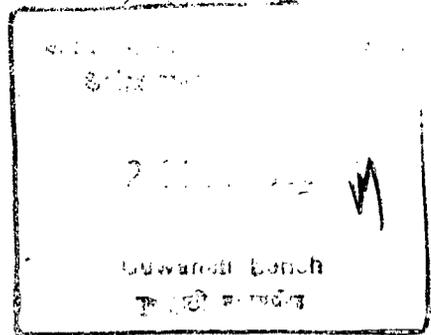
5. Jurisdiction :

The applicant further declare that the case of the applicant is within the jurisdiction of this Hon'ble Tribunal.

6. Facts of the case :

i. That the applicant is a citizen of India and as such she is entitled to all the rights and privileges guaranteed by the Constitution of India. The applicant was serving as Junior Clerk in the Indian Council of Agricultural Research (In short ICAR) N.E.H. Region, Umroi Road, Barapani under the Director, I.C.A.R., Barapani, Shillong.

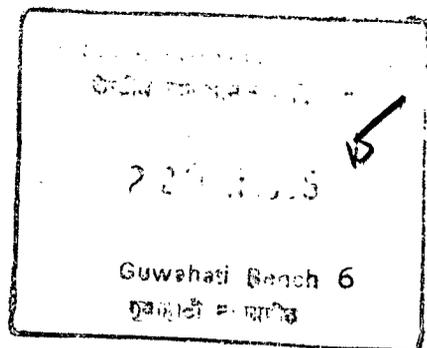
ii. That the applicant passed her B.A. Examination in the year 1984. Thereafter, she was in search of a job as she belonged to a very poor family and she was appointed as Typist-Clerk under the Government of India, National Malaria Eradication Programme, World Heath Organisation and posted at Shillong vide letter under reference, No. ADMN-2/86/21/1504 dated 10.11.86 (Annexure-I), ~~xx~~ in the North-region on daily basis. The applicant continued in the post of typist clerk



and she was upgraded as senior typist in the said department of Govt. of India vide letter under reference No. PF/14.2/89/138 dated 31.1.1989 (Annexure-2). However, the service of the applicant was terminated w.e.f. 30.6.1989 as the P.F.C. Programme ceases from 30.6.1989. The termination letter is enclosed (Annexure-3) for perusal of the Hon'ble Tribunal. Experience Certificate was issued on 12.6.89 (Annexure-4) in favour of the applicant by the Co-ordinator, Govt. of India, N.M.E.P., World Health Organisation, highly appreciating the performance of the applicant. The Government of India, National Malaria Eradication Programme, World Health Organisation also issued 'Discharge Certificate' (Annexure-5) treating the applicant as retrenched Government Employee. This discharge certificate is issued to the applicant for the purpose of relaxation of age limit benefit in other Government service.

Copies of the appointment letter dated 10.11.86, upgradation letter dated 31.1.1989, termination order dated ²¹30.6.89, experience certificate dated 12.6.1989, and Discharge Certificate dated 2.6.89 are enclosed as Annexure 1, 2, 3, 4 and 5 respectively.

2. ~~2~~
- iii. That the applicant thereafter appointed as a typist-cum-cleark under the contract system w.e.f.

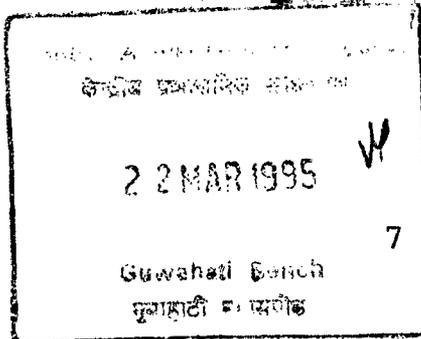


October 1989 in the office of the Project Director, N.R.C. on Mithun, Shillong under the I.C.A.R. She worked there till 9th February, 1990. A certificate also issued in respect of her working as a typist cum clerk by the Project Director, N.R.C. on Mithun vide his letter dated 9.2.90 (Annexure-6). Be it stated that the office of the Project Director, National Research Centre on Mithun was shifted to a very interior place in Nagaland and therefore the contract of the applicant terminated automatically.

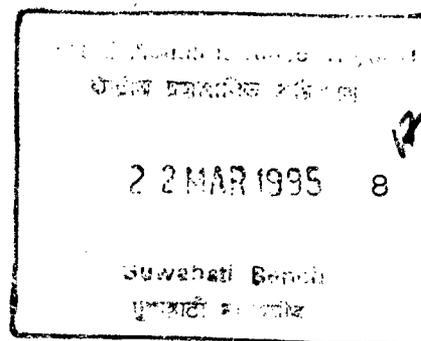
A copy of the certificate dated 9.2.90 is enclosed as Annexure -6.

iv. That the applicant again became unemployed and she was looking for, other employment, fortunately she was appointed as part-time Receptionist cum typist with effect from May, 1990 in the office of the Institution of Engineers (INDIA), Shillong local Central, Shillong. Since it is a part-time job, she again started looking for employment in other permanent Government job. A copy of the experience certificate issued by the Hon'ble Secretary, the Institution of Engineers (INDIA) vide letter under reference No. IESLC/MICE/5/92/498 dtd. 1.5.93.

A copy of letter dated 1.5.93 is annexed as Annexure-7.



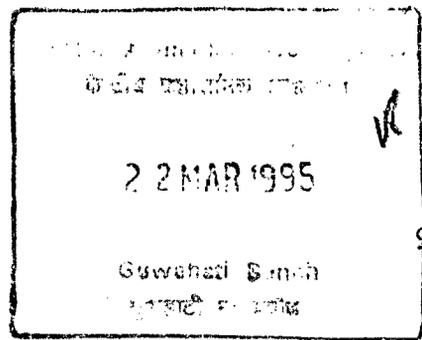
v. That the applicant was registered her name with ~~10~~ local employment Exchange, Shillong. The ICAR Office, Shillong was in need of service of some Junior Clerks and accordingly the of the Director, ICAR, Shillong sent a requisition to the local Employment Exchange, Shillong in the month of January, 1990 for sponsoring the names of eligible candidates for recruitment to the post of Junior Clerks. The name of the applicant was duly sponsored by the local Employment Exchange, Shillong, in response to the requisition of the ICAR, Shillong in the month of January, 1990. However, the applicant was called for interview vide letter No. RC(E) 32/81 Vol. II dated 4.12.92 asked to appear on 29.12.92 in the written test. The applicant accordingly appeared in the written test on 29.12.92 and came out successfully in that written test. Thereafter the applicant was called for typing speed test for the post of Junior Clerks on 5.5.93 vide letter No. RC(E) 32/81 Vol. II dated 12.4.93. She also appeared in the typing speed test on 5.5.93. After qualifying the typing test conducted by the ICAR, Shillong the applicant called for oral interview and she was come out successfully, thereafter the Administrative Officer, ICAR, Barapani, Shillong asked the applicant to fill up the verification roll forms for recruitment to the post of Junior Clerk vide letter No. RC(R)/10/94 dated 1.7.94. The applicant accordingly complied with the instruction laid down in letter dated 1.7.94 issued by the Administrative Officer.



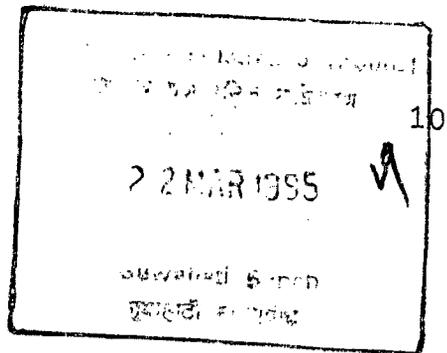
A copy of Employment Exchange Card, letter dated 4.12.92 and letter dated 12.4.93 are enclosed as Annexure-9 and 10 respectively.

vi. That the Director, ICAR Research Complex for N.E.H. Region was pleased to offer an appointment for temporary post of Junior Clerk vide letter No. RC(R) 10/94 dated 21.11.94 with certain conditions, wherein as stated in para 6, of the appointment that the service of the applicant may be terminated without assigning any reason by one months's notice on either side under Rule 5 of the Central Civil Service (Temporary Service) Rules, 1965, it is further stated that during the probation, however, the appointing authority may terminate the service of the appointee, without prior notice and without payment of salary in lieu thereof, the applicant accepted the offer of appointment, and submitted her joining report on 21.11.94, vide her joining report dated 21.11.94 addressed to the Director, ICAR, Borpani. The applicant also submitted her medical fitness Certificate and other original certificates as required in terms of appointment letter dated 21.11.94 and she started continuing to work under the Administrative Officer, I.C.A.R. Borapani.

