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Central Administrative Tribunal  
Principal Bench, New Delhi

O.A. No. 2197/2002

M.A. No. 1794/2002

Tuesday, this the 27th day of August, 2002

Hon'ble Mrs. Lakshmi Swaminathan, Vice Chairman (J)

Hon'ble Mr. S.A.T. Rizvi, Member (A)

In the matter of:

- 1) Dr.S.K.Murti,  
S/o Late Sh. Bhaskaranand,  
Aged about 59 years,  
Working as Scientist-D in Botanical Survey of India,  
Under M/o Environment & Forests and presently posted at  
Dehradun(Uttranchal) and  
R/o 265 Vasant Vihar, Phase-2  
Dehradun (Uttaranchal).
- 2) Dr.J.R.Sharma,  
S/o Sh. Jeet Ram Sharma,  
Aged about 52 years,  
Working as Scientist-D in Botanical Survey of India,  
Under M/o Environment & Forests and presently posted at  
Dehradun(Uttranchal) and  
R/o 192,Kaulagarh Road,  
Dehradun (Uttaranchal).
- 3) Dr.K.P.Singh,  
S/o Late. Sh.D.S.Singh,  
Aged about 52 years,  
Working as Scientist-E in Botanical Survey of India,  
Under M/o Environment & Forests and presently posted at  
Allahabad (U.P.) and  
R/o 10, Chatham Lines,  
Allahabad (U.P.).
- 4) Dr.K.K.Khanna,  
S/o Sh. J.N.Khanna,  
Aged about 52 years,

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Working as Scientist-D in Botanical Survey of India,  
 Under M/o Environment & Forests and presently posted at  
 Allahabad (U.P) and  
 R/o 10, Chatham Lines,  
 Allahabad (U.P.).

5) Dr.H.J.Chowdhery,  
 S/o Sh. K.C.Chowdhery,  
 Aged about 53 years,  
 Working as Scientist-E in Botanical Survey of India,  
 Under M/o Environment & Forests and presently posted at  
 Central National Herbarium, Howrah and  
 R/o D-22, 2<sup>nd</sup> M.S. Hostel Building Nizam Palace,  
 A.J.C. Bose Road  
 Kolkata (W.B.).

6) Sh. S.L.Abbas,  
 S/o Late Shri Syed Hassan Abbas  
 Aged about 56 years,  
 Working as Scientist-C in Botanical Survey of India,  
 Under M/o Environment & Forests and presently posted at  
 Shillong (Meghalaya) and  
 R/o Lower New Colony, Laitumkhrah  
 Shillong (Meghalaya).

7) Dr Anis Ahmed Ansari,  
 S/o Late. Sh.Aziz. A.Ansari,  
 Aged about 49 years,  
 Working as Scientist-E in Botanical Survey of India,  
 Under M/o Environment & Forests and presently posted at  
 Indian Botanic Garden, Howrah and  
 R/o Botanic Garden,Sibpore,  
 Howrah(W.B.).

8) Dr.H.S.Pandey,  
 S/o Late Sh. R.S.Pandey,  
 Aged about 55 years,  
 Working as Scientist-C in Botanical Survey of India,  
 Under M/o Environment & Forests and presently posted at

Indian Botanic Garden, Howrah and  
R/o Botanic Garden, Sibpore,  
Howrah(W.B).

9) Dr. S. Kumar,  
S/o Late. Sh. Shiv Charan Lal Govil,  
Aged about 48 years,  
Working as Scientist-E in Botanical Survey of India,  
Under M/o Environment & Forests and presently posted at  
Dehradun(Uttranchal) and  
R/o , 192, Kaulagarh Road  
Dehradun (Uttaranchal)

10) Dr.P.Daniel,  
S/o Late. Sh. G. Pitchai,  
Aged about 59 years,  
Working as Scientist-E in Botanical Survey of India,  
Under M/o Environment & Forests and presently posted at  
Coimbatore and  
R/o T.N.A.U Campus, Lawley Road,  
Coimbatore (Tamil Nadu).

11) Dr.A.S.Chauhan,  
S/o Late. Sh. Raghuraj Singh,  
Aged about 57 years,  
Working as Scientist-E in Botanical Survey of India,  
Under M/o Environment & Forests and presently posted at  
Gangtok, Sikkim, and  
R/o Chief Justice Road,  
Gangtok, Sikkim.

(By Adv. Shri S. S. Tiwari) ....Applicants  
Versus

1. Union of India  
through Secretary ,  
M/o Environment and Forests,  
Parivarjan Bhawan,  
C.G.O. Complex , Lodhi Road, New Delhi- 110001.

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2. Secretary  
 M/O Personnel, Public Grievances & Pensioner's Welfare  
 Dept. of Personnel & Training (DOP T)  
 North Block, New Delhi.

.... Respondents

O R D E R (ORAL)

Mrs. Lakshmi Swaminathan, VC (J):

We have heard Shri S.S.Tiwari, learned counsel for the applicants and perused the documents on record.

2. Eleven applicants, who have filed this application, are aggrieved by the inaction of the respondents in not giving the applicants the effective date of promotion to the next higher grade <sup>under</sup> ~~in~~ Flexible Complementing Scheme (FCS) from the date each of the applicants were due for the same. Their grievance is that ~~the~~ similar favourable decision has been taken in respect of similarly situated persons in the Institute of Indian Council of Forestry Research & Education (ICFRE), which is an authority under respondent No. 1, who has passed the necessary orders with regard to the employees of the Institution vide Notification dated 19.3.2001 (Annexure -F). Learned counsel has also relied on the recommendations of ~~para~~ 51.25 of 5th Central Pay Commission's report pertaining to FCS which has been accepted by the respondents. Learned counsel has also drawn our attention to the letter issued by the respondent No. 1 to all Heads of Offices under them dated 5.4.2002. The relevant portion of this letter reads as follows:-

"I am directed to enclose a copy of the MEF letter No.09/04/02-CSB dated 07.03.02 for your kind information with the request to communicate the contents of the letter to all the concerned scientists in your office regarding effective date of promotion under the FCS also with the advice that no further representation would be entertained by the Ministry till the decision is communicