LAIREN MAYUM INDRAJ EET SINGH
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IN THE HIGH COURT OF MANIPUR
AT IMPHAL

WP(C) No. 924 of 2018

Devi Datt Joshi, aged about 51 years, S/o (Late) Dayakishan Joshi, having permanent resident of Village and Post Barabey (Alallani) District-Phithoragarh, Uttarakhand, at present residing at Institute of Bioresources & Sustainable Development (IBSD), Gust House, Room No. 21, Uripok, Imphal West, P.O. & P.S. Imphal West District, Manipur.

... ***Petitioner***

Vrs.

1. The Union of India, represented by the Secretary, Department of Bio-Technology, Ministry of Science & Technology, Government of India, New Delhi – 110003;
2. The Director, Institute of Bioresources & Sustainable Development (IBSD) Department of Biotechnology, Government of India, Takyelpat, Imphal West District, Manipur – 795001.

... ***Respondents***

B E F O R E
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the petitioner	:	Mr. Murari Tiwari, Sr. Advocate
For the respondents	:	Mr. Kh. Samarjit, DSGI; and Mr. L. Anand, Sr. Advocate
Date of Hearing	:	**25.09.2025**
Date of Judgment	:	**10.03.2026**

J U D G M E N T
(CAV)

[1] Heard Mr. Murari Tiwari, learned senior counsel appearing for the petitioner; Mr. Kh. Samarjit, learned DSGI appearing for respondent No. 1; and Mr. L. Anand, learned senior counsel appearing for respondent No. 2.

[2] The present writ petition has been filed challenging the order dated 06.07.2018 issued by the Senior Administrative Officer, Institute of Bioresources & Sustainable Development (hereinafter referred to as 'IBSD' for short) terminating the service of the petitioner, letter dated 13.07.2018 from the Under Secretary to the Govt. of India, Ministry of Science & Technology, Department of Biotechnology disposing of the representation submitted by the petitioner by declining to cancel the order terminating the service of the petitioner and order dated 27.09.2018 issued by the Secretary, Department of Biotechnology, Government of India, Ministry of Science & Technology, Department of Biotechnology, rejecting the appeal filed by the petitioner against the said termination order (hereinafter collectively referred to as 'the impugned orders').

[3] The brief facts which culminates in filing of the present writ petition are that the Director, IBSD issued an advertisement dated 20.04.2011 inviting applications for appointment against various posts, including 1(one) post of Scientist – E (Natural Product Chemistry). As per the said advertisement, the essential qualification for the said post of Scientist – E (Natural Product Chemistry) are 1st class M.Sc. in Biochemistry/Phytochemistry/Organic Chemistry or equivalent with specialization in natural product chemistry having at least eleven years research experience or Ph.D in the above subjects with at least ten years research experience. The petitioner having the qualification of M.Sc. and Ph.D

in Organic Chemistry applied for the said post of Scientist – E (Natural Product Chemistry).

[4] The petitioner, having been selected and recommended by the Selection Committee for appointment as Scientist – E (Natural Product Chemistry), was informed, inter alia, by the Director (I/C), IBSD under its letter dated 20.03.2013 that the petitioner will be appointed initially for a period of 5(five) years which can later be regularized on satisfactory performance and that his appointment to the post will be as per the terms and conditions of the contract agreement. The petitioner was also directed to intimate and submit his acceptance of the offered post along with the signed Contract Agreement and other related documents within 10th April, 2013, failing which the said offer will be treated as cancelled.

[5] The petitioner accepted the offer of appointment by signing an agreement executed on 03.04.2013 between the IBSD and the petitioner and the petitioner joined his service on the same day by submitting a joining report dated 03.04.2013. The said agreement contains the following terms and conditions:-

> **"***1. Period of Employment :*
>
> *IBSD hereby appoints the party of the FIRST PART for a term of five years on* ***contract basis*** *from the date of his/her joining the institute.*
>
> *The party of the first part will be on the probation during the first years of the period of five years service. The party of the second part can extend or curtail the period of probation at its discretion.*

The Service of the party of the FIRST PART can be continued on regular basis on completion of the term of five years, if found suitable after review to be carried out by the party of the Second Part. Such review will normally be completed before the expiry of the five years period. If due to some administrative reasons or otherwise the party of the Second Part is unable to decide about offering regular service after completion of five years, the terms of five years may be extended for such terms as may be mutually agreed to between the parties.

