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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 90/2016**

Date of decision: 3rd March, 2016

SAURAV KUMAR & ORS

..... Petitioner

Through Mr. Anukul Raj and Mr. Shantanu
Krishna, Advocates.

versus

COUNCIL FOR SCIENTIFIC AND INDUSTRIAL RESEARCH

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

SANJIV KHANNA, J. (ORAL)

Subject matter of challenge in this writ petition filed by as many as 11 petitioners, is the order dated 25th May, 2015 of the Central Administrative Tribunal, Principal Bench, New Delhi, whereby OA Nos. 2343/2014, 3727/2014, 2495/2014 and 4361/2014 were dismissed.

2. In 2009, Council for Scientific and Industrial Research (CSIR, for short) had started the Post Graduate Research Programme in Engineering (PGRPE, for short). It was a two-year course in nature of traineeship, where the selected candidates were paid a stipend of Rs.25,000/- per

month.

3. Learned counsel for the petitioners had drawn our attention to the advertisement dt. 27th April, 2011, Annexure P-8 (page 116 of the paper book), by which, the applications were invited for the said two-year full-time residential PGRPE programme. In the said advertisement, it was notified:-

“PGRPE is a four-semester programme. Course fee per semester is Rs.24000.

On successful completion of the PGRPE with distinction, the candidates may be considered for absorption in CSIR as Scientist in Pay Band-3 of Government of India (Scale Rs.15600-39100 with Grade Pay of Rs.6600 plus other allowances as applicable).”

Our attention was drawn to Rule 6.1.2 of the Recruitment Rules of CSIR as it existed prior to and post 1st June, 2011. It was submitted that a promise was held out that candidates, who successfully complete the two-years training programme, were eligible for consideration for appointment to the post of Scientist 'C' in CSIR. This, it was submitted, means that the trainees, who successfully complete the said course, would form a separate class, and would be entitled as a matter of right to claim consideration for appointment as Scientist 'C' and these candidates cannot be made to

participate or compete with others or outside candidates. The petitioners, trainees of 2011-12 batch, claim that they have been discriminated even after successful completion of the said programme with distinction for they, unlike earlier batches of 2009-2010 and 2010-2011, were not issued appointment letters for the post of Scientist 'C'.

4. The stand of the respondents CSIR, which has been accepted by the Tribunal, is that in terms of Rule 6.1.2 and 6.5 of the Recruitment Rules, appointment to the post of Scientist 'C' was mandated by way of direct recruitment, and for selection, the petitioners must compete with other eligible candidates. Mere completion of the PGRPE programme/training with distinction does not entitle the petitioners to seek appointment to the post of Scientist 'C'. Earlier error or lapse when 2009 and 2010 batches were granted regular appointments, without following the due process, would not confer any rights. The appointments of 2009 batch are pending investigation and enquiry.

5. We have considered the said contention, but regret our inability to agree with the petitioners. Rule 6.1.2 as it existed prior to 1st June, 2011 and post thereafter have been reproduced in a chart in the present writ petition and for the sake of convenience and completeness, we would like

to reproduce the same:-

“Rule 6.1.2 to the extent indicated hereunder

Existing	Revised
Recruitment shall normally be made at the initial level of Scientists Group iv. (1) Wherever need exists or arises, director of lab/instit can fill up the posts at lateral level to the extent recommended by Research Council with the condition that the existing Roster position may not be disturbed. In exceptional circumstances, if there is a need to require at lateral level over and above the strength fixed, post in the Roster meant for Gr. IV (1) may be upgrade with the approval of Research Council, however, the post should be filled by candidate of the same category as per the roster point.	(i) Persons with engineering background and possessing BE/B.Tech qualification will be recruitment as trainee scientist TS and admitted to the Academy of Scientist & innovation Research (ACSIR) subject to meeting the norms of admission prescribed by the Academy from time to time. Ts will be paid a stipend equivalent to the minimum of pay band-3 with grade pay of 5400 plus admissible allowances. TS will undergo a programme of training consisting of theory and practice in the areas of relevance to CSIR under the auspices of ACSIR. The TS upon successful completion of two years of training leading to advanced Diploma with Distinction shall be eligible for consideration for appointment to the level of scientist in CSIR. (ii) All advertisements for the positions of Scientific in CSIR, henceforth, shall be with regard to pay Band-3 or pay Band-4 the selection committee depending upon the performance of the candidate may choose to place the candidate in any of the grade pay within the pay band subject to meeting the minimum eligibility criterion specified, without disturbing the existing Roster position.

