

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A.No.4547/2014

Thursday, this the 7th day of January 2016

Hon'ble Mr. A.K. Bhardwaj, Member (J)
Hon'ble Mr. V.N. Gaur, Member (A)

1. Shri Sanjay Kumar Naik
s/o Shri Padmadev Naik, aged 32 years
r/o E-409, M S Apartment, Kasturba Gandhi Marg
New Delhi-1
Post: Assistant Hydrogeologist (Group 'B')
2. Sangita P Bhattacharjee
d/o Sri B N Pathak, aged 39 years
r/o 64, KCA Layout, Kothanaur Main
4th Cross J P Nagar 8th Phase
Bangalore 560062
Post: Assistant Hydrogeologist (Group 'B')
3. Sh. Ashwin Kumar Atey
s/o Sh. Madhukar Atey aged 32 years
r/o Veena Gandotra, Plot No.135-D
Nanak Sagar Sector 8 Jammu
Post: Assistant Hydrogeologist (Group 'B')
4. Dr. K. Rajarajan
s/o Sh. P Kumarasamy aged 43 years
r/o D-1, Diamond Block
Basant Nagar, Chennai
Post: Assistant Hydrogeologist (Group 'B')
5. Dr. S Srinivasa Vittala
s/o Sh. Srinivasa Murthy, aged 39 years
r/o No.374, Block 26, CPWD Quarters
Layout Sector 1, Bangalore 560102
Post: Assistant Hydrogeologist (Group 'B')
6. Sh. S.Sakthi Murugan
s/o Sh. Late S. Sundaram aged 47 years
r/o 36 (N)/22(O) North street Shinthamani
Mecagaram (PO), Tenlensi (P/C)
Trinelveli Distt. Tamilandu
Post: Assistant Hydrogeologist (Group 'B')
7. Sh. Anil Chand A.D.
S/o Sh. A.T. Divakaran aged 41 years

- r/o Qtr. No.13, Type IV, CPWD
Vattiyurkava, Trivandrum – 13 (Tamil Nadu)
Post: Assistant Hydrogeologist (Group 'B')
8. Sh. Dip Jyoti Khound
s/o Sh. R.N. Khound aged 44 years
r/o Jorhat, Assam
Post: Assistant Hydrogeologist (Group 'B')
 9. Sh. Singathurai S, aged about 41 years
s/o Sh. Seevalamuthu (Late)
r/o 48B/10, North Alagunachiapuram
Kuruvikul Sankarankoilgr
Trinelveli Distt. Tamilandu
Post: Assistant Hydrogeologist (Group 'B')
 10. Sh. J. Sivaramakrishnan
s/o Sh. S. Janakiraman aged about 34 years
r/o 489, Block 36, CPWD Quarters
HSR Layout, Sector I, Bangalore 560102
Post: Assistant Hydrogeologist (Group 'B')
 11. Sh. A. Sakthivel
s/o Sh. K. Alagurani aged 38 years
r/o HIG 335, Tamil Nadu Housing Board
Venanpatti via, Dharnapuri, Tamil Nadu 636705
Post: Assistant Hydrogeologist (Group 'B')
 12. Sree Hari Saranagan
s/o Sh. Sreedharan M P Aged 35 years
r/o M S Methla House, Mottangal PO
Pathananthito, Distt. Kerala
Post: Assistant Hydrogeologist (Group 'B')
 13. Sh. S. Saritha
d/o Sh. V Madhavan Nair aged 38 years
r/o Saras, Melvettoor (PO) Varkala
Trivandrum, Kerala
Post: Assistant Hydrogeologist (Group 'B')
 14. Bijimol Jose
d/o Sh. Jose P J aged 35 years
r/o B-201 Gaana Regent Apartment
Channasandra, Near RNSIT
Vishnuvardhan Road, Subramanyapura (PO)
Bangalore 560061 (Karataka)
Post: Assistant Hydrogeologist (Group 'B')
 15. Sh. M. Panneer
s/o Sh. V Muthan aged 36 years
r/o 2 Pothan Street Marakkanam PO

Tindivanam T N Villupurma Distt. 604703
Post: Assistant Hydrogeologist (Group 'B')

