



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

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Date of Decision: August 23, 2023

+ W.P.(C) 5787/2003

SHAMBHU SHARMA

..... Petitioner

Through: Mr. Barun Kumar Sinha, Ms. Pratibha Sinha and Mr. Sneh Vardhan, Advocates.

versus

UOI & ORS.

..... Respondents

Through: Ms. Pratima N. Lakra, CGSC with Ms. Kashish Gupta, Advocate.
Mr. Chakrapal Verma and Mr. Vinod Kumar from department

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO (Oral)

1. This petition lays a challenge to the order dated May 05, 2003, passed by the Central Administrative Tribunal, Principal Bench, New Delhi ('*Tribunal*', for short) in Original Application being O.A. No. 1870/2002.

2. The prayers made in the Writ Petition are following:

i) issue a writ of certiorari quashing the impugned order dated 05th of May 2003 passed in O.A. No. 1870/2002 by the Central Administrative Tribunal.

ii) issue a writ of mandamus directing the respondents to pay 'equal pay for equal work' in view of the letter dated 14.7.90 (Annexure-P4) keeping in view the period of services rendered by the petitioner as Scientific Assistant (Highly Skilled Worker).



iii) direct the respondents to stay and quash the operation of the office order dated 23.05.2003 bearing No. AMD-1/3/2003-Adm.IV/Vol-I.”

3. Mr. Barun Kumar Sinha, learned counsel for the petitioner fairly states that he shall only press this writ petition with regard to prayer (ii) as reproduced above.

4. The prayer (ii) is primarily in respect of benefits sought by the petitioner in terms of letter dated July 14, 1990. The said letter reads as under:

*“Government of India
Department of Atomic Energy
Atomic Mineral Division*

*Camp : Galot
P.O. ; Changer
Distt. : Hamirpur.*

No. AMD/NR/ATL/MT/89-840

To,

*The Regional Director,
Northern Region,
AMD/Deptt. Of Atomic Energy
New Delhi- 66.*

Through Agent, Andalada Mines

Sub:- Sanction for one daily rated lab. Asstt. (wage equivalent to Agriculture Inspector State Govt. as given by circular D.C. Hamirpur).

Sir,

Please refer to letter No. AMD/NR/ATL/MT/89-1676 dated 2.6.90. Sanction for one daily rated laboratory assistant Sh. Shambhu Sharma (with B.Sc. Qualification P.C.M.) @ Rs. 40/- per day for the



period from 8.6.90 to 5.9.90 may please be expedited the previous sanction for same expired on 4.6.90.

*Yours faithfully,
Sd/-
(Ravindra Nath)
SO/D.”*

5. Mr. Sinha states that, after 1990, the petitioner has filed three petitions and in those petitions, the petitioner had not made any claim on the basis of letter dated July 14, 1990. In other words, it is only in the aforesaid O.A. that, a claim seeking the benefit in terms of the above stated letter was made.
6. On a specific query to Mr. Sinha, whether the petitioner could have made a claim based on the letter dated July 14, 1990 in his earlier petitions, his answer is in the affirmative.
7. If that be so, the prayer made in the O.A. in respect of a claim, based on letter dated July 14, 1990, is clearly barred by principle of constructive *res-judicata*, as the petitioner could have made the aforesaid claim in his earlier petitions, but has not made. Since, only prayer (ii) is pressed by Mr. Sinha, the same cannot be granted in view of our above conclusion.
8. We do not see any merit in this petition. The same is dismissed.

V. KAMESWAR RAO, J.

ANOOP KUMAR MENDIRATTA, J.

August 23, 2023/akc