Copy of the offer of appointment letter dated 21.11.94 and joining report dated 21.11.94 are enclosed as Annexure-11 and 12 respectively.



vii. That most surprisingly in the last week of December, 1994 after completion of more than one month service the applicant came to know from Shri I.K.Sharma, Administrative Officer, ICAR, Borapani, Shillong that on scrutiny of her service records it is found that the applicant is over-aged for about 10 months and 5 days for the post of Junior Clerk as such her service is liable to be terminated, and necessary ^{Proceedings} processing has already been initiated for the approval of the Director, ICAR, Shillong, this information as regard proposal of termination of her service, highly shocked the applicant and she was apprehended that her service may be terminated even without issuing any show cause notice to the applicant therefore she filed an application before this Hon'ble Tribunal which was registered as O.A. 5/95. However the same was withdrawn with the liberty to file a fresh application after obtaining the termination order. On the direction of this Tribunal a copy of the termination order was sent to the applicant on 21.1.95 by the Administrative Officer of ICAR and on receipt of the termination order this fresh application is submitted before the Tribunal for justice. Be it stated that she has rendered nearly more than three years service under the Govt. of India, namely, National Malaria Eradication Programme, under World Health Organisation and the applicant was declared as retrenched employee of Central Government, therefore she is entitled to age relaxation to the extent she has rendered service

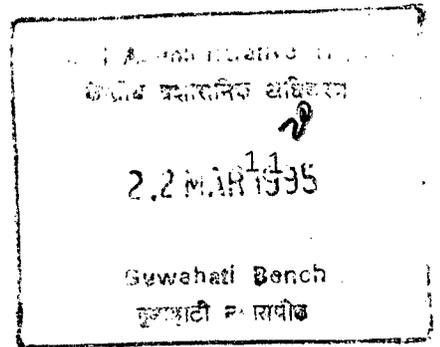


in the post of typist cum clerk & Sr. Typist in N.M.E.P. (WHO). Be it stated that the applicant is given discharge certificate as Central Government retrenched employee for the purpose of age relaxation and other service benefit for future employment. The respondents have denied to allow the applicant any opportunity to defend herself, therefore, the decision of termination of service of the applicant by the respondents is highly illegal, arbitrary and unfair at this stage after completion of required ^{formalities} proceedings by the respondents only namely verification of her application, attached with admit card, marksheets which is the evidence of her age and the same is violative of articles 14 and 16 of the Constitution of India as such the termination order dated 24.12.94 in respect of the applicant is liable to be set aside and quashed.

A copy of the order of this Tribunal passed in O.A. 5/95 dated 17.1.95 annexed as Annexure 13. ^{and terminated} Order dated 24.12.94 is annexed as annexure-13A-viii. That the applicant begs to state that as per ICAR Administrative Manual, in paragraph 1.6 and other relevant Extracts of the Manual are quoted below for perusal of the Hon'ble Tribunal.

1.6 Crucial date for the purpose of calculating the age limit :

The crucial date for the purpose of calculating the age of candidates in respect of (i) posts



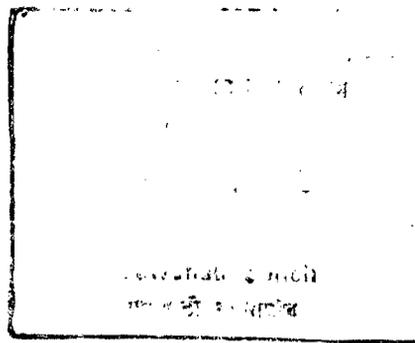
advertised by the Council for being filled by direct recruitment by interview and (ii) posts filled by direct recruitment through the Employment Exchange will be the 1st January of the calendar year in which the closing date prescribed in the advertisement for receipt of applications for a particular post falls or the 1st January of the calendar year in which the requisition is sent to the Employment Exchange, as the case may be.

(ICAR letter No. 4(34)/75-
Reorg. (Adm) dt. 6.9.75

Category of persons to whom age concession is admissible	Categories of posts to which the Age concession is Admissible.	Extent of Age concession
(ii) Retrenched Central Government Employees	For posts filled otherwise than through UPSC on the basis of competitive tests, i.e. filled through Employment Exchange	Period of previous service under the Government of India plus three years

2. For purposes of the above-mentioned age Concessions.

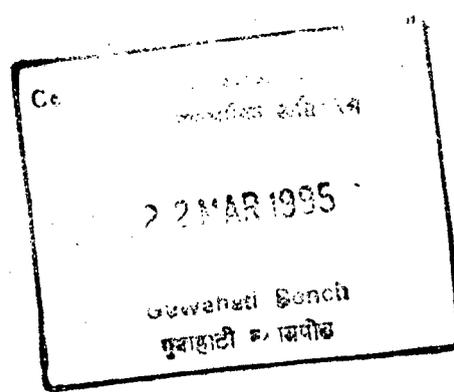
- i. "a retrenched Central Government employee means a person who was employed under the Government of India for a continuous period of not less than six months prior to this retrenchment and was discharged as a result of the recommendation of the Economy Unit or due to normal reduction in establishment".



From above it is quite clear that the applicant is entitled to age relaxation as she is a retrenched Central Government Employee. All relevant Extract mentioned above are enclosed for perusal of the Hon'ble Tribunal.

Copies of Extracts of ICAR Administrative Manual are enclosed as Annexure 14, 15, 16 and 17 respectively.

9. That the applicant further begs to state that she never suppressed her age rather she had ~~disclosed~~ ^{disclosed} her actual age in the Employment Exchange & also in the verification roll for recruitment and also submitted the original Admit Card, Marksheet ~~which was the actual evidence of the applicant's age~~ and marksheet in the oral interview with the respondents therefore at this stage, the decision of termination of her service on the ground of over-age, is highly illegal, arbitrary, and unfair. Moreover, if she is overaged as indicated in the termination order dated 24.12.94 as intimated by the Director, the same ~~be~~ may be condoned or relaxed by the Management Committee of the ICAR institutes in terms of office order, No. F. No.5(4)/87-WN dated 28.7.1988, whereby the President of the Governing body has delegated the power of age relaxation by one year, where the appointing Authority Director, in the circumstances of the instant case, it



13

is a fit case, where the Director/Management ought to have exercised the power of relaxation as delegated vide office order dated 28.7.1988. Be it stated in similar circumstances, the institute of Management Committee exercised the power of Shri Ram Murthy, who was overaged at the time ^{of} initial appointment, therefore there cannot be any difficulty to exercise the power of relaxation in the instant case.

Copy of the office order dated 28.7.88 is enclosed as Annexure 18.

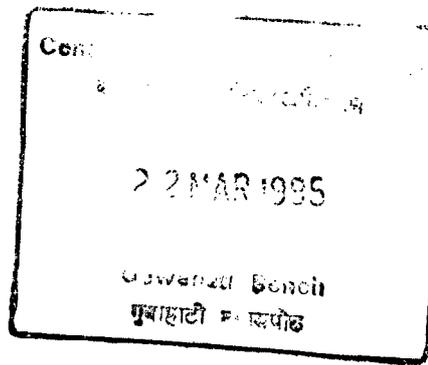
x. That the applicant begs to state that she is not overaged as she is a retrenched employee of Central Government, therefore she is entitled to age relaxation and the decision of ICAR Authority for termination of her service is highly illegal, arbitrary, and unfair, and the same is liable to be set aside and quashed.

