

Sabhajit Tewary

Vs

Union of India and Others

Writ Petition No. 43 of 1972

(K. K. Mathew, Y. V. Chandrachud, A. Alagiriswami, JJ)

21.02.1975.

JUDGMENT

RAY, C. J. -

1. In Writ Petition No 43 of 1972 the petitioner who is a junior stenographer in Council of Scientific and Industrial Research asked for an order declaring two letters to be discriminatory and violative of Article 14. The two letters relate to recommendations of the Finance Sub-Committee of the Council of Scientific and Industrial Research with regard to remuneration of stenographers. In short, the petitioner's allegations are that he should be granted the same number of advance increments as approved and granted to new entrants.

2. In order to entitle the petitioner to impeach the circular on the ground of infraction for Articles 14 and 16 the petitioner has to establish that the Council of Scientific and Industrial Research is an authority within the meaning of Article 12 of the Constitution.

3. The Council is a society registered under the Societies Registration Act. Reliance was placed by Counsel for the petitioner on these features of the society. Under Rule 3, the Prime Minister of India is the ex-officio President of the Society. The Governing Body under Rule 30 consists of inter alia some persons appointed by the Government of India. The Government of India may terminate the membership of any member or at one and the same time of all members other than the ex-officio members of the Governing Body. Rule 45 states that the Governing Body shall have the management of all the affairs and funds of the society. Rule 46 states that the Governing Body shall have power with the sanction of the Government of India to frame, amend or repeal bye-laws not inconsistent with the rules for the administration and management of the affairs of the Society and in particular to provide for the terms and tenure of appointments emoluments, allowances, rules of discipline and other conditions of service of the officers and staff of the Society. Reference was also made to the Government of India [Allocation of Business] Rules, 1961 and in particular to page 76 where it is stated that all matters relating to the Council of Scientific and Industrial Research are under the department of Science and Technology.

4. Extracting the features as aforesaid, it was contended that these would indicate that the Council of Scientific and Industrial Research was really an agency of the Government. This contention is unsound. The society does not have a statutory character like the Oil and Natural Gas Commission, or the Life Insurance Corporation or Industrial Finance Corporation. It is a society incorporated in accordance with the provisions of the Societies Registration Act. The fact that the Prime Minister is the President or that the Government appoints nominees to the Governing Body or that the Government may terminate the membership will not establish anything more than the fact that the

Government takes special care that the promotion, guidance and co-operation of scientific and industrial research, the institution and financing of specific research, establishment or development and assistance to special institutions or departments of the existing institutions for scientific study of problems affecting particular industry in a trade, the utilisation of the result of the researches conducted under the auspices of the Council towards the development of industries in the country are carried out in a responsible manner.

5. This Court has held in *Praga Tools Corporation v. C. A.* Annual ((1969) 3 SCR 773 : (1969) 1 SCC 585), *Heavy Engineering Mazdoor Union v. State of Bihar* ((1969) 3 SCR 995 : (1969) 1 SCC 765) and in *S. L. Agarwal v. General Manager, Hindustan Steel Ltd.* ((1970) 3 SCR 363 : (1970) ) that the Praga Tools Corporation, Heavy Engineering Mazdoor Union and Hindustan Steel Ltd are all companies do not enjoy the protection available to Government servants as contemplated in Article 311. The companies were held in those cases to have independent existence of the Government and by the law relating to corporations. These could not be held to be departments of the Government.

6. For these reasons we are of opinion that the Council of Scientific and Industrial Research is not an authority within the meaning of Article 12 of the Constitution. The writ petition is dismissed.

7. Parties will pay and bear their own costs in this writ petition.

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