16. Sh. N. Ramesh Kumar
s/o Sh. E Natharajan aged 35 years
r/o 104 Transit Hostel, CPWD, CGO Quarters
Besant Nagar, Chennai – 600090
Post: Assistant Hydrogeologist (Group 'B')
17. Sh. K.M. Nayak
s/o Sh. Ugrasen Nayak aged 31 years
r/o MM-34, Shantinath Society, Opposite Vijalpur bus stop
Vijalpur, Ahmedabad 380051
Post: Assistant Hydrogeologist (Group 'B')
18. Sh. Anukaran Kujur
s/o Sh. Antonis Kujur aged 36 years
r/o Dr. Kushal Katoch Near Dhauladhar Colony
Lower Barol, PO Dari Tehsil Dharmashala, District
Kangra, Himachal Pradesh 176057
Post: Assistant Hydrogeologist (Group 'B')
19. Ravees Ahmad Pir
s/o Gulam Ahmad Pir aged 28 years
r/o 419-A Kanwali Road, Balliwala Chowk
Dehradun 248001 (Uttarakhand)
Post: Assistant Hydrogeologist (Group 'B')
20. Sh. Sudhanshu Kumar Mohanty
s/o Sh. Laxmidhar Mohanty, aged 37 years
r/o At/Po-Mukandapur, Via Barundei P S Korai
Distt. Jajpur, Odisha 755025
Post: Assistant Hydrogeologist (Group 'B')
21. Sh. Rajeev Kumar Tripathy
s/o Sh. Lalit Mohan Tripathy, aged 37 years
r/o D/9 Anand Vihar Near Gulmohar Vatika
New Purena, Raipur – 492001 (Chattisgarh)
Post: Assistant Hydrogeologist (Group 'B')
22. Sh. Debasish Baghi
s/o Sh. Dilip Kumar Baghi aged 39 years
r/o H.No.75, Lane No.8, Mohit Nagar
PO New Forest, Dehradun – 248006
Post: Assistant Hydrogeologist (Group 'B')
23. Sh. Dibakar Mohanta
s/o Sh. Nagannath Mohanta aged 39 years
r/o Flat No.5 F, Vajranest Apartment Church Road
Phase III, Huda Colony Chandan Nagar
Hyderabad Telengana – 500050
Post: Assistant Hydrogeologist (Group 'B')

24. Sh. Sunil Toppo
s/o Sh. Naiman Toppo aged 47 years
r/o Sukra Orron H.No.349, Near Bhartic Apartment
56 Set, Kusai, Doranda, Ranchi 834002
Post: Assistant Hydrogeologist (Group 'B')
25. Dr. J. Davithuraj
s/o P Jeyaraj aged 42 years
r/o H.No.137, 2nd Main, 5th Cross Sadashiva Nagar
Belgaum – 19
Post: Assistant Hydrogeologist (Group 'B')
26. Smt. Sumita Sarkar
d/o Sh. Mrinal Kanti Sarkar aged 39 years
r/o 12/26, Bireswar Dhole Lane, PO Alambazar
Kolkata, West Bengal – 700035
Post: Assistant Hydrogeologist (Group 'B')
27. Sh. Rajesh Kumar Verma
s/o Sh. B.L. Verma aged 39 years
r/o A-403, Ananmangal Apartment, Nr. Don Bosco School
Vastrapur Rly. Station Road Vejalpur
Ahmedabad, Gujarat – 380051
Post: Assistant Hydrogeologist (Group 'B')
28. Sh. Alok Kumar Sinha
s/o late Sh. Anil Kumar Sinha aged 37 years
r/o C 4/01, Ananmangal Apartment, Nr. Don Bosco School
Vastrapur Rly. Station Road Vejalpur
Ahmedabad, Gujarat – 380051
Post: Assistant Hydrogeologist (Group 'B')
29. Sh. Singaren Sandeep Purty
s/o Sh. Mareshel Purty, aged 41 years
r/o Vill. PO Khuntitoly, Distt. Simdega Jharkhand
Post: Assistant Hydrogeologist (Group 'B')
30. Sh. Promod Kumar Verma
s/o Sh. N.R. Verma aged 38 years
r/o CGWB SUO, 64 Polo First, Panto
Jodhpur
Post: Assistant Hydrogeologist (Group 'B')
31. Dr. Prahlad Ram
s/o Sh. Ramchandar Ram aged 35 years
r/o Qtr. No.1199, Type –IV, N.H. IV
Faridabad PC 121011, Haryana
Post: Assistant Hydrogeologist (Group 'B')
32. G. Sareenath
s/o Sh. K.N. Gopinathan Nari aged 43 years

r/o Sree Hari, H.No.485, Kedharam Nagar
 Pattom, Trivandrum
 Post: Assistant Hydrogeologist (Group 'B')