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

7. Reliefs sought for :

In the facts and circumstances stated in this application the applicant prays for following reliefs :-

1. That the respondents be directed to reinstate the service of the applicant for the post of Junior Clerk with all consequential benefits including monetary benefit with seniority.

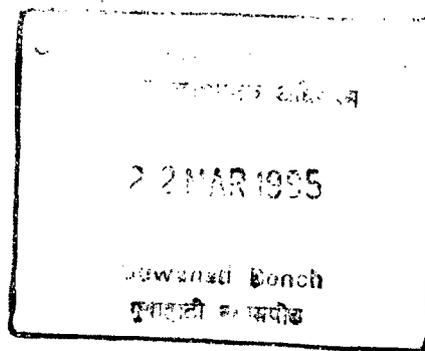


2. That the respondents be directed to treat the applicant as Central Government retrenched employee for the purpose of age relaxation.
3. That the respondents be directed to invoke the power of age relaxation through the Management Committee of the ICAR Institute, in terms of office order No. F.No.5(4)/87-WN dated 28.7.88.
4. That the respondents be directed to allow the applicant to continue to work as Junior Clerk in the office of the Directorate ICAR Borapani, Shillong in terms of appointment letter issued in Memorandum No. RC(R) 10/94 dated 21.11.94.
5. Cost of the case.

The above reliefs are prayed on the following amongst others.

G R O U N D S

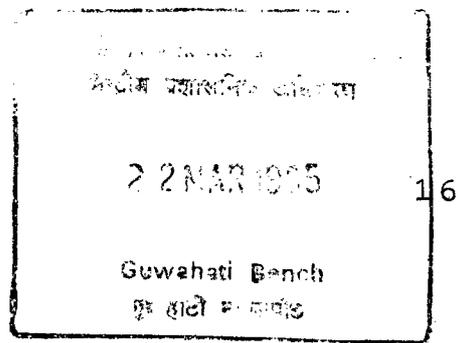
1. For that the applicants is a retrenched Central Government employee, as such entitled to age relaxation as per scheme of the Central Government for retrenched employee ~~is~~ mentioned in the ICAR Administrative Manual.



2. For that the applicant is within the age limit as retrenched Government employee for the post of Junior Clerk.
3. For that the applicant submitted correct age in the Employment Exchange and also produced Admit Card which is the actual evidence of age to the respondents before joining to the post of Junior Clerk and also in the verification roll forms for recruitment.
4. For that in similar circumstances, 1 year age relaxation was granted to Shri Ram Murthy, technical Assistant in the same establishment.
5. For that the applicant also worked as typist on contract basis in the ICAR establishment.
6. For that there are provisions for age relaxation at least for 1 year in terms of office order dated 28.7.1988.
7. For that the applicant did not suppressed any material facts as regard her age for obtaining the job of Junior Clerk in the office of the ICAR.
8. Interim Reliefs prayed for :

During the pendency of the case the following interim reliefs prayed for :-

1. That the termination order dated 24.12.94 Annexure -13A be suspended till final disposal of the case.



2. That the applicant be allowed to continue in service as Junior Clerk with regular final pay and allowances, till/disposal of this case/application.

The above reliefs are prayed on the grounds explained in paragraph 7 of this application.

9. That the applicant preferred an appeal before the competent authority against the termination order dated 24.12.94 and the same is still pending before the competent authority. *dt. 24.12.94*

A copy of the appeal is annexed as Annexure-19.

10. That the matter is not pending in any other Court/Tribunal.

11. Particulars of the Postal Order:

Postal Order No. : 883846
Date of Issue : 20-3-95.
Issued from : G.P.O., Guwahati
Payable at : G.P.O., Guwahati.

12. Details of Index.

An Index showing the particulars of documents are enclosed.

13. List of Enclosures

As per Index.

V E R I F I C A T I O N

I, Smt. Amita Goswami, daughter of late Ajit Kumar Goswami, resident of Dhankheti, Women Hostel, Shillong do hereby declare that I have verified the statements made in paragraphs 1 to 13 and the same are true to my knowledge and belief and I have not suppressed any material facts.

Amita Goswami
Signature

ANNEXURE - 1

Office of the Senior Epidemiologist cum
Coordinator, PfCP Zone-1, NMEP, Pasteur Hill
Shillong-793003

Ref : Admn.2186/2I/1504

Dated 10.11.86

Smt. Amita Goswami
C/o Mr. Ajit Kr. Goswami
Arabindanagar, Alipurduar Court

Smt. Amita Goswami has been assigned as a
Typist - Clerk in the PfCP Zone-1 with effect from
the date of joining on the following terms and conditions.

1. She will be entitled to a per diem of Rs. 40/-
(Rupees forty) only.
2. There will be no other benefit concerning the
assignment and it is liable to termination
without any notice from either side.
3. There will be no employee/employer relationship.

The posting/place of work may be anywhere in the
North Eastern Region as per convenience of PfCP work
and should be prepared to move accordingly, Presently
she will attached to PfCP Zone-I, Shillong.

Sd/- Illegible
Senior Epidemiologist cum Coordinator
PfCP Zone-1

Copy to : The Director, NMEP, 22 Sham Nath Marg, Delhi-11054
- Reference to his letter No. 2054, dated 6.11.86
The Regional Malaria Adviser, WHO/SEARO, Delhi-2
The Budget & Finance Officer, WHO/SEARO, Delhi-2.

AH 15 P. ed
@ Under
Adv.

ANNEXURE - 2

GOVERNMENT OF INDIA N.M.E.P. WORLD HEALTH ORGANISATION

P.falciparum Containment Programme

Ref : Pf/14.2/89/137 Directorate of NMEP
Date : 31 January, 1989 22 Sham Nath Marg,
New Delhi 110054

The Sr. Epid. cum. Coordinator
PfCP Zone-1
Pasteur Hills
Shillong-793001

Subject : Upgradation - Miss Anita Goswami, Typist
Clerk to Sr. Typist-Clerk under the PfCP
Zone-I.

Reference his letter No. Admn.2/89 Z.1/2150
dated 6th January, 1989 on the above subject.

Director NMEP is pleased to upgrade Miss
Anita Goswami presently working as Typist Clerk under
the PfCP Zone-I to Sr. Typist Clerk at a per diem of
Rs. 60/- (Rupees sixty only) w.e.f. 1st January, 1989.

Sd/- Illigible
for Director NMEP

- CC : The Regional Malaria Adviser
WHO/SEARO
New Delhi
2. The Budget & Finance Officer
WHO/SEARO
New Delhi

Attended
@ Shillong
Adw.

ANNEXURE-3

P.FALCIRARUM CONTAINMENT PROGRAMME

Directorate of
NATIONAL MALARIA ERADICATION PROGRAMME
22, SHAM NATH MARG,
DELHI-110054

Pf/2.1/89/786

Dated 21st June, 1989

OFFICE ORDER

The PfCP ceases from 30.6.1989 hence, the assignment of Miss A. Goswami as Sr. Typist Clerk under PfCP stands terminated with effect from 30.6.1989
AN.

Miss A Goswami
Sr. Typist Clerk

Sd/- Illigible
for Director NMEP

Copy to :

- The Sr. Epid. cum. Coordinator PfCP Zone-1.
2. The Regional Malaria Advisor, WHO/SEARO, New Delhi.
3. The Budget and Finance Officer, WHO/SEARO, New Delhi.

Attended
@ Desk
Adv.

ANNEXURE-4

GOVERNMENT OF INDIA N.M.E.P. WORLD HEALTH ORGANISATION
P. Falciparum Containment Programme

From : Dr. A K Acharyya Address : Pasteur Hills
Shillong-1
Desn : Senior Epidemiologist
Cum Coordinator Date : 12th June 1989
Zone : N.E States
e

TO WHOM IT MAY CONCERN

This is to certify that Ms. Amita Goswami has been working as a Senior Typist-Cum-Clerk in this Organisation since 24.11.86.