"2. Duties/Job Profile :

*The party of the FIRST PART shall submit himself to the orders of the IBSD under whom he may from time to time be placed by IBSD and shall hold the said appointment for the term up to **02.04.2018** from the date of joining i.e. **03.04.2013** subject to the provisions as herein contained.*

The Party of the FIRST PART shall devote his whole time to his duties assigned by the Director, IBSD and shall at all times obey the Rules and Bye-laws of the Society of IBSD prescribed from time to time.

"4. Termination :

During the probation period, extended or otherwise, the contracts can be terminated by giving one calendar month's notice in writing or one month's salary in lieu of notice as termination simplicitor by either party without assigning any reason. In the event a shorter notice is given by either party, a sum equivalent to the salary of the period, notice period falls short of one month shall be payable by the concerned party to the other party.

Any time after completion of the probation and within five years or its extensions the contract can be terminated by giving three calendar month's notice in writing or three months salary in lieu of notice as termination simplicitor by either party without assigning any reason. In the event a shorter notice is given by either party, a sum equivalent to the salary of the period, notice falls short of three months, shall be payable by the concerned party to the other party."

[6] Before expiry of the period of service of 5(five) years, the petitioner filed a writ petition in this Court registered as WP(C) No. 195 of 2018 seeking for a direction to the respondents to regularize his service to the post of Scientist – E (Natural Product Chemistry). The said writ petition was disposed of on 04.05.2018 by issuing a directions to the respondents to undertake the aforesaid exercise of review for considering regularisation of the service of the petitioner and that till such exercise is completed, the

petitioner will continue to remain and function as Scientist – E (Natural Product Chemistry) with all the attending service benefits including pay and allowances.

[7] Pursuant to the aforesaid directions given by this Court in its order dated 04.05.2018 passed in WP(C) No. 195 of 2018, the Senior Administrative Officer, IBSD, wrote a letter dated 11.05.2018 requesting the petitioner to submit his self assessment report for the last 5(five) years to the competent authority of the institute on or before 16th May, 2018 and also informing the petitioner that his performance shall be evaluated by an Assessment Committee in the last week of May, 2018 or first week of June, 2018. In the said letter, the petitioner was further informed that based on the recommendation of the Assessment Committee after evaluation of his 5(five) years performance followed by a power point presentation and a personal interview, the competent authority of the institute shall decide for either regularization of his service or extension of the contract period or termination of the contract agreement.

[8] By an office order dated 15.05.2018 issued by the Senior Administrative Officer, IBSD, an Assessment Committee consisting of 9(nine) persons was constituted to assess the performance of the 3(three) contractual scientists including the present petitioner for their regularization/extension/termination. It was also mentioned in the said order that the committee shall meet on 28th May, 2018 at 9:30 A.M. in the institute

conference hall at Takyelpat, Imphal. For ready reference, a scanned copy of the said office order dated 15.05.2018 is reproduced hereunder:-

जैव संसाधन और स्थायी विकास संस्थान, इम्फाल

INSTITUTE OF BIORESOURCES & SUSTAINABLE DEVELOPMENT (IBSD)

DEPARTMENT OF BIOTECHNOLOGY, GOVERNMENT OF INDIA

Takyelpat, Imphal – 795001, Manipur (India)

OFFICE ORDER

Imphal, the 15th May, 2018

No. IBSD/1/107/2008: The Competent authority of the Institute is pleased to constitute an Assessment Committee with the following composition to assess the performance of the institute 3 contractual scientists namely Dr. Sudripta Das, Scientist-E, Dr. Devi Datt Joshi, Scientist- E and Dr. Asamanja Chattoraj, Scientist-D for regularization/extension/termination and to assess performance of Dr. Sunil S. Thorat, Scientist-C and Dr. Y. Rajashekar, Scientist-C under Flexible Complimenting Scheme (In-situ) Promotion. The committee shall meet on 28th May, 2018 at 9:30A.M in the institute conference hall at Takyelpat, Imphal.