33. Sh. Pankaj Kumar
 s/o Sh. Late Krishna Sahay aged 37 years
 r/o Flat No.303, Gokul Apartment, Sector 45
 Faridabad – 121003
 Post: Assistant Hydrogeologist (Group 'B')

..Applicants

(Mr. V.S.R. Krishna, Advocate)

Versus

Union of India through:

1. The Secretary, Ministry of Water Resources
 Shram Shakti Bhawan, Rafi Marg
 New Delhi
2. The Secretary, Ministry of Personnel
 & Public Grievances & Pensions
 Department of Personnel & Training
 North Block, New Delhi
3. The Chairman
 Central Ground Water Board
 Bhujal Bhawan, NH-IV, Faridabad

..Respondents

(Mr. Rajinder Nischal and Mr. Ashish Nischal, Advocates)

O R D E R (ORAL)

Mr. A.K. Bhardwaj:

The applicants herein joined Central Ground Water Board (CGWB) as Assistant Hydrogeologist on different dates mentioned in the seniority list placed on record as Annexure A-2. The prayer made by them in the Original Application is to give them the benefit of O.M. No.2/41/97-PIC dated 09.11.1998 (Annexure A-3) whereby the Flexible Complementing Scheme (FCS) for Scientists in various scientific departments was introduced. According to Mr. V.S.R. Krishna, learned counsel for applicants, the

controversy involved in the present Original Application is, in all fours, of the Order dated 03.03.2011 passed by the Calcutta Bench of this Tribunal in **Union of India & others v. Water Resources (CGWB)** (O.A. No.1004/2010) wherein the judgment of Hon'ble High Court of Andhra Pradesh in Writ Petition No.24398/2010 was followed, and the Order dated 03.03.2011 was finally upheld by Hon'ble Calcutta High Court in W.P. C.T. No.102/2012.

2. Mr. Rajinder Nischal, learned counsel for respondents submitted that the FCS could be applied only to those persons holding a Group 'B' (Scientific) post in CGWB between 28.05.1986 and 09.11.1998 and since the applicants were appointed after 09.11.1998, they are not covered by FCS

3. We heard the learned counsels for the parties and perused the record.

4. In O.A. No.1032/1996, the Hyderabad Bench of this Tribunal could specifically view that the FCS introduced vide O.M. dated 28.05.1986 and modified vide O.M. dated 09.11.1998 was applicable to the incumbents of Group 'B' (Scientific) post. The Order was noted by the Hon'ble High Court of Andhra Pradesh in its Order dated 30.11.2010 in W.P. No.24452/2010.

The Order reads thus:-

“Applicants before the Central Administrative Tribunal, Hyderabad (Tribunal), filed this Writ Petition for declaring the order dated 30.08.2010 passed in O.A. No.370 of 2010 by the Tribunal, vide common order in O.A. No.370 and 371 of 2010, as illegal and arbitrary and consequently for directing the respondents to extend the Flexible Complementing Scheme (FCS) by promoting the petitioners to the post of Scientists-B along with Assistant Chemists/ Assistant Hydrogeologists (Group-B) on completion of three years of service in the lower cadre.

Heard Sri G. Vidya Sagar, learned counsel appearing for the petitioners, Sri Ponnamm Ashok Goud, learned Assistant Solicitor

General appearing for respondent Nos. 1 to 3, and Sri J.P. Srikanth, learned Standing Counsel for fourth respondent.