She was engaged in receipt and issue of letters, Typing, preparation of Vehicle Maintenance Statement, accounts for Stamps, Insurance, and telegrams and filing of letters, She is a sincere worker who spends her whole time engaged in official works.

She is simple, obedient and sincere. In view of the closure of Projects, she will be relieved on 30th June '89. I strongly recommend her for any responsible assignment.

I also wish her success in life.

Sd/- Dr. A K Acharyya
Co-ordinator

*Attested
@ Acharyya
A.K.C.*

ANNEXURE-5

STANDARD FORM PRESCRIBED FOR DISCHARGE CERTIFICATE TO
RETRENCHED CENTRAL GOVERNMENT AND QUASI-GOVERNMENT
EMPLOYEES.

MINISTRY/DEPARTMENT/OFFICE

No. Admn. 2/89/2-1/325 (Place) Shillong dt. 2.6.89.

DISCHARGE CERTIFICATE

Shrimati Amita Goswami has been working as
Sr. Typist cum Clerk in the Department/Office of the
Sr. Epi. cum-Coordinator PfCP from 24.11.86 to 30.6.89
He/She was drawing Rs. 70/- as per diem without allowances
and her service being terminated with effect from
30.6.89 on account of winding up of PfCP on account of
reduction in establishment. Her work and conduct was
satisfactory.

Sd/- Illigible
2.6.89

Signature
(Designation of Officer and
Seal)

Attested
@
Adv.

32

ANNEXURE-6

Indian Council of Agricultural Research
National Research Mithun
Jowai Road, Dhankheti
Shillong

Date : 9th February, 1990

TO WHOM IT MAY CONCERN

This is to certify that Miss Amita Goswami has been working as a typist-Cum-Clerk under the contract system at my office from October '89. She is an obedient and sincere worker and carries out all duties assigned to her.

She bears a good moral character.

I wish her all success in life.

Sd/- Dr. N.D.Verma
Project Director
N.R.C. on Mithun
Shillong- 3

seal

Attested
@
Adv.

ANNEXURE-7

THE INSTITUTION OF ENGINEERS (INDIA)
 SHILLONG LOCAL CENTRE
 SHILLONG

Chairman
 COL. ANUP SINGH
 ADDL. CHIEF ENGINEER, MES,
 SHILLONG ZONE, SHILLONG

Hony. Secretary
 ER. S.R.NATH, FIE
 ADDL. CHIEF ENGINEER
 NEEPCO LTD, SHILLONG

Our Ref. IES^LC/MICE/5/92/498 Date 1.5.93

TO WHOM IT MAY CONCERN

This is to certify that Miss Amita Goswami,
 D/o Shri Ajit Kumar Goswami, Shillong, is serving
 in the Shillong Local Centre of the Institution of
 Engineers (India), as parttime Receptionist Cum-
 Typist since May 1990.

She is a hardworking girl & is very sincere
 in her works.

Nothing is known against her character.

I wish her all success in her life.

Sd/- Illegible 1.5.93
 ER.S.R.Nath, FIE,
 Hon. Secretary

*Attested
 @ Shillong
 Adv.*

Assam Schedule LXIII Form No. 11A
Registered - No. SF.2/84/19, dated 24th September 1984

25
Assam case - 8 34



GOVERNMENT OF MEGHALAYA
DEPARTMENT OF LABOUR

X-10B

IDENTITY CARD

EMPLOYMENT EXCHANGE. *86*

Next Renewal Due: ~~28-3-95~~ *28-3-92*

~~Renewed Unto~~

Name... *Mrs. Anita Goswami*

Category... *End*

Date of Registration... *28 3 89*

Registration No... *W-267/89*

N.C.O. *KU 30 13 W-2*

Occupation... *Stenographer*

Note - If any information furnished by the applicant turns out to be false subsequently his/her Registration is liable to be cancelled.

Please read instructions on reverse.

[Signature]
Signature of Issuing Authority.

*A Hested
Chiles
Adv.*

58

INSTRUCTIONS

1. You can renew your card in the month due or in the following month personally or through a messenger.
2. You can also renew through a reply paid post card in the month it is due indicating your Registration No. and N. C. O.

DO NOT SEND THIS IDENTITY CARD

If you do not get reply within 30 days, contact the Employment Exchange personally during the following month, failing which your Registration is liable to be cancelled.

The Speed Round
19.4.89 = 22 Sep 89
12.7.89 = 22 within 7.

ANNEXURE-9

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
'UMROI ROAD', BARAPANI, MEGHALAYA

No. RC(E)32/81 Vol. II Dated Barapani, the 4.12.92.

MEMORANDUM

Smti Amita Goswami is hereby called to appear for a written test on 29th December (Tuesday), 1992 at 11.00 A.M. at Kendriya Vidyalaya, North Eastern Police Academy (NEPA), Umsaw, Barapani, Meghalaya for the post of Junior Clerk.

He/She should bring all the Original certificates in support of age/qualifications/experience/caste etc. at the time of written test on 29.12.92.

Typing Test will be conducted for the qualified candidates in written Test and the candidates will be intimated accordingly.

SD/- I.K.Sharma
Administrative Officer
4.12.92

Smti. Amita Goswami
C/o K. Choudhury,
Rilbong, Shillong-13

Atst-ed
@hule
AdV

ANNEXURE-10

UNDER CERTIFICATE OF POSTING

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
BARAPANI : MEGHALAYA

No. RE(E) 32/81 Vol. II Dated the 12th April, 1993

M E M O R A N D U M

Smti. Amita Goswami is hereby asked to appear for
speed
the typing/test for the post of Junior Clerk on
5th May '93 at 11.00 A.M. at the office of the ICAR
Research Complex, Umroi Road, Barapani (Administrative
Building, Block-C).

She is therefore, advised to report to the
undersigned with necessary testimonials etc.

Sd/- G. SINHA
Asstt. Admn. Officer 'A'

Smti Amita Goswami
Kushik Choudhury,
Rilbong Shillong-13

*Attested
Choudhury
Adv.*

NO. RC(R) 10/91
1/30

Dated Barapanji, the

M E M O R A N D U M

The Director, ICAR Research Complex for N.E.H. Region is pleased to offer a temporary post of _____ to Sh/ Sm. _____ on the following terms and conditions :-

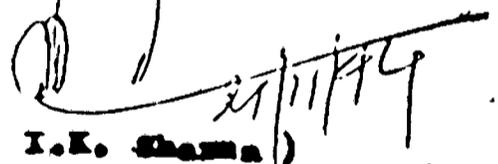
1. The post is temporary and carries the pay scale of Rs. ~~95-110-125-140-155-170-185-200/-p.m.~~. On appointment he /She will draw at the initial stage of Rs. ~~95-110/-~~ in the above time scale. He/She will be entitled to draw such allowances (dearness allowances & house rent allowances etc.) as are admissible to other staff of corresponding grade and status under ICAR.
2. Grant of pay, leave travelling and other allowances are regulated by the Indian Council of Agricultural Research, Mutatis-Mutandis in accordance with the principle of Fundamental and Supplementary Rules and such other rules and orders as are issued by the Government of India from time to time.
3. The post is non Government but pensionable. He/She will be governed by the Indian Council of Agricultural Research Pension Rules which are based, Mutatis-Mutandis or the liberalised pension Rules of the Government of India, as amended, clarified or modified from time to time.
4. His/Her headquarters will be at _____ for the present, but he/she will be liable to serve in any Institute and /or office of the Indian Council of Agricultural Research, located anywhere in India.
5. He/She will be on probation for a period of two years from the date of his/her joining the post, which may be extended at the discretion of the competent authority. Failure to completion of the probationary period to the satisfaction of the competent authority will render him/her liable to be discharged from service.
6. His/Her appointment may be terminated without assigning any reason by one month's notice on either side under Rules 5 of the Central Civil Service (Temporary Service) Rules 1965, as applicable, mutatis-mutandis to the employees of the Council. During the probation, however, the appointing authority may terminate the service of the appointee without prior notice and without the payment of salary in lieu thereof.
7. His/her appointment will be subject to the conditions that he /she is declared medically fit for service by the prescribed medical authority.
8. On appointment, he/she will be required to take an oath of allegiance to the Constitution of India or make solemn affirmation to that effect, as in the form enclosed.
9. He/She will submit declaration regarding his/her marital status, as in the form enclosed. In the event of his/her having already more than one wife living or being married to a person having already another wife living the appointment will be subject to his/her being exempted from the

Anita Guzman
Jr. Clerk

A. Hestad
B. Hestad
Adv

enforcement of the laws of recruitment in this behalf .

10. His/her appointment under the Council will be considered to be a fresh appointment and he/she will be not be entitled to any travelling and/or conveyance allowances for joining the post at ICAR Research Complex for NEH Region, Barapani.
11. Other conditions of service will be governed by relevant rules and orders which may be issued from time to time by the ICAR.
12. He/She should state whether he/she is serving or is under obligation to serve another Central Government Department, as State Government or Public Authority. He/She should also state whether he/she applied or is being considered for posts elsewhere.
13. If any declaration given or information furnished by him/her proves to be false or if he/she is found to have willfully suppressed any materials information, he/she will be liable to removal from service and such other action may be deemed necessary.
14. He/She should produce the Original certificates in respect of his/her educational qualifications and age and caste etc.
15. The appointment is made provisionally at present.
16. In case of SC/ST or OBC ,relevant certificate should be produced at the time of joining.
17. In case the post is acceptable to Sh./Sm. Smt. Anita Goswami on terms and conditions mentioned above he/she should intimate his /her acceptance to the Director immediately and report for duty to the Administrative Officer ICAR Research Complex for NEH region, Barapani after obtaining the medical fitness certificate from a medical Officer not below the rank of Civil Surgeon /Asstt. Surgeon I of any Government Hospital within 30 (Thirty) days from the date of issue of the offer failing which the offer will automatically stand cancelled.



(I.K. Sharma)
ADMINISTRATIVE OFFICER

To

Smt. Anita Goswami,
C/O Kaushik Choudhary,
Bilong, Shillong - 4

cc :

1. Finance And Accounts Officer, ICAR Res. Complex NEH Region, Barapani. Smt. Anita Goswami has been appointed against the present vacant post of Jr. Clerk under With Plan main Scheme.
2. The Asstt. Adm. Officer (R.), ICAR, Barapani
3. Personal file of Smt. Anita Goswami
4. Superintendent (Adm.), ICAR, Barapani
5. Dealing Asstt. (RO)

Accepted
with
Adv

Dated Barapani, the 21st November, 1994.

To

The Director,
ICAR Research Complex for NEH Region,
Umroi Road, Barapani - 793 103.

Sub :- Joining report of Junior Clerk.

Ref :- Your Memo No. RC(R) 10/94 Dtd 21st Nov. 1994

Sir,

With reference to above, I have honour to report
on my duty as a Junior Clerk to-day, the 21st November, 1994
F/N.

This is for your kind information please.

Yours faithfully,

(Amrita Goswami)

(AMITA GOSWAMI)

As asked
@ 21/11/94
H/V

Amita Goswami Applicant .

-Vs-

U.O. 1.2 etc Respondents.

O.A. No. 5/95

For the Applicant - Mr. S.K. Sharma, Mr. M. Chanda
For the Respondents - Mr. S. Ali, Sr. CGSC.

DATE

COURT

ORDER

PRESENT-

The Hon'ble Shri Justice
Shri M.G. Chaudhari, 19.1.95,
Vice-Chairman.
The Hon'ble Shri
G.L. Sanglyine, Member(A)

Mr. M. Chanda for the applicant.
Applicant present.

Mr. S Ali, Sr. C.G.S.C. for the
respondents on notice.

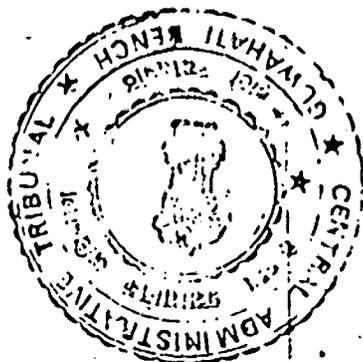
Mr. Ali the learned Sr. C.G.S.C. states
that the service of the applicant was
terminated on 23.12.94 and therefore
the application is misconceived.

From what the applicant stated in
answer to our queries we gather the
impression that she was aware on
29.12.94 that her service was termi-
nated.

Whether the termination is legal or
illegal is a separate matter and since
the present application was based on
mere apprehension of likelihood of
termination of service the application
has been rendered infructuous. The
interim stay granted on 5.1.1995 had
made it clear that it would operate if
the service of the applicant was not
already terminated. Since the service
was already terminated the order did
not become effective.

In the circumstances Mr. Chanda prays
for leave to withdraw the application
with liberty to file a fresh application
challenging the legality of the order
of termination. Hence the following
order is passed :

The respondents shall make a copy of
the order of termination available to
the applicant on her approaching to
the departmental Head. The applicant
shall acknowledge the service thereof.



Attested
While
H.V.

h

O.A. 5/95

OFFICE NOTE

DATE

COURT ORDER

17.195

The applicant will be at liberty to approach ^{the departmental} higher authority against the order of termination if that is permissible in law and under the rules. Irrespective of liberty to approach the higher authorities, liberty is also granted to the applicant to file a fresh application in this Tribunal for challenging the order of termination. The applicant will be at liberty to urge all the grounds raised in the present application as may be relevant for that purpose ~~and for that purpose~~ apart from the grounds as may be raised for challenging the legality of the termination order. The application is allowed to be withdrawn with ~~that~~ ^{above} liberty.



Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)

Certified to be true Copy
 प्रमाणित प्रतिलिपि

[Signature]
 Deputy Registrar (Judicial)
 Central Administrative Tribunal
 Guwahati Bench, Guwahati

*Attested
 @ [Signature]
 Adv.*

c/j

32A

Annexure - BA

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR H.E.H. REGION
UMROI ROAD, BARAPANI, MEGHALAYA

No. RC(P)32/94

Dated Barapani, the 24th Dec, '94.

O R D E R

The Memorandum No. RC(R)10/94 dated 21.11.94 issued to Smt. Anita Goswami, Junior Clerk stands hereby cancelled with retrospective effect in terms of the terms and conditions laid down in the said offer in view of her over age on the date as per the original documents produced by her.

S. Laskar
(S. LASKAR)
Director

To

Smt. Anita Goswami,
~~Junior Clerk~~
C/o Shri Kaushik Choudhury,
Rilbong, Shillong,
Meghalaya. *(1 copy)* The original certificates produced by her are returned herewith. *(8 copies)*

Copy for information and necessary action to:-

1. The Finance & Accounts Officer, ICAR (RC), Barapani.
2. The Asstt. Admn. Officer(E), ICAR (RC), Barapani.

c/j

Attchd
@hale
Adv.

<u>Scale of pay of the post</u>	<u>Maximum age limit</u>
b) Assistants (Rs. 425-700)	18-25 years (Relaxation of age upto 35 years may be allowed to Departmental candidates who are eligible for direct recruitment quota).
c) Junior Stenographer (Rs. 330-560)	18-25 years (Relaxation in age upto 35 years as allowed to Junior Clerks in the Institutes who are eligible to compete with outside candidates).
d) Stenographers (Rs. 425-700)	18-25 years (Relaxation in age upto 35 years is allowed to employees of the Council).
e) Administrative Officer (Rs. 700-1300)	21-30 years (Relaxation in age upto 30 years is allowed to departmental candidates in the grade of Superintendent and Assistant Administrative Officer of the institutes).
f) Supporting Staff Grades I to IV	18-25 years.

1.6 Crucial date for the purpose of calculating the age limit:

The crucial date for the purpose of calculating the age of candidates in respect of (i) posts advertised by the Council for being filled by direct recruitment by interview and (ii) posts filled by direct recruitment through the Employment Exchange will be the 1st January of the calendar in which the closing date prescribed in the advertisement for receipt of applications for a particular post falls or the 1st January of the calendar year in which the requisition is sent to the Employment Exchange, as the case may be.