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(Note, abbreviation, TS standing for Trainee Scientists)

The petitioners, it is accepted, were 'Trainee Scientists' who have undergone two-year PGRPE diploma programme with distinction. A reading of the revised Rule illustrates that recruitment of Trainee Scientists was to be made as per the appointment rules prescribed by the Academy from time to time. It is further stipulated that Trainee Scientists will be paid stipend and not wages or salary. Trainees, upon successful completion of two years of training leading to an advanced diploma with distinction are eligible for consideration for appointment to the post of Scientist 'C' in the CSIR. Being eligible for appointment is not equivalent and does not mean that the trainee scientists would be entitled and had a vested right to claim appointment to a post. Once a candidate meets the eligibility qualification she/he is entitled to be considered with others in the selection. The candidate cannot profess that she/he must be issued or had secured a right to a special treatment or they form a distinct class. We do not think that the said stipulation means that the Recruitment Rules had undergone a change or modification.

6. Rule 6.2 as it existed prior and post 1st June, 2011 are as under:-

Existing	Revised
Rule 6.2 The minimum qualifications, experience and maximum age limits for direct recruitment of Group IV Scientists at various levels shall be as follow:	Rule 6.2 The minimum qualifications, experience and maximum age limits for direct recruitment of Group IV Scientists at various levels shall be as follow:

Sl. No.	Group, Grade and Designation and scale of pay of the post	Qualification	Experience in require areas	Age limit not exceeding	Sl. No.	Designation	Qualification	Experience in require areas	Age limit not exceeding
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2.	Scientist Gr. IV(2) Rs. 10000-15200	1 st class M.Sc / B.E /B.Tech /MBA /M.LibSci MCA / MBBS or equivalent qualification OR M.tech. / ME / M.VelSC. /MD or recognized equivalent qualifications OR PhD OR PhD (Engg)	3year 2year 1year Nil	35 years	2.	Scientist	ME /M.Tech/M.VelSC. M.D OR B.Tech / M.Sc /with Post Gradual degree in intellectual Property Law , (1 st class or 60 % on an aggregate or equivalent GPA) OR BE / B.Tech with Advanced Diploma from AcSIR with distinction OR PhD (Sc / Engg/Submitte	- - - - - - - -	32 years
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The prescribed eligibility qualification as per amended Rule 6.2 with effect from 1st June, 2011 includes candidates, who have successfully undergone the Advanced Diploma from ACSIR or PGRPE programme. Prior to 1st June, 2011, candidates, who had undergone the said programme, were not eligible. Candidates, who have undergone M.Tech/B.Tech/M.Sc. or post graduation in Intellectual Property Law, are equally eligible for appointment as Scientist Grade IV(2) in the pay scale of Rs.10000-15200. The result of the amendment in Rule 6.2 is that eligibility qualifications stand extended to include the trainees like the petitioners, who have successfully undergone PGRPE Diploma with distinction.

7. The procedure for appointment to different posts in CSIR is provided in Rule 6.5, which for the sake of convenience, is reproduced below:-

“6.5. Vacancies for which the Selections are required to be made by the Board shall be decided by the Labs./Instts./CSIR Hqrs with the approval of RC of the Lab.or DG, CSIR as the case may be. The vacancies shall be advertised by the respective Labs./Instts./CSIR Hqrs. A copy of the advt. shall be sent to the Board.