1. Prof. G.N. Qazi — Chairman
   Former Vice Chancellor,Jamia Hamdard, Director General,
   Hamdard Institute of Medical Sciences & Research, New Delhi
2. Dr. Amulya K. Panda — Member
   Director, National Institute of Immunology, New Delhi
3. Dr. Shekhar C. Mande — Member
   Director, National Centre for Cell Science, Pune
4. Dr. Ramesh V. Sonti — Member
   Director, National Institute of Plant Genome Research, New Delhi
5. Dr. M. Radhakrishna Pillai — Member
   Director, Rajiv Gandhi Centre for Biotechnology, Thiruvananthapuram
6. Dr. Ajay Parida — Member
   Director, Institute of Life Sciences, Bhubaneshwar
7. Dr. B. Ravindran — Member
   Former Director,Institute of Life Sciences, Bhubaneswar
8. Dr. A.K Sahu — Member
   Head Aquaculture Production and Environment Division,
   Central Institute of Freshwater Aquaculture, Bhubaneswar
9. Prof. Indrani Karunasagar — Member
   Director, Nitte-Centre for Science Education & Research (NCSER), Mangalore

(Akbar Mazid)
Senior Administrative Officer

Memo no. IBSD/1/107/2008 — Imphal, the 15th May, 2018

Copy for kind information to:
1. P.A to Director for kind information of the Director
2. C/F

(Akbar Mazid)
Senior Administrative Officer

O/C 15/5/18

Web site: www.ibsd...

[9] The said Assessment Committee held its meeting on the scheduled date, i.e. on 28th May, 2018 and after assessing the self appraisal report of the petitioner, his power point presentation, personal interview, the Assessment Committee found the petitioner's performance to be below average and hence, not recommended for regularization. For ready reference, a scanned copy of the minutes of the Assessment Committee meeting held on 28th May, 2018 are reproduced hereunder:-

-26- ANNEXURE-A/25

MINUTES OF THE ASSESSMENT COMMITTEE CONSTITUTED FOR ASSESSMENT OF THE PERFORMANCE OF THE CORE CONTRACT SCIENTIFIC STAFF OF INSTITUTE OF BIORESOURCES AND SUSTAINABLE DEVELOPMENT (IBSD), IMPHAL FOR REGULARIZATION/ EXTENSION/TERMINATION OF THE CONTRACT PERIOD HELD ON MONDAY, THE 28TH MAY, 2018 AT IBSD, IMPHAL.

A. The Assessment Committee duly constituted with the approval of the competent authority vide Schedule IV of recruitment Rules for different posts of National Institute of Immunology, New Delhi as adopted by IBSD, Imphal vide order no. BT/01/001/2000/M dated 21.10.2002 of DBT, Govt. of India with the following composition met on Monday, the 28th May, 2018 at IBSD, Imphal to assess the performance of **Dr. Devi Datt Joshi, Scientist – E,** for regularization/extension/ termination of the contract period.

