

To

Dr. S.N. Malty,  
Controller General of  
Patents, Designs & Trade Marks,  
Old CGO Building,  
101, M.K. Road,  
Mumbai-400 020.

Subject: Consideration of issue regarding extension of Flexible  
Complementing Scheme (FCS) in Patent Office.

Sir,

The Hon'ble Principal Bench of Central Administrative Tribunal, New Delhi has in OA No.1069/2000 in the the case of Shri Rakesh Kumar & Ors. V/s Union of India, had, inter-alia, directed as under:-

*"In the above view of the matter, the application partially succeeds and is accordingly disposed off. The respondents are directed to move the Ministry and finalise action with regard to the extension of Flexible Complementing Scheme, to the applicants as well, within six months from the date of receipt of a copy of this order. No costs."*

2. The issue relating to extension of Flexible Complementing Scheme to the Group 'A' Officers of the Patent Office has been considered in consultation with the Department of Expenditure. It has, however, not been possible to accede to the same on account of the following facts:-

- (i) The Patent Office is mainly concerned with the administration of Patents Act, 1970 and Patents Rules, 1972. The applicants are involved with the administrative

job of registering patents, industrial designs/extension of copyrights rather than carrying out any research and development activity. While their job may require some technical expertise, however, the same cannot be held as scientific and research activities warranting extension of FCS in their case.

(ii) The Officers in the Patent Office only have technical qualifications and their work is different than that of scientists as they register the patents not after original research but after consulting experts in the relevant field.

(iii) As per the extant rules, the Flexible Complementing Scheme can not be extended to all scientific organizations but is to be restricted to scientists and technologists holding such posts in scientific and technology departments where they are engaged in scientific activities and services. The basic functions attached to various posts of the Patent Office where the applicants are working do not include any original investigations of a scientific nature. The recruitment rules attached to these posts wherein various number of years of experience in a supervisory capacity has been prescribed also show that

(ii) the duties attached to these posts are more of a supervisory nature. As such the posts do not qualify for Flexible complementing Scheme.

3. In view of the above facts, it has not been found possible to extend Flexible Complementing Scheme (FCS) to the Group 'A' Officers in the Patent Office.

4. You are requested to convey this to all concerned including all the applicants/petitioners in the OA No.1069/2000 by 12<sup>th</sup> August, 2003 and confirm. Copies of the communication may please be endorsed to this Ministry.

Dr. Twinn  
P. Infam  
Concern

Yours faithfully,  
D. P. Vashishat  
(Y.P. Vashishat)  
Under Secretary to the Govt. of India  
Tel. No.2301 3816

3. In view of the above facts, it has not been found possible to extend Flexible Complementing Scheme (FCS) to the Group 'A' Officers in the Patent Office.