(ICAR letter No. 4(34)/75-Reorg. (Adm) dt. 6.9.75)

*Attested
@ Under
Adv.*

Category of persons to whom Age Concession is admissible	Categories of posts to which the Age Concession is admissible	Extent of Age Concessions
ii) Retrenched Central Government Employees	For posts filled otherwise than through UPSC on the basis of competitive tests, i.e. filled through Employment Exchange.	Period of previous service under the Govt. of India plus three years.
iii) Whole-time Cadet Instructors in N.C.C.	-do-	Period of service rendered in NCC plus three years
a. who were released from NCC after the expiry of their initial/extended tenure.		
b. who were released from NCC before the expiry of their initial/extended tenure		Period of service rendered in NCC, plus three years provided they have served in the NCC for a period of not less than six months prior to their release from NCC.
iv. Ex-General Reserve engineer Force personnel	For posts filled otherwise than through UPSC on the basis of Competitive tests, i.e. filled through Employment Exchange.	Period of service rendered in G.R.E.F., plus three years.

AH ested
 Ombuds
 Adv.

ANNEXURE-16

Page - 53

- | | | |
|---|---|---|
| xi. Blind, deaf and orthopaedically handicapped persons | For Class-III and IV posts filled through Employment Exchange. | 5 years |
| xii. Repatriates from Burma and Ceylon who have migrated to India on or after 1.1.63 and 1.1.64 respectively. | For Class-III and IV posts filled through Employment Exchange. | Upto 45 years |
| xiii. Territorial Army Personnel, who have served on the permanent staff of a Territorial Army Unit or have been embodied for service under T.A. Rule 33 for a continuous period of not less than six months. | For posts filled otherwise than through UPSC on the basis of Competitive tests i.e. for posts filled through Exam Employment Exchange. | Entire period of embodied service (including broken periods) in the Territorial Army, plus three years. |

2. For purposes of the above mentioned age concessions.

- i. "a retrenched Central Government employee" means a person who was employed under the Government of India for a continuous period of not less than six months prior to this retrenchment and was discharged as a result of the recommendation of the Economy Unit or due to normal reduction in establishment;
- ii. "a whole-time Cadet Instructor in NCC" means a person who was recruited as a whole-time Instructor in N.C.C. on or after 1.1.63;
- iii. "Ex-GREF personnel" means a person who was employed in that Force for at least a continuous period of not less than six months and who was released from that Force on completion of his tenure of service;

Attended
@ NCC
Adv.

ANNEXURE-17

SCHEDULE OF DELEGATION OF POWERS TO THE MANAGEMENT COMMITTEES
FOR ICAR INSTITUTES

Sl. No.	Nature of Power	Extent of Power of the Management Committee
1	2	3
I. ADMINISTRATIVE		
1.	Appointment to the posts for which the Director is the appointing authority like T-6, Security Officer etc.	The cases of appointment which have to be referred to ICAR Headquarters may be approved by the Management Committee.
1 (i)	Relaxation of Age	<u>Relaxation of age upto one yr.</u>
2.	Consitution of DPC/ Selection Committee	Full as per guidelines issued by the Council from time to time. Provision of D.G's nominee in such committees is disposed with.
3.	Follow up action on settlement of audit objections.	The Management Committee will consider action taken in each meeting and give directions for settlement of audit objections.
4.	Appointment of Head of Division and rotation.	Full powers subject to the observance of the guidelines issued by the Council from time to time. Only relaxation cases should be referred to the Council, through Management Committee.
5.	Relaxation in the cases of the Allotment of Residential accommodation at the Institute.	Full powers
6.	To approve the proposals for consultancy services to be undertaken by the staff members of the Institute.	Full powers subject to guidelines issued by the ICAR.
7.	Recommendations of the QRT/ or any other Task Force/ Appraisal Team etc. relating to the Institute	Acceptance by the Management Committee for implementation and follow up action. Cases where policy decision is required should be submitted to the ICAR Headquarters by the Management Committee.

Attested
@
Adv.

ANNEXURE - 18

BHARTIYA KRISHI ANUSANDHAN PARISAD
(INDIAN COUNCIL OF AGRICULTURAL RESEARCH)
KRISHI BHAWAN, NEW DELHI - 110001

F.No.5(4)/87-CON

Dated the 28th July, 1988

OFFICE ORDER

On the recommendation of the Governing Body, Indian Council of Agricultural research, in its meeting held on 9th March, 1988, the President, ICAR Society has approved the delegation of powers to the Management Committees of the ICAR Institutes to the extent as given in the Annexure. The same is forwarded herewith for guidance and necessary action.

Sd/- C.R.Mohapatra
Deputy Secretary (AS)

DISTRIBUTION :

1. All Directors/Project Directors of ICAR Research Institutes.
2. All Officers/Sections, ICAR.
3. Spare copies (50).
4. Guard File

....

Memo No. RC(E) 13/82
Copy forwarded to :

Dated Shillong, the 29.9.1988

1. The Joint Directors, Manipur/Sikkim/Arunachal Pradesh/Nagaland/Mizoram/Tripura.
2. The Scientist In-charge, ICAR Research Complex for NEH Region.
3. Administrative Officer/Asstt. Administrative Officer (Admn.)/Asstt. Administrative Officer (S).
4. Accounts Officer.
5. P.A. To Director.

Sd/- B.I.Chowdhury
Asstt. Administrative Officer (Admn.)

*Attended
@ 11:30
Adv.*

Appeal Petition

Annexure-19

Before the Hon'ble Secretary, I.C.A.R.,
Krishi Bhavan, New Delhi.

(through the Director, I.C.A.R. Research Complex for
NEH Region, Barapani.)

In the matter of

Appeal against cancellation of offer of appointment after the appellant had joined the services of the I.C.A.R. Research Complex for NEH Region, Barapani and had worked for more than a month.

And

In the matter of

Not condoning the overage within the permissible/ Reasonable limit notwithstanding appointment after full knowledge of the age of the appellant and provision for such condonation of overage and for relaxation of rules if at all necessary.

And

In the matter of

Orders conveyed vide No. RC(R) 32/94 dt. 24.12.94 from the Director, I.C.A.R. Research Complex for N.E.H. Region, Barapani....Annexure-10

And

In the matter of

Smti Anita Goswami, Jr. Clerk (Now out of service) of I.C.A.R. Research Complex for N.E.H. Region, Barapani.....Appellant.

Most Respectfully submits,

1. That the humble appellant, who is a citizen of India, who appointed as Jr. Clerk in the scale of Rs. 950-20-1150-RN-25-1500/-P.M. and other allowances as admissible from time to time in the ICAR Research Complex for NEH Region, Barapani vide memorandum No. RC(R) 10/94 dt. 21.11.94 (Copy enclosed as Annexure-1)

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Anita
Adv.

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2. That the humble appellant in response to the offer of appointment vide Annexure - 1 *ibid* joined the service of I.C.A.R. Research Complex for N.E.H. Region, Barapani in the forenoon of 21st November, 1994. (copy of the joining report is enclosed as Annexure - 2)

3. That the appellant was registered with local Employment Exchange, Shillong. The I.C.A.R. Office, Barapani, Shillong was in need of service of some Junior clerks and accordingly the Office of the Director, I.C.A.R. Research Complex for NEH Region, Barapani placed a requisition to the local Employment Exchange, Shillong in the month of January, 1990 for sponsoring the names of eligible candidates for recruitment to the post of Junior Clerk as aforesaid.

4. That the name of the appellant was sponsored by the local Employment Exchange, Shillong in response to the requisition from the I.C.A.R. in the month of January, 1990 as aforesaid.