1. Prof. G. N. Qazi — Chairman
   Former Vice Chancellor,
   Jamia Hamdard, Director General,
   Hamdard Institute of Medical Sciences & Research, New Delhi
2. Dr Amulya K. Panda — Member
   Director,
   National Institute of Immunology, New Delhi
3. Dr. Shekhar C. Mande — Member
   Director,
   National Centre for Cell Science, Pune
4. Dr. Ramesh V. Sonti — Member
   Director,
   National Institute of Plant Genome Research, New Delhi
5. Dr. M. Radhakrishna Pillai — Member
   Director,
   Rajiv Gandhi Centre for Biotechnology, Thiruvananthapuram
6. Dr. Ajay Parida — Member
   Director,
   Institute of Life Sciences, Bhubasneswar
7. Dr. B. Ravindran — Member
   Former Director,
   Institute of Life Sciences, Bhubasneswar

Comm. of Affidavit
High Court of Manipur
Imphal (Manipur)

True Copy
Advocate

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8. Dr. A. K. Sahu
Head Aquaculture Production and Environment Division, Member
Central Institute of Freshwater Aquaculture, Bhubaneswar

9. Prof. Indrani Karunasagar
Director, Member
Nitte- Centre for Science Education & Research (N-CSER), Mangalore

B. The Committee assessed the self appraisal report submitted by Dr. Devi Datt Joshi., Scientist- E, IBSD, Imphal

C. After assessing the self appraisal report of Dr. Devi Datt Joshi, Scientist-E and power point presentation, personal interview, the Assessment Committee

Found his performance to be below average.
Hence not recommended for regularization.

28/5/2018

(Dr. Shekhar C. Mande) (Dr. Ramesh V. Sonti) (Prof. Indrani Karunasagar)

(Dr. B. Ravindran) (Dr. Ajay Parida) (Dr. A. K. Sahu)

(Dr.M. Radhakrishna Pillai) (Dr Amulya K. Panda)

28/5/18

(Prof. G. N. Qazi)

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High Court of Manipur
Imphal (Manipur)

Advocate

28th May 2018

Assessment Committee Performance Report
IBSD, Imphal

Name of the Scientist : Dr. Devi Datt Joshi	Marks	Obtained
Marks awarded based on the assessment report	80	13
Interview	20	5
Total	100	18

Suggested Guidelines

Below average performance (D)	: 0-20
Average performance (C)	: 21-40
Good performance (B)	: 41-60
Very good performance (A)	: 61-75
Outstanding performance (A+)	: more than 75

For Scientist B : A minimum of B grade is needed

For Scientist C /D : A Minimum of A Grade is needed

For Scientist E/F/G : A minimum of A grade is needed.

28/5/2018

(Dr. Shekhar C. Mande) (Dr. Ramesh V. Sonti) (Prof. Indrani Karunasagar)

(Dr. B. Ravindran) (Dr. Ajay Parida) (Dr. A. K. Sahu)

(Dr.M. Radhakrishna Pillai) (Dr Amulya K. Panda)

(Prof. G. N. Qazi)

True Copy

Advocate

Comm. of Affidavit
High Court of Manipur
Imphal (Manipur)

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[10] In pursuance of the aforesaid recommendation made by the Assessment Committee regarding the performance of the petitioner as below average and not recommended for regularization of his service and in terms of the agreement dated 03.04.2013 executed between the petitioner and IBSD and after obtaining the approval of the Director, IBSD, the Senior Administrative Officer issued an order dated 06.07.2017 terminating the service of the petitioner w.e.f. 06.07.2018. Against the said termination order, the petitioner submitted a representation dated 09.07.2018 to the Secretary, Department of Biotechnology, Government of India, with a request to cancel his termination order. However, the said representation was disposed of by the authority by declining to interfere with the termination order and the same was duly communicated to the petitioner under the letter dated 13.07.2018 from the Under Secretary to the Govt. of India, Ministry of Science & Technology, Department of Biotechnology. In the said letter, it was also mentioned that as per the said agreement dated 03.04.2013, the petitioner's advance salary of 3(three) months has already been released.

[11] After rejection of his representation, the petitioner again filed an appeal dated 20.07.2018 to the Secretary, Dept. of Biotechnology, Govt. of India requesting to quash his termination order dated 06.07.2018, to review the letter dated 13.07.2018 and to allow him to continue in service. The petitioner also filed a writ petition in this Court registered as WP(C) No. 772 of 2018 challenging his termination order. The said writ petition was disposed of by an order dated 23.08.2018 by directing respondent No. 1 to consider

and dispose of the appeal filed by the petitioner against his termination order within a period of 1(one) month from the date of receipt of a copy of the order by issuing a speaking order. This Court also made it clear that it was open to the petitioner to approach this Court again in case he is aggrieved by any order passed by the respondents while disposing of the said appeal.

