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

+ **W.P.(C) 1400/2017**

Date of Decision : 20th February, 2017

YASH PAL

..... Petitioner

Through Petitioner in person

versus

**DIRECTOR GENERAL, COUNCIL OF SCIENTIFIC &
INDUSTRIAL RESEARCH & ANR.**

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

SANJIV KHANNA, J. (ORAL):

The petitioner-Yash Pal has appeared in person.

2. This Bench on an earlier occasion had passed the following order dated 24.11.2016 in W.P. (C) 11175/2016 titled Yash Pal v. Director General, Council for Scientific and Industrial Research:-

“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 cronic (sic. 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.”

3. The present writ petition challenges the order dated 7.11.2016 passed by the Principal Bench of the Central Administrative Tribunal ('Tribunal' hereafter) dismissing OA No. 1843/2013 titled Yash Pal v. Director General, Council for Scientific and Industrial Research & Anr., in which the following prayer was made:-

“a) To recall the judgment in OA 2990/1991 & 1757/1994 dated 08th August, 1997 and judgment in OA No. 1755/2003 dated 6th May, 2004 obtained by giving contradictory statements, concealing the material facts and fraud before this Hon'ble Tribunal and Hon'ble High Court of Delhi.

b) To permit the applicant to challenge the constitutional validity of Merit and Normal Assessment Scheme (MANAS) and Revised Merit and Assessment Scheme (Revised MANAS) implemented retrospectively w.e.f. 01.04.1988 and 01.04.1992 respectively.

c) Any other Writ or order of direction which it deem fit and proper in the facts and circumstances of the case and in the interest of justice.”

4. The petitioner apparently has not reconciled and accepted the orders dated 8.8.1997 and 6.5.2004 and the subsequent orders dated 9.9.2005 and 23.5.2011 rejecting his claim and prayer for grant of benefits under New Recruitment and Assessment Scheme ('NRAS' for short) and the Merit and Normal Assessment Scheme ('MANAS' for short).

5. The impugned order dated 7.11.2016 dismissing OA No.1843/2013 refers to the past history and it is noticed that the petitioner has repeatedly

raised the similar contentions earlier but without success.

6. The petitioner's perception and belief that he has been wrongly denied and deprived of benefit under the said Schemes, notwithstanding several adverse orders, is not a good and sufficient ground/reason to recall the orders. There has to be finality and end to rounds of litigation.

7. We would not hesitate in imposing costs, if the petitioner again approaches the court or Tribunal for similar or identical relief.

8. In view of the aforesaid, the writ petition has no merit and is accordingly dismissed. There would be no order as to costs.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

FEBRUARY 20, 2017

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