5. That however the appellant was called for interview in the year 1992 vide letter No. RC(R)32/81/vol.II dt. 4.12.1992 and was asked to appear in a written test held on 29.12.92. The humble appellant accordingly appeared in the written test on 29.12.92 thereafter the humble appellant was called for typing speed test for the post of Junior Clerk on 5.5.93 vide letter No. RC(R)32/81 vol.II dt. 12.4.93. The humble appellant appeared in the typing test on 5.5.93. The appellant was then called for oral interview and she came out successful. Thereafter the Administrative Officer, I.C.A.R. Research Complex for N.E.H. Region, Barapani, Shillong asked the humble appellant to fill up verification roll forms for recruitment to the post of Jr. Clerk vide letter No. RC(R)10/94 dated 1.7.94. The humble appellant accordingly in compliance with the said order dated 1.7.94 vide *ibid* submitted the verification roll forms duly filled up (copy of employment exchange card, letter dated 4.12.94, dated 12.4.93 and 1.7.94 are enclosed as Annexure 3, 4, 5 and 6 respectively).

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6. That after observation of all these formalities and requirement and verification thereof the Director, I.C.A.R. Research Complex for N.F.H. Region, Barapani offered the humble appellant the post of Junior Clerk in the I.C.A.R. Research Complex for N.E.H. Region, Barapani vide Annexure-1 *ibid*.

7. That as stated *ibid* the humble appellant reported for her duties on 21.11.94 and thereafter attended every day of office days in the office and discharged her duties to the best of her ability and to the satisfaction of her superior.

8. That the humble appellant proceeded on leave on medical ground for seven days from 30.12.94 and reported back to duty on 6.1.95 after obtaining necessary medical certificate of fitness from the attending physician (a copy of the medical certificate dated 6.1.95 from the attending physician is enclosed as Annexure-7).

9. That by that time there was afloat strong rumour that the I.C.A.R. was contemplating to dispense with the services of the appellant and on legal advice the humble appellant sought the protection of the Hon'ble Central Administrative Tribunal, Guwahati as could be immediately available.

10. That the petition came up before the Hon'ble Central Administrative Tribunal on 5.1.95 and thereafter on 17.1.95 and the Hon'ble Tribunal by its order dated 17.1.95 allowed the applicant (appellant) to withdraw the case with liberty to approach the departmental higher authority against the order of termination. Liberty was also granted to the appellant to file a fresh application in this Tribunal for challenging the order of termination. The Tribunal also directed the applicant (appellant) to receive a copy of the order of termination (copy of the order of the Tribunal dated 5.1.95 and 17.1.95 are enclosed as Annexure 8 and 9 respectively).

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11. That the appellant had since received a copy of the order bearing No.PC(P)32/94 dated 24.12.94 although she was attending the office and signing attendance register without any hindrance till 29.12.94. By this order dated 24.12.94 the memorandum No.RC(R)10/94 dated 21.11.94 Annexure-1 offering the appellant appointment in I.C.A.R. Research Complex, Barapani had been cancelled in view of her overage on the date as per the original documents produced by her (a copy of the said order dated 24.12.94 is enclosed as Annexure-10).

12. That two aspects were high lighted in the said order dated 24.12.94 Annexure-10 viz. (1) That this is an order cancelling the offer of appointment vide Annexure-1 in terms of the terms and conditions laid down in the said offer and

(ii) That was because of over age of the appellant/ applicant on the date.

13. That the offer of appointment vide No.RC(R)10/94 dated 21.11.94 Annexure-1 has only one provision of cancellation of the offer of appointment vide *ibid* and no other and that is Clause 17 which reads as under:-

"17. In case the post is acceptable to Sh/Smti Amita Goswami on terms and conditions mentioned above he/she should intimate his/her acceptance to the Director immediately and report for duty to the Administrative Officer, I.C.A.R. Research Complex for N.E.H. Region, Barapani after obtaining the medical fitness certificate from a medical officer not below the rank of Civil Surgeon/Asstt. Surgeon-I of any Govt. Hospital within 30(thirty) days from the date issue of the offer failing which the offer will automatically stand cancelled."

14. That your humble appellant had submitted her acceptance, reported for duties on 21.11.94 vide joining report Annexure-2, was assigned duties and allowed to sign the attendance register to signify her presence and that she did upto 29.12.94 till she proceeded on leave from 30.12.94 to 5.1.95 restrained to sign the attendance register on 6.1.95 and thereafter.

And that in view of her already in service Clause 17 had no application and there being no other provision to cancel the offer of appointment, cancellation of offer of

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Adv.

appointment - Annexure-1 by the impugned order Annexure-10 in terms of the terms and conditions of the offer of appointment, was void ab-initio and had no effect and the humble appellant in fact and law continues to be in service.

15. That the cancellation was due to her overage on the date was never conveyed to her before the order of cancellation was issued. Had she been given an opportunity to explain she would certainly have satisfied the authority on the basis of the documents already submitted by her to the Administrative Officer, I.C.A.R. Research Complex, Barapani that the imputation of overage on the date was not correct and she was well within the age limit prescribed.

16. That attention of your honour is invited to paragraph 6 of the offer of appointment which reads as under:-

"6. His/her appointment may be terminated without assigning reason by one month's notice on either side under Rule 5 of the Central Civil Service (Temporary Service) Rules 1965, as applicable mutatis-mutandis to the employees of the Council. During the probation, however, the appointment authority may terminate the service of the appointee without prior notice and without the payment of salary in lieu thereof."

17. That under paragraph 6 two categories of termination was laid down. One by way of right conferred upon either of the parties and with one month's notice, which could be called the 'Termination Simpliciter' and the same could be without assigning any reasons. The other is the termination during the period of Probation. The absence of the words "without assigning any reason" in the latter is significant. It therefore, postulates that in the case of termination without notice and pay in lieu thereof during the period of Probation, the employee concerned should be entitled to show cause as otherwise it would be impossible to know the reasons before termination and would be incongruous to harmonious reading of the clause and highly arbitrary, violative of the principle of natural justice and deprivation of the protection afforded under part III of the Constitution of India. And the order of cancellation apart from its nullity due to reasons already adduced in paragraph 14 *ibid* is also illegal and ultra-vires due to the position stated in the paragraph.

AA 25/2/21
@ 25/2/21
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18. That the allegation that the appellant was overaged on the crucial date is not correct either as could be seen from the following facts, known to the local I.C.A.R. authority, as all the particulars were already submitted to the Administrative Officer, I.C.A.R. Research Complex, Barapani.

(i) That the appellant belonging to weaker section being a woman and coming from an economically distressed family not-with-standing her social status, had her graduation in the year 1984 at the age of 20. She was in frantic search of a job to maintain herself and her parents and others and could secure an appointment as Typist clerk under Govt. of India, National Malaria Eradication Programme, and posted vide letter No. Admn. 2/86/21/1504 dated 10.11.86 at Shillong (a copy of this letter dated 10.11.86 is enclosed as Annexure-11).

(ii) That the appellant was upgraded to the post of Sr. Typist in the said Deptt. vide No. PF/14-7/89/138 dated 31.1.1989 (Annexure-12).

(iii) That however the services of the appellant was terminated with effect from 30.6.1989 due to cessation of the programme. The order of termination of her service under the National Malaria Eradication Programme is enclosed as Annexure-13.

(iv) Experience certificate was issued on 12.6.89 by the Co-ordinator, Govt. of India, N.M.E.P. highly appreciating the performance of the appellant (Annexure-14).

(v) The Govt. of India, National Malaria Eradication Programme also issued Discharge Certificate vide Annexure-15 treating the appellant as retrenched Govt. Employee. The "Discharge Certificate" is meant for the purpose of obtaining relaxation of upper age limit for inducting in Govt. or Semi Govt. service.

(vi) That the appellant thereafter was appointed as a Typist cum clerk under contract system with effect from October, 1989 in the office of the Project Director, National Research Centre for Mithun under the I.C.A.R. at Shillong and she worked there till 9th February, 1990. A certificate issued in respect of her working as a Typist cum clerk by the Project Director, N.R.C. for Mithun is enclosed as Annexure 16. Be it mentioned here that her contract service came to an end for shifting of the aforesaid N.R.C. for Mithun to a very remote locality of Nagaland.

