

PETITIONER:
COUNCIL OF SCIENTIFIC & INDUSTRIAL RESEARCH NEW DELHI & ANR.

Vs.

RESPONDENT:
M. V. SASTRY & ANR.

DATE OF JUDGMENT: 01/09/1997

BENCH:
SUJATA V. MANOHAR, M. JAGANNADHA RAO

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T

Mrs. Sujata V. Manohar, J.

The Council of Scientific & Industrial Research (hereinafter referred to as 'CSIR') is a society registered under the Societies Registration Act XXI of 1860. It has been constituted inter alia, for the purposes of (a) Scientific & Applied Industrial Research of National importance; (b) Setting up Research & Development Projects of National priority with over-all planning for science and technology in the country and for other similar goals including setting up Research & Development Projects sponsored by industries in public/private sector. The respondent was initially given a temporary appointment as Junior Scientific Assistant with effect from 3.1.1959 in Central Food & Technological Research Institute ('CFTRI' for short), an institute under the aegis of 'CSIR'.

By its advertisement No. 70/59 'CSIR' invited applications for various posts. The advertisement, inter alia, invited applications for four posts of Senior Technical Assistants. The qualifications for this post were as follows:-

"M.Sc. Degree in Chemistry Physics Chemical Engineering or in allied field of technology preferably by research with 2-3 years experience of Industrial Intelligence. Survey and Production, Pilot Plant work or research development etc. Experience in liaison work in trade and industry. Workable knowledge of some foreign languages."

The respondent applied for the post of Senior Technical Assistant. He was selected and by order dated 1.11.1969, he was appointed to the post of Senior Technical Assistant in the Industrial Liaison Office at Jaipur in the pay-scale of Rs. 250-500. The respondent holds a Post Graduate Degree in Bio-Chemistry.

Thereafter, the respondent sought a transfer to 'CFTRI' at Mysore which was granted. He was promoted first to the post of Scientist on the initial pay of Rs. 600/- in the

pay-scale of Rs. 400-950 with effect from 21.3.1966. He was subsequently promoted as Scientist-'C' with effect from 20.3.1973. He continued in this post till his retirement on superannuation on 30.9.1984.

Prior to his retirement the respondent made a representation dated 20.9.1982 seeking an addition of five years of qualifying service for computation of his pensionary benefit under Rule 30 of the CCS (Pension) Rules, 1977. He was informed by the appellants by their letter dated 17.11.1989 that he did not fulfil the conditions stipulated in Rule 30. Hence his request could not be acceded to. Thereafter the respondent made a further representation dated 29.1.1990 for reconsideration of his case which was also rejected by the appellants by their letter dated 24.2.1992.

The respondent made Application No. 319 of 1992 before the Central Administrative Tribunal, Bangalore bench praying, inter alia for giving him the benefit of Rule 30 of the CCS (Pension) Rules, 1972 and to re-compute his retirement benefits accordingly. He also sought a direction for payment of differential amount together with interest. This application has been granted by the Tribunal. It has, however not granted any interest to the respondent. The present appeal is filed from this judgment and order of the Tribunal dated 15.9.1993.

The relevant provisions of Rule 30 of CCS (Pension) Rules are as follows:-

Rule 30: Addition to qualifying service in special circumstances:

(1) A Government servant who retires from a service or post after the add to his service qualifying for superannuation pension (but not for any other class of pension) the actual length of his service or the actual period by which his age at the time of recruitment exceeded twenty-five years or a period of five years, whichever is less, if the service or post to which the Government servant is appointed is one-

(a) for which post-graduate research, or specialist qualification or experience in scientific technological or professional fields, is essential; and

(b) to which candidates of more than twenty-five years of age are normally recruited:

Provided that this concession shall not be admissible to a Government service unless his actual qualifying service at the time he quits Government service is not less than ten years:

Provided further that this concession shall be admissible only if the recruitment rules in respect of the said service or post contain a specific provision that the service or post is one which

carries the benefit of this rule.

.....

(2)

(3) "

It was contended by the appellants before the Tribunal that the provisions of Rule 30 would not be attracted because there was no express specific provision in the requirement rules relating to the said post to the effect that the post is one which carries the benefit of this rule. This contention, however, has been rightly negated by the tribunal. Till 1980 'CSIR' had not adopted this concession. In 1980 'CSIR' extended this provision only to the Scientists and Technologists appointed in the pay-scale of Rs. 1500-2000 and above. However, vide notification 19.5.1982 the benefit of this rule was extended to all scientific and technical staff. Thereafter by a notification dated 28.10.1987 this benefit was extended even to those who had retired from service after 31.3.1960. Therefore, the respondent is entitled to the benefit of Rule 30 of he is otherwise eligible for the same.

The first requirement under Rule 30 is that the post to which the government servant is appointed is one for which post-graduate research is essential or any specialist qualification or experience in scientific, technological or professional fields, is essential. For the post of Senior Technical Assistant, the qualification is an M. Sc. Degree in Chemistry, Physics, chemical Engineering or any allied field of technology. This cannot be considered as a post-graduate research qualification. Undoubtedly, the advertisement says that M.Sc. Degree in any of these subjects should be preferably by reproach but it is not essential that the candidate should have a post-graduate research qualification. The respondent has an M. Sc. Degree in Bio-Chemistry. This cannot be looked upon as a post-graduate research or specialist qualification. This becomes clear if one looks at the qualification for some of the other posts which were advertised by 'CSIR'. For example, the appellants have drawn our attention to an advertisement in 'The Hindu' of December 12, 1954 for the post of Junior Scientific officer, Bio-Chemistry Division where the qualifications prescribed by 'CSIR' are: M.Sc. or Ph.D. in Biochemistry or Microbiology with at least two years in work on Bacterial Chemistry. Experience of work in antibiotics will be an additional qualification. Here specialist qualifications and experience are clearly prescribed, unlike the general qualifications and experience prescribed in the present case. In the advertisement there is also a preference indicated for a candidate possessing two or three years experience in industrial intelligence or survey and production or pilot plant work or research development etc.. as also experience in liaison work with trade and industry. This is not "specialist" experience in scientific, technological or professional fields. This is a general outline of the various kinds of experiences, at least some of which the candidate should have, over a period of two or three years. Clause (a) of Rule 30, therefore is not satisfied in the case of the respondent.

The second part of the rule is that it should be a post to which candidates of more than twenty-five years of age are normally recruited. The appellants have pointed out that the intention underlying Rule 30 (1) is to compensate a government servant for the time taken by him in securing the specialist qualifications or experience which are essential for appointment to the post to which he is appointed. The

qualifications and experience which are prescribed in the present case do not indicate that they would normally takes so much time that any candidate who possesses such qualifications and experience would be normally more than twenty-five years in age. A Master's Degree in one of the general fields of Chemistry, Physics Chemical Engineering or any allied field with two years experience need not necessarily push a candidate beyond the age of twenty-five years. Secondly, experience of the type required does not appear to be a mandatory requirement. Only a preference is indicated for candidates who possess the kind of experience which is prescribed. Therefore, both the conditions of Rule 30 are not satisfied by the respondent.

The respondent has contended before the Tribunal that there were other officers in 'CSIR' who were given the benefit of Rule 30. The appellants have pointed out that none of the officers so mentioned by the respondent were appointed to the post to which the respondent was appointed. They were required to much higher post for which specialist qualifications/research experience were assential.

The appeal is, therefore, allowed and the impugned order of the Tribunal is set aside. There will, however, be no order as to costs.