In compliance with the direction given by this Court, the Secretary, Department of Biotechnology, Government of India considered the appeal submitted by the petitioner and disposed of the same by issuing an order dated 27.09.2018 declining to accept the plea and request made by the petitioner in his appeal. Having been aggrieved, the petitioner again approached this Court by filing the present writ petition for redressing his grievances.

[12] Mr. Murari Tiwari, learned senior counsel appearing for the petitioner raised before this Court only 2(two) grounds in assailing the impugned orders. It has been submitted on behalf of the petitioner that in the advertisement dated 20.04.2011, it is nowhere stipulated that the advertised post and applied for by the petitioner was contractual in nature and that the petitioner's employment as Scientist – E (Natural Product Chemistry) was a permanent employment which was to be regularized after competition of 5(five) years as clearly stipulated in the advertisement dated 20.04.2011 and offer of appointment letter dated 20.03.2013. It has also been submitted on behalf of the petitioner that the alleged contractual

agreement was executed by the petitioner under the instructions of respondent No. 2 and assurance given at that time that the same is merely a formality. The learned senior counsel also submitted that the petitioner had already completed his probation period and only days before his assessment for regularization, his service was terminated by respondent No. 2 on the basis of false, frivolous and baseless grounds as well as on the basis of a frivolous assessment report. The learned senior counsel further submitted that the termination of the petitioner's service by invoking clause 4 of the agreement dated 03.04.2013 is illegal and such termination is not sustainable in the eyes of law.

[13] The second ground raised by the learned senior counsel on behalf of the petitioner is that the said Assessment Committee was not constituted as provided under Schedule IV appended to the NII Group 'I','II','III', and 'IV' (Administrative, Technical and Scientific) Recruitment Rules, 1996 (hereinafter referred to as 'the Recruitment Rules' for short). The composition of the Selection/Assessment Committee as provided under Schedule IV of the Recruitment Rules in respect of 'Scientific Cadre' are :-

1. Director or his nominee from outside the Institute – Chairman
2. Nominee of the Director from Senior Faculty – Member
3. Two outside experts for each discipline in which the selection or assessment of a scientist is to be made, to be nominated by the Director – Member

4. Senior Manager – Non-Member (Secretary).

[14] It has been submitted by the learned senior counsel that the said Assessment Committee formed by respondent No. 2 did not have any expert in the petitioner's discipline i.e., Natural Product Chemistry. It is the case of the petitioner that the 2(two) outside experts namely Dr. Amulya K. Panda is a Chemical Engineer and Dr. Shekhar C. Mande completed his Master's Degree in Physics and Doctorate in Molecular Biophysics, which is nowhere related to Natural Product Chemistry, which is a branch of Organic Chemistry.

[15] It has been submitted on behalf of the petitioner that Natural Product Chemistry is the study of chemical compounds found in the nature and it involves the process of isolation, identification, structure elucidation and biosynthesis of natural compounds and that Natural Product Chemistry is a research focused discipline and academic in nature wherein even after obtaining a Doctorate there is further laboratory training involved as opposed to Chemical Engineering which is an applied science focused on industrial processes, practical implementations etc. hence, vastly different in practical approach as that of Natural Product Chemistry. Accordingly, it has been submitted that Dr. Amulya K. Panda is not an expert in the field/discipline of the Natural Product Chemistry.