The learned counsel on either side fairly conceded that the controversy involved in this Writ Petition is squarely covered by an order of this Court dated 10.09.2008 rendered in Writ Petition No.22349 of 1999 which was filed by the State aggrieved by the order dated 19.04.1999 passed in O.A. No.1032 of 1996 by the Tribunal. In the said judgment, it is held as follows:

“In the circumstances, the Tribunal ought not to have directed the petitioners to revise 1995 Rules so as to include the benefit of FCS for the Group B posts. However, having regard to the Presidential Order, which has statutory force, pursuant to which the Department of Science and Technology issued O.M. dated 2.5.1986 and the consequent O.M. dated 9.11.1998, we are of the considered view that the petitioner is under obligation to implement O.M. dated 2.5.1986, as modified by O.M. 9.11.1998 and take further action to implement the FCS in respect of respondents-applicants.

Subject to the aforesaid modification the writ petition is dismissed.”

It is stated that the Apex Court by order dated 31.08.2009 dismissed the Special Leave to Appeal (Civil) in C.C. No.7347 of 2009 filed by the Union of India affirming the order dated 10.09.2008 in Writ Petition No.22349 of 1999.

Therefore, this Writ Petition is disposed of in terms of and in accordance with the order of this Court dated 10.09.2008 rendered in Writ Petition No.22349 of 1999. No costs.”

5. Also in O.A. No.1004/2010 (supra), relied upon by learned counsel for applicants, following the judgment of Hon’ble High Court of Andhra Pradesh in Writ Petition No.24398/2010, a view was taken that the benefit of the Order of High Court should be extended to the applicants in the O.A., i.e., Tarun Mishra & others. The Order reads thus:-

“3. The applicant has produced an order of the Hon’ble High Court of Andhra Pradesh in Writ Petition No.24398 of 2010. The said order reads as under:-

“In the circumstances, the Tribunal ought not to have directed the petitioners to revise 1995 Rules so as to include the benefit of FCS for the Group B posts. However, having regard to the

Presidential Order, which has statutory force, pursuant to which the Department of Science and Technology issued O.M. dated 2.5.1986 and the consequent O.M. dated 9.11.1998, we are of the considered view that the petitioner is under obligation to implement O.M. dated 2.5.1986, as modified by O.M. 9.11.1998 and take further action to implement the FCS in respect of respondents-applicants.”

4. The order passed by the Hon’ble High Court and the Hon’ble Supreme Court is binding on the respective parties. The said judgement is also applicable to this case.”
5. The Order of the Tribunal was finally upheld by the Hon’ble High Court in W.P.C.T. No.102/2012, which reads thus:-

“The Union of India and others are aggrieved by the judgment of the Central Administrative Tribunal, Calcutta Bench in O.A. No.1004 of 2010. The Tribunal by its order dated 3rd March, 2011 has disposed of the original application as infructuous. However, the Union of India and others are aggrieved that this decision of the Tribunal was based on a similar issue which arose and has been decided by the Hyderabad Bench of the Central Administrative Tribunal. The Tribunal’s decision has been upheld by the Andhra Pradesh High Court and confirmed by the Supreme Court.

It is obvious that the Central Administrative Tribunal, Calcutta Bench has merely followed the decision of the Andhra Pradesh High Court which has been confirmed by the Supreme Court. In fact, the learned counsel for the Union of India and others conceded before the Tribunal that the issue had already been decided. It is, in these circumstances that the Tribunal has dismissed the original application as infructuous.

We see no reason to interfere with the decision of the Tribunal. It has been argued by the learned counsel for the petitioners that the Andhra Pradesh High Court had decided the matter without considering the judgment of the Supreme Court in the case of Union of India and others vs. S.K. Saigal & others in Civil Appeal Nos. 2600-2601 of 2005 decided on 15th November, 2006.

This submission of the learned counsel for the petitioners cannot be accepted. The Supreme Court has confirmed the order of the Andhra Pradesh High Court much later, in 2011.

The petition is, therefore, dismissed.”

6. We find that Tarun Mishra one of the applicants in O.A. No.1004/2010 was appointed as Assistant Hydrogeologist on 30.07.2001, i.e., apparently after 09.11.1998. Thus the plea raised on behalf of the respondents that the benefit of FCS is extendable to only those who were incumbents of the Group 'B' (Scientific) post prior to 09.11.1998, cannot be accepted.