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(vii) The appellant became unemployed once again and was looking for some other assignment and was appointed a part time Receptionist cum Typist in the office of the Institute of Engineers and she joined there in May, 1990 and a copy of the working certificate from the Institute of Engineers is enclosed as Annexure-17.

19. That at that stage the I.C.A.R. Research Complex for N.E.H. Region, Barapani approached the Employment Exchange, Shillong in early 1990 for sponsoring the name of a few suitable candidates for recruitment in the office(s) of I.C.A.R. and accordingly the appellant came into consideration for a post of Junior Clerk as herein-before stated.

20. That as stated in the preceding paragraph the requisition for candidates for the post of Junior Clerk was placed with the Employment Exchange, Shillong in January, 1990. On 1st January, 1990, the appellant was 25 years 10 months 5 days in age. Now according to I.C.A.R. Administrative Manual 1.6, relaxation of overage for a retrenched Govt. Servant of the Central Government is available as under:-

"1.6. Crucial date for the purpose of calculating the age limits-

The crucial date for the purpose of calculating the age of candidates in respect of (i) posts advertised by the Council for being filled by direct recruitment by interview and (ii) posts filled by direct recruitment through the Employment Exchange will be the 1st January of the calendar year in which the closing date prescribed in the advertisement for a particular post falls or the 1st January of the calendar year in which the requisition is sent to the Employment Exchange as the cases may be."

ICAR letter No.4(34)/75 Reorg(Admn)
dt. 6.9.75.

Category of persons to whom age concession is admissible	Category of posts to which the age concession is admissible	Extension of age concession
(ii) Retrenched Central Govt. employees	for post filled otherwise through <u>V.P.S.C.</u> on the basis of competitive test i.e. filled through Employment Exchange	period of previous service under Govt. of India plus three years.

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2. For purposes of the above mentioned age concessions-
 "1) a retrenched central Govt. employee" means a person who was employed under the Govt. of India for a continuous period of not less than six months prior to his retrenchment and was discharged as a result of the recommendation of the Economy unit or due to normal reduction in establishment."

The humble appellant was in the service of the National Malaria Eradication Programme under the Govt. of India for a period of more than six months upto 2 years 7 months 7 days and together 3(three years) relaxation as stated *ibid* she was entitled to total relaxation for a period of 5 years 7 months and her candidature and appointment was well within permissible age limit under instruction of the I.C.A.R. quoted *ibid* and the local I.C.A.R. Research Complex for N.E.H. Region did not give her the benefit of beneficial provision which is to receive liberal interpretation and thereby perpetrated gross injustice to her.

21. That the appellant submit that she never suppressed her age and the same was clearly disclosed to the Employment Exchange which sponsored the candidature and when she submitted the verification roll for recruitment some months before offer of appointment was made to her. She also submitted her original admit card, mark sheet in the oral interview held for the purpose of selection. It is however, not alleged that there were discrepancies of what she has stated and what came out in course of examination of original certificates as that would have attracted clause 13 read with clause 14 of the offer of appointment and she would have been liable to be removed. That these clauses of the offer of appointment were not invoked clearly prove that there had been no suppression of facts on her part and her offer of appointment came after due consideration of all records placed by her and therefore cancellation of the offer of appointment, which apart from being a nullity was highly illegal, arbitrary and unfair.

22. That, that being so and the appellant had already joined the I.C.A.R. in accordance with the terms and conditions specified in Annexure-1 and with a highly satisfactory past service in other Govt. Deptts. including I.C.A.R. in its N.R.C. for Mithun, such an unfair irregular and illegal step by the local authority was beyond the least reprehension for an employee

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drawn from weaker section of the society (being a lady) that would debar her from jobs in any Govt. or Govt. undertaking because of the efflux of time in between a rare humane consideration from the local authority was expected but the same was denied.

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23. That there exists provision for relaxation upto 1 year by the local management committee but the relaxation provision was not extended to your humble appellant inspite of the fact that she had already placed facts concerning her age to the authority and was appointed with full knowledge of the same and have been working then in the I.C.A.R. Research Complex having left her part time appointment in the Institute of Engineers, as mentioned in para 18(vii) even though in an earlier case of Shri Ram Murty, relaxation of age was extended.

24. That under F.R. 5A of the Central F.R. and S.R. relaxation of rules is a prerogative of the concerned Ministries to mitigate genuine suffering of an employee and I.C.A.R. having application of the Central F.R. & S.R. mutatis-mutandis have the authority and power enumerated in F.R. 5A of the Central F.R. & S.R. and the local I.C.A.R. authority instead of the arbitrary, illegal and high-handed action on their part to cancel the offer of appointment, could have referred the case to the I.C.A.R. HQ. for necessary favourable decision, in case they have found the case outside the scope of their power but that was not done but instead threw her out of employment adopting a dubious means.

25. That the cancellation of the offer of appointment vide Annexure-10 was given retrospective effect without specifying the date from which the cancellation should take effect and clearly shows that the local authority did not act in good faith and did not place their mind.

26. That with a view to cover their misdeed the Local I.C.A.R. authority had not paid the humble appellant the monthly remuneration due from the date the humble appellant joined the service of the I.C.A.R. as Junior Clerk on and from 21.11.94 till 29.12.94 so long as she attended and allowed to sign the attendance register and that action of depriving one from his pay and allowances for the period one worked to the best of ones ability and sincerity was malafied and bad in law.

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27. That the said cancellation order vide Annexure-10 is therefore liable to be quashed as the same was issued without relevance to the terms and conditions in the offer of appointment vide Annexure-1.

28. That the termination clause provide in para 6 though not invoked and cannot be invoked also as the procedure required to be followed in such an event had not been followed and had the proper procedure with show cause would have been adopted, the humble appellant had as placed herein before, sufficient materials to convince the authority that she was not overaged as alleged.

29. That the provision for removal from service in terms of clauses 13 and 14 could not and did not arise as that the humble appellant did not furnish any false declaration or information and in particular in relation to her age, which was made the ground for cancellation of offer of appointment.

30. That the provision in the delegation of power to relax the overage upto 1(one) year by the Local Management Committee was also not extended to the humble appellant, although in the circumstances it was a highly deserving case for such invocation in view of the fact that in similar other cases as in the case of Shri Ram Murti the provision was invoked.

31. That the humble appellant coming from weaker section of the society (being a lady), having rendered service with sincerity and devotion in the past in various other Govt. and non-Govt. organisations as also in the I.C.A.R. deserved better treatment and even otherwise deserved invocation of provisions of F.R. 5A of the Central F.R. & S.P. and similar other provisions once she had been inducted in service so however she was retained instead of being thrown out of employment as by the time she would be completely overaged and lose her eligibility for any Govt. or semi-govt. service.

32. That it was absolutely wrong and illegal on the part of the local I.C.A.R. Complex not to disturb her pay and allowances for the period from 21.11.94 to 29.12.94 and thereafter inspite of her continuously attending to her duties with full knowledge of local I.C.A.R. Administration.

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33. In the circumstances stated above it is humbly prayed that your honour would graciously be pleased to quash the impugned Order No.RC(P)32/94 dated 24.12.94 - Annexure-10 and allow me to resume duties immediately and during the pendency of such consideration and order as

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an interim measure

1. That the pay and allowances for the month of November, 1994 from 21.11.1994 and December, 1994 upto 29.12.94 both days inclusive be disbursed forthwith; and

2. not to fill up the vacancy caused due to cancellation of the offer of appointment to your humble appellant so that no vested interest is created to stand in the way of dispensing proper justice.

And for this act of kindness the humble appellant as in duty bound shall ever pray.

P. Goswami

(Amita Goswami)

Humble Appellant
C/o Smti Mays Rani Deb,
Habul Kutir,
Jackson Trade Road,
Laban, Shillong-793 004.
(Meghalaya)

Dated Shillong,
the 30.1.95

The Advance copy forwarded to-

✓ The Secretary,
Indian Council of Agricultural Research,
Krishi Bhawan,
New Delhi - 110 001

for immediate orders on the interim prayer above.

P. Goswami

(Amita Goswami)

Humble Appellant

Dated Shillong,
the

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