[16] It has also been submitted on behalf of the petitioner that Dr. Shekhar C. Mande, the other outside expert has a Master's Degree in Physics and that MSc. Physics and MSc. Chemistry are completely distinct from each

other. It has further been submitted that since the foundational background and understanding of pure organic synthesis, biosynthetic pathway elucidation is crucial to understand the discipline of Natural Product Chemistry, Dr. Shekhar C. Mande is not an expert in the discipline Natural Product Chemistry. It has been submitted that the Assessment Committee was formed of total of 9(nine) members as opposed to 5(five) members as provided under Schedule IV of the Recruitment Rules. The learned counsel submitted that in view of the such lapses on the part of the authorities while constituting the Assessment Committee, the impugned orders are liable to be quashed and set-aside and the present writ petition be allowed by directing respondent No. 2 to reinstate the petitioner in service.

[17] In the light of the submissions advanced on behalf of the petitioner, the following 3(three) issues arose for consideration by this Court:-

i. Whether the appointment of the petitioner as Scientist – E (Natural Product Chemistry) was contractual in nature or not?

ii. Whether the Assessment Committee was duly constituted as provided under Schedule IV of the Recruitment Rules or not?

iii. Whether any illegalities have been committed by the authorities in terminating the service of the petitioner or not?

[18] **<u>Issue No. 1:</u>**

Rule 7 of the Recruitment Rules deals with Direct Recruitment and under 7.2 it is provided as under:-

> *'7.2 The selected candidates, from the date of assuming the duties will be on **<u>contract</u>** initially for a maximum period of five years. At the end of four years of service the candidates performance will be assessed by an assessment committee to be appointed by the Appointing Authority to decide if the candidate's performance during the four years service has been satisfactory or otherwise. If his/her performance is found to be satisfactory by the assessment committee, he/she will be offered regular appointment on completion of five years contract service. In case his/her performance is not found to be satisfactory, his/her contract service will stand terminated at the end of five years term of the initial contract appointment.'*

Under Bye-Laws 8.1 of the Bye-Laws for Administration and Management of the National Institute of Immunology, it is provided as under:-

> *'8.1. Period of Service*
> *The appointment (vide Appendix-I) will be on **<u>contract</u>** initially for a period of 5 years. A review will be carried out at the end of 4 years to assess the suitability of candidate for regular appointment thereafter or termination of the contract, as the case may be.'*

[19] In the light of the provisions of Rule 7.2 of the Recruitment Rules and Bye-Laws 8.1 of the Bye-Laws quoted hereinabove, which are applicable in the case of the petitioner, the following points emerges very clearly:-

(a) The appointment of a selected candidates will be on contract initially for a maximum period of 5(five) years;

(b) At the end of 4(four) years of service, the candidates performance will be reviewed/assessed by an Assessment

Committee to decide if the candidate's performance during the 4(four) years service has been satisfactory or otherwise;

(c) If the candidate's performance is found to be satisfactory, the candidate will be offered regular appointment on completion of 5(five) years contract service;

(d) In case the candidate's performance is not found to be satisfactory, the candidate's contract service will stand terminated at the end of 5(five) years term of the initial contract appointment;

(e) There is no provision under the Recruitment Rules and the Bye-Laws providing for direct recruitment on regular basis.

[20] In the present case, when the petitioner was selected and recommended by the Selection Committee for his appointment as Scientist – E (Natural Product Chemistry), the petitioner was given his offer of appointment by the Director (I/C), IBSD under his letter dated 20.03.2013. In the said letter, the petitioner was clearly informed that his appointment shall be initially for a period of 5(five) years which can later be regularized on satisfactory performance and that his appointment to the post will be as per the terms and conditions of the enclosed contract agreement and the petitioner was requested to intimate and submit his acceptance of the offered post along with the signed Contract Agreement.

[21] Subsequently, the petitioner accepted his offer of appointment by signing and executing an agreement on 03.04.2013 and joined his service

on the same date by submitting a joining report. In the said agreement, the following terms and conditions are clearly mentioned:-

(a) The petitioner was appointed on contract basis for the terms of 5(five) years from the date of his joining the institute, i.e., w.e.f. 03.04.2013 till 02.04.2018;

(b) The petitioner's service can be continued on regular basis on completion of the terms of 5(five) years, if found suitable after review to be carried by the institute and such review will normally be completed before the expiry of 5(five) years period.