7. As has been ruled by the Hon'ble Supreme Court in **Sub Inspector Rooplal & another v. Lt. Governor through Chief Secretary, Delhi & others**, (2000) 1 SCC 644, unless we are inclined to take a view different from one taken by the coordinate Bench and refer the matter to Larger Bench, it is not permissible for us to ignore the judgment of the coordinate Bench of this Tribunal. Relevant excerpt of the said judgment reads thus:-

"12. At the outset, we must express our serious dissatisfaction in regard to the manner in which a Coordinate Bench of the tribunal has overruled, in effect, an earlier judgment of another Coordinate Bench of the same tribunal. This is opposed to all principles of judicial discipline. If at all, the subsequent Bench of the tribunal was of the opinion that the earlier view taken by the Coordinate Bench of the same tribunal was incorrect, it ought to have referred the matter to a larger Bench so that the difference of opinion between the two Coordinate Benches on the same point could have been avoided. It is not as if the latter Bench was unaware of the judgment of the earlier Bench but knowingly it proceeded to disagree with the said judgment against all known rules of precedents. Precedents which enunciate rules of law form the foundation of administration of justice under our system. This is a fundamental principle which every Presiding Officer of a Judicial Forum ought to know, for consistency in interpretation of law alone can lead to public confidence in our judicial system. This Court has laid down time and again precedent law must be followed by all concerned; deviation from the same should be only on a procedure known to law. A subordinate Court is bound by the enunciation of law made by the superior Courts. A coordinate Bench of a Court cannot pronounce judgment contrary to declaration of law made by another Bench. It can only refer it to a larger Bench if it disagrees with the earlier pronouncement. This Court in the case of *Tribhuivandas Purshottamdas Thakur v. Ratilal*

Motilal Patel, (1968) 1 SCR 455 : (AIR 1968 SC 372) while dealing with a case in which a Judge of the High Court had failed to follow the earlier judgment of a larger Bench of the same Court observed thus (para 11 of AIR) :-

"The judgment of the Full Bench of the Gujarat High Court was binding upon Raju, J. If the learned Judge was of the view that the decision of Bhagwati, J. in *Pinjare Karimbhai's case* (1962 (3) Guj LR 529) and of Macleod, C.J., in *Haridas's case* (AIR 1922 Bom 149) did not lay down the correct law or rule of practice, it was open to him to recommend to the Chief Justice that the question be considered by a larger Bench. Judicial decorum, propriety and discipline required that he should not ignore it. Our system of administration of justice aims at certainty in the law and that can be achieved only if Judges do not ignore decisions by Courts of coordinate authority or of superior authority. Gajendragadkar, C. J. observed in *Lala Bhagwan v. Ram Chand*, (AIR 1965 SC 1767).

"It is hardly necessary to emphasize that considerations of judicial propriety and decorum require that if a learned single Judge hearing a matter is inclined to take the view that the earlier decisions of the High Court, whether of a Division Bench or of a single Judge, need to be re-considered, he should not embark upon that enquiry sitting as a single Judge, but should refer the matter to a Division Bench, or, in a proper case, place the relevant papers before the Chief Justice to enable him to constitute a larger Bench to examine the question. That is the proper and traditional way to deal with such matters and it is founded on healthy principles of judicial decorum and propriety."

13. We are indeed sorry to note the attitude of the tribunal in this case which, after noticing the earlier judgment of a coordinate Bench and after noticing the judgment of this Court, has still thought it fit to proceed to take a view totally contrary to the view taken in the earlier judgment thereby creating a judicial uncertainty in regard to the declaration of law involved in this case. Because of this approach of the latter Bench of the tribunal in this case, a lot of valuable time of the Court is wasted and the parties to this case have been put to considerable hardship."

8. In view of the aforementioned, Original Application is disposed of with direction to the respondents to extend the benefit of Order of Calcutta Bench of this Tribunal dated 03.03.2011 passed in O.A. No.1004/2010, as

affirmed by Hon'ble Calcutta High Court in W.P.C.T. No.102/2012 (supra)
to the applicants herein also. No costs.

(V.N. Gaur)
Member (A)

(A.K. Bhardwaj)
Member (J)

January 7, 2016
/sunil/