

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2017

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THE HONOURABLE Mr.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE Mr. JUSTICE M.V.MURALIDARAN

W.P.No.30549 of 2016

1.V.Sagadevan
2.N.Koodalingam Petitioners

Vs.

- 1.The Director,
Central Electrochemcial Research Centre (CECRI)
Karaikudi - 630 006.
- 2.The Director General,
Council of Scientific and Industrial Research (CSIR)
No.2, Anusandan Bhavan, Rafi Marg,
New Delhi - 110 001.
- 3.Union of India, Represented by its Secretary,
Ministry of Science and Technology,
Technology Bhavan, New Mehrauli Road,
New Delhli - 110 001.
- 4.The Central Administrative Tribunal
Rep. by the Registrar,
Additional City Civil Court Buildings,
High Court Campus,
Chennai - 600 104. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified mandamus, to call for the records and quash the order dated 20.01.2015 in O.A.No. 846 of 2011 to declare clause (h) of paral 22 of MANAS read with Annexure-V to the extent that it stipulates that the residency period for drivers for assessment to the next higher grade will count from the date of their induction in the technical stream as arbitrary and in violation of Articles 14 and 16 of the Constitution and consequently set

aside the order of the 1st respondent dated 03.04.2008 to the extent it stipulates that the period of service of applicants as Grade-II (1) for assessment to the next higher grade will count from the date of induction into technical stream i.e. with effect from 03.04.2008 read with order 11.03.2011 issued by the 2nd respondent and direct the respondents to take into consideration the technical/maintenance experience obtained by the applicants in the entire service rendered by them in the non-technical category of drivers for computing the period of service towards eligibility for assessment to the next higher grade of II (2).

For Petitioners : Mrs.D.Nagasaila

For Respondents : Mr.T.Ravikumar

Standing Counsel for R1 to R3

R4 - Tribunal

O R D E R

K.K.SASIDHARAN, J.

The petitioners filed Original Application in O.A.No.846 of 2011 for a declaration that Para 1.2.2 of Merit and Normal Assessment Scheme (for short MANAS) read with Annexure V to the extent it stipulates that the residency period for Drivers for assessment to the next higher grade will count from the date of their induction in the technical stream as arbitrary and to set aside the order passed by the first respondent dated 3 April 2008 to the extent it stipulates that the period of service of the petitioners as Grade II (1) for assessment to the next higher grade will count only from the date of induction into technical stream. The Tribunal considered the grievance raised by the petitioners and ultimately negatived the contention taken to quash the regulations. However, the Tribunal taking into consideration the background facts, directed the respondents to exercise the power of relaxation of the relevant provisions and consider the case of the petitioners. Since the Tribunal failed to quash the regulations challenged by the petitioners, they are before this Court by way of this writ petition.

2. The learned counsel for the petitioners submitted that though the entire issue is at large before this Court, the petitioners would be satisfied, in case, this Court clarifies the legal position that the respondents are having the power of relaxation. According to the learned counsel, such a course is necessary, in view of the stand taken by the Controller of Administration of CSIR -Central Electrochemical Research Institute in its Office Memorandum, dated 25 May 2015 that there is no provision in the Revised MANAS to consider for relaxation.

3. The learned counsel for the respondents 1 to 3 reiterated the contentions taken by the CSIR before the Tribunal. According to the learned counsel, there is no provision in the Revised MANAS to permit relaxation and as such, it is not possible to consider the case of the petitioners for relaxation.

4. Though the challenge made to Para 1.2.2 of MANAS and its Annexure V to the extent it stipulates that the residency period for Drivers for assessment to the next higher grade will count from the date of their induction in the technical stream was negatived, the Tribunal passed an equitable order, directing the respondents to consider the case of the petitioners for relaxation. The first respondent appears to have considered the case in the light of the observation made by the Tribunal in Paragraph 12 of the order and ultimately, arrived at a conclusion that there is no provision in the Revised MANAS to allow such relaxation. Even in the counter filed by the second respondent, such a contention was taken on the strength of the revised MANAS.

5. We have perused the Rules, Regulations and Bye-Laws in respect Central Electrochemical Research Institute. The Regulations and Bye-Laws contained a specific provision for relaxation. Bye-Law 15 provides that notwithstanding anything contained therein, the Governing Body shall have the power to relax the requirement of any rule to such extent and subject to such conditions as it may consider necessary. The Regulations including Revised MANAS were framed only on the strength of the Bye-Laws. Therefore, Bye-Laws would prevail over the Regulations framed by CSIR. We are therefore of the view that the second respondent is empowered to consider the case for relaxation.

6. The order passed by the Tribunal is upheld, subject to the above clarification regarding relaxation. Since the Tribunal has already directed the second respondent to consider the case for relaxation and in view of finding with regard to relaxation, necessarily, the matter should be considered early by CSIR.

7. The writ petition is allowed to the limited extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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Chennai - 600 104.

+2cc to Mr.T. Ravikumar, Advocate, S.R.No.16659

+1cc to Mr.D. Nagasaila, Advocate, S.R.No.16851

sk(CO)

md(04/04/2017)

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