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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 11175/2016

Date of decision: 24th November, 2016.

YASH PAL

..... Petitioner

In person.

versus

DIRECTOR GENERAL, COUNCIL OF SCIENTIFIC &
INDUSTRIAL RESEARCH & ANR

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

SANJIV KHANNA, J. (ORAL)

1. The petitioner, Yash Pal has appeared in person and we have examined the merits of the impugned order dated 9th September 2016, whereby OA No.4190/2013 has been dismissed as not maintainable on the ground of *res judicata* and constructive *res judicata*.
2. We are in agreement with the reasoning given by the tribunal.
3. The petitioner is a retired employee from the National Physical Laboratory, a constituent unit of the Council for Scientific and Industrial Research. He had earlier filed an OA Nos.2990/1991 claiming that he had been wrongly denied promotion under the New

Recruitment and Assessment Scheme. He had filed another Original Application, OA No.1757/1994, challenging the vires of the letter dated 5th March, 1983 by which cut-off date for educational qualification was fixed as 31st December, 1981. These OAs were dismissed by the tribunal vide order dated 8th August, 1997. The petitioner had then preferred a Writ Petition(C)No.4817/1997, which was dismissed. SLP filed against the order of dismissal was also dismissed.

4. The petitioner thereafter initiated the third round of litigation by filing OA No.1755/2003 challenging the New Recruitment and Assessment Scheme. *Primarily* the ground of challenge relating to the cut-off date for acquisition of educational qualification fixed as 31st December, 1981. The petitioner had acquired the said qualification on 1st September, 1982, i.e. after the cut-off date. This OA was dismissed vide order dated 6th May, 2004.
5. Order dated 6th May, 2004 and another order passed by the tribunal dated 9th September, 2005 relating to promotion under the Merit and Normal Assessment Scheme implemented w.e.f. 1st April, 1988, were challenged by the petitioner in the Writ Petition Nos.10395/2004 and

23790/2005. These writ petitions were dismissed vide judgment dated 23rd May, 2011 passed by one of us (Sanjiv Khanna, J.), upholding the order passed in OA.No.1755/2003 on the principle of *res judicata* and constructive *res judicata*.

6. The petitioner, who appears in person accepts that he had preferred an SLP against this judgment, which was dismissed.
7. Notwithstanding the said dismissal, the petitioner in 2013 filed OA No.4190/2013 again challenging the New Recruitment and Assessment Scheme which was in operation from 1st November, 1981 till 31st March, 1988. In the meanwhile, the petitioner had retired on 31st January, 2013.
8. Petitioner submits that the principles of *res judicata* and constructive *res judicata* have been wrongly understood and were not applicable. In other words, the decision in OA NO.1755/2003 was incorrect and that the judgment dismissing the Writ Petition No.10395/2004 dated 23rd May, 2011 is contrary to law or incorrectly appreciates the principle of *res judicata* and constructive *res judicata*.
9. We do not think that the petitioner can be permitted and allowed to raise the same plea and contention once again. There has to be end to

the litigation, and the issue once decided cannot be made subject matter of a new litigation after the earlier orders have attained finality.

10. The tribunal in the impugned order has stated that the petitioner is a chronic litigant and has imposed costs of Rs.50,000/- while dismissing the OA. The judgment dated 23rd May, 2011 dismissing the writ petition (C)No.10395/2004 and 23790/2005, refers to a list of cases filed by the petitioner. For the sake of convenience, we would reproduce the said list.

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Sl.No.	Applicant	Vs.	Respondent	Case No.
01.	Yash Pal	vs	CSIR & Ors	OA No.2990/1991 with OA No. 1757/1994
2.	Yash Pal	vs	CSIR & Ors	RA No. 219/1997 in OA No. 2990/91 with OA No. 1757/94
3.	Yash Pal	vs	CSIR & Anr	CWP No. 4817/1997
4.	Yash Pal	vs	DG, CSIR & Anr.	LPA No. 512/2000
5.	Yash Pal	vs	DG, CSIR & Ors	SLP (C) No. 4127/99
6.	Yash Pal	vs	DG, CSIR	RA No. 6616/2000
7.	Yash Pal	vs	Dr. R.A. Mashelkar, DG, CSIR & Ors	CP (Civil) 383 of 2001 MA No. 1647 of 2001 OA No. 2990 of 1991

8.	Yash Pal	vs	DG, CSIR	CMP No. 4971/99 & RA No. 6616/2000
9.	Yash Pal	vs	-do-	CW No. 5282/2001 CM No. 9053/2001
10.	Yash Pal	vs	DG, CSIR & Ors	OA No. 2493/2001 MA No.2095/2001
11.	Yash Pal	vs	-do-	CM(RA) No. 11180/01 in CW No. 5282/2001
12.	Yash Pal	vs	-do-	OA No. 399/2003 MA No. 420/2003
13.	Yash Pal	vs	-do-	OA No. 1755/2003 MA No. 1486/2003

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11. However, at the same time, the petitioner, we find is 64 years of age and had retired from service on 31st January, 2013. The petitioner has pleaded before us that he has lost his wife. It is stated his son is studying and he has to meet his expenses. He would face financial difficulty. In these circumstances, we waive the costs imposed by the Tribunal.
12. The writ petition is disposed of.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

NOVEMBER 24, 2016
NA/ssn