[22] In view of the narratives and findings given above, there is no escaping from the fact that the appointment of the petitioner as Scientist – E (Natural Product Chemistry) in IBSD is purely on contract basis and therefore this Court is of the considered view that there is no substance and merit in the submission made on behalf of the petitioner that the petitioner's appointment as Scientist – E (Natural Product Chemistry) was a permanent or regular appointment.

[23] **<u>Issue No. 2:-</u>**

In the Office Order dated 15.05.2018 issued by the Senior Administrative Officer, IBSD, it is clearly mentioned that the Competent authority of the Institute constituted the Assessment Committee of 9(nine) members to assess the performance of altogether 5 Scientist in different fields/subjects, including the present petitioner, to assess their performance

for their regularization/extension/termination/promotion. A scanned copy of the said order has already been reproduced hereinabove. Schedule IV of the Recruitment Rules provides for composition of the Selection/Assessment Committee consisting of only 5(five) members (including two outside subject experts in each discipline) in respect of scientific cadre. Since the Assessment Committee in question has been constituted to assess the performance of altogether 5(five) scientists in different fields/subjects, the enlargement of the composition of the Assessment Committee to 9(nine) to include subject experts in the field is reasonable and rational and this Court did not find any infirmity in constituting such an Assessment Committee.

[24] So far as the submissions made on behalf of the petitioner that the Assessment Committee formed by respondent No. 2 did not have any expert in Natural Product Chemistry and that the 2(two) alleged outside experts namely Dr. Amulya K. Panda and Dr. Shekhar C. Mande are not subject experts in Natural Product Chemistry is concerned, it is the case of the respondents that Dr. Amulya K. Panda has been working on different areas of bioprocess engineering for the last 30 years. He has experiences on all the three areas on biological manufacturing namely fermentation, downstream processing and formulation of biologicals. He does innovative bioprocess engineering utilizing basic fundamental rules of biology. He has significantly contributed towards the growth of plant cells in bioreactor for the production of secondary metabolites and have reported the very first study on high cell density recombinant fermentation from India. He has

reported the highest amount of recombinant protein expression among the earliest Indian studies. Novel protein refolding methods developed by him has been accepted worldwide for high throughput recovery of bioactive protein from inclusion bodies of E. coli. He has the credentials of generating highest numbers of IPRs while working at National Institute of Immunology.

[25] It has been submitted on behalf of the respondents that Dr. Shekhar C. Mande is a Structural and Computational Biologist. He was the Director General of the Council of Scientific and Industrial Research (CSIR), India, and the Secretary of the Department of Scientific and Industrial Research (DSIR), Ministry of Science and Technology. Prior to this, he was the Director of National Centre for Cell Science, Pune. As a scientist of global repute his areas of research and academic interest include- Proteins structure and function, biology of Mycobacterium tuberculosis, probed through structural analysis of proteins, various biophysical and biochemical approaches, Applications of Graph Theory to large scale protein interaction networks, and Computational methods to analyze large-scale biological data.

[26] It has been submitted on behalf of the respondents that the above mentioned 2(two) outside experts namely Dr. Amulya K. Panda and Dr. Shekhar C. Mande, are eminent scientists and even though they may have different academic backgrounds, their research interests, research highlights and the scientific contributions have a direct applicability and connection with the border and vast spectrum of Natural Product Chemistry. It has also been submitted that the petitioner cannot question the expertise of the said 2(two)

outside subject experts at this point of time after he have participated in the assessment process without any demur or protest.

[27] Upon consideration of the rival submissions addressed before this Court, this Court is of the considered view that the issue as to whether Dr. Amulya K. Panda and Dr. Shekhar C. Mande are subject experts in Natural Product Chemistry or not is a disputed question of fact. The said disputed question is in the realm of academic field and this Court has no expertise to decide the same.

[28] Looking from another angle, as the petitioner has not assailed the composition of the said Assessment Committee under the Officer Order dated 15.05.2018 or the recommendation made by the said Assessment Committee in its meeting held on 28.05.2018, this Court cannot consider and examine the legality or otherwise of the composition of the said Selection Committee or the recommendation made by it in respect of the present petitioner. This court respectfully followed the principles of law laid down by the Hon'ble Apex Court in the case of "**Basavaiah (Dr.) Vrs. Dr. H.L. Ramesh & ors."** reported in **(2010) 8 SCC 372** wherein, it has been held as under:-

> '*21. It is the settled legal position that the courts have to show deference and consideration to the recommendation of an Expert Committee consisting of distinguished experts in the field. In the instant case, the experts had evaluated the qualification, experience and published work of the appellants and thereafter recommendations for their appointments were made. The Division Bench of the High Court*

ought not to have sat as an appellate court on the recommendations made by the country's leading experts in the field of Sericulture.'

'38. We have dealt with the aforesaid judgments to reiterate and reaffirm the legal position that in the academic matters, the courts have a very limited role particularly when no mala fides have been alleged against the experts constituting the Selection Committee. It would normally be prudent, wholesome and safe for the courts to leave the decisions to the academicians and experts. As a matter of principle, the courts should never make an endeavor to sit in appeal over the decisions of the experts. The courts must realize and appreciate its constraints and limitations in academic matters.'

[29] In view of the narratives and findings given above, this Court is not inclined to interfere with the impugned orders on the grounds raised by the petitioner that the composition of the Assessment Committee was not as provided under Schedule IV of the Recruitment Rules.

[30] **<u>Issue No. 3:-</u>**

This Court has given a finding with regard to issue No. 1 in the preceding paragraph that the nature of appointment of the petitioner as Scientist – E (Natural Product Chemistry) was on contract basis in terms of the agreement dated 03.04.2013. In para No. 4 of the said agreement it was agreed upon between the petitioner and IBSD that any time after completion of the probation and within five years or its extensions the contract can be terminated by giving three calendar month's notice in writing or three months salary in lieu of the notice as termination simplicitor by either party without assigning any reason. In the event of a shorter notice is given by either party,

a sum equivalent to the salary of the period, notice falls short of three months, shall be payable by the concerned party to the other party.

[31] Under Rule 7.2 of the Recruitment rules and Bye-Law 8.1 of the Bye-Laws, it is provided that the contract appointment can be terminated in case the candidate's performance is not found to be satisfactory on being assessed by an Assessment Committee.

[32] In the present case, the petitioner was duly informed by the authorities under a letter dated 11.05. 2018 that his performance shall be evaluated by an Assessment Committee and that based on the recommendation of the Assessment Committee after evaluation of his 5(five) years performance followed by a power point presentation and a personal interview, the competent authority of the institute shall decide for either regularization of his service or extension of the contract period or termination of the contract agreement. Thereafter, the duly constituted Assessment Committee considered the case of the petitioner in its meeting held on 28.05.2018 and after assessing the self appraisal report of the petitioner, his power point presentation and personal interview, the Assessment Committee found his performance to be below average and did not recommended for regularization.

[33] Pursuant to the said appraisal report of the Assessment Committee and in terms of the agreement dated 03.04.2013 executed between the petitioner and the IBSD and also as provided under Rule 7.2 of the Recruitment Rules and Bye-Law 8.1 of the Bye-Laws, the authorities

terminated the contractual service of the petitioner by issuing the impugned orders after paying to the petitioner his advance salary of 3(three) months. In view of the above factual positions, this Court did not find any illegalities being committed by the respondents in issuing the impugned orders thereby terminating the service of the petitioner.

[34] In view of the findings given by this Court in connection with Issue Nos. 1, 2 & 3, this Court did not find any merit in the present writ petition and accordingly, the same is hereby dismissed as being devoid of merit, however, without any order as to costs. All connected applications also stand closed.

JUDGE

Indrajeet

FR/NFR