6.5.1 The applications, in response to the advertisement, shall

be received at the respective Laboratory/Hqrs.

6.5.2 For recruitment of Scientist upto Scientist Group IV (5) level the Director in the laboratories and in the case of CSIR Hqrs. DG, CSIR shall constitute the Screening Committee. For Scientist Group IV(6), the screening committee shall be constituted by DG, CSIR. The Committee shall screen the applications received and organize a written test or seminar if considered necessary for shortlisting the candidates to be called for interview. The set of applications and recommendations of the Screening Committee shall be sent to the Board. Approval of relaxation in age, qualifications and/or experience from DG, CSIR shall be obtained by the laboratory and sent to the Board.

The Screening Committee for screening the applications shall comprise the following:

- i) One Scientist from another CSIR Lab.
- ii) One Scientist from the Lab./CSIRHqrs.
- iii) Director/DG or his nominee.

The Director can take the help of the Board in screening the applications in case he considers such assistance useful.

6.5.3 The date and time for holding the meetings of the Selection Committees shall be fixed by the laboratories in consultation with the Chairperson of the Board. The letter of invitation/intimation to the shortlisted candidates for the interview/test shall be issued by the Laboratory accordingly. In the case of CSIR Hqrs. it shall be issued by CSIR.

6.5.4 The meetings of the Selection Committees may be held at the concerned Lab. or CSIR Hqrs. as the case may

be.

6.5.5 Selection Committee shall recommend a panel of candidates in order of merit for each post or group of posts as advertised. All relevant papers in respect of the selections shall be forwarded by the Board to the concerned appointing authority.

6.5.6. The panel shall be valid for one year and operated for issuing the offer of appointment to the selected candidates only to the extent of the number of the vacancies advertised. If any of the candidate(s) who have been issued the offer of appointment up to the extent of the notified vacancies does not accept the offer or does not join by the stipulated date, the next candidate on the panel can be offered the post.”

The aforesaid rule stipulates that selections are required to be made by the Board with the approval of Research Council or Director General, CSIR, as the case may be. The vacancies have to be advertised by the Laboratories, Institutes or CSIR Headquarters. Applications, in response to the advertisement, have to be received at the respective Laboratory or Headquarters. There is no stipulation or mandate that candidates with PGRPE diploma acquire a special status or form a distinct category.

8. When we read the amended Rules 6.1.2, 6.2 along with 6.5, it is clear to us that fulfilling the eligibility requirement i.e. the PGRPE Diploma with distinction, does not result in an automatic appointment to

the post of Scientist 'C'. Rule 6.5 was never amended and has not been erased or modified. Amended Rule 6.2 had the effect of including and treating PGRPE Diploma with distinction, as meeting the minimum eligibility norm and nothing more. The PGRPE Diploma holders do not form a separate and distinct class, who have acquired right to be dealt with differently.

9. The contention of the petitioners, pleading similar treatment as the PGRPE Diploma batches of 2009 and 2010, has to be rejected. An enquiry has been initiated regarding appointments made by the then Director General for the rules were not followed. Principle of equality cannot be applied to perpetuate an illegality done in the past. The petitioners cannot claim that the error made should be followed, notwithstanding the rules which have a binding force.

10. In these circumstances, we do not think that the petitioners are right in pleading that they have acquired a vested right on successful completion of PGRPE Diploma with distinction.

11. In view of the aforesaid, the writ petition is dismissed. We clarify that the observations made above are only in respect of the present petitioners and will not be construed as observations regarding the pending

enquiry, in respect of appointments of the 2009 batch. We also clarify that this order will not bar and prohibit the petitioners or other Trainee Scientists, who have successfully completed the programme with distinction, from applying for posts of Scientist 'C' in the CSIR in terms of Rule 6.5. Furthermore, we do not modify or erase any other direction issued by the Tribunal to the CSIR.

12. With the aforesaid observations the writ petition is dismissed.

SANJIV KHANNA, J.

NAJMI WAZIRI, J.

MARCH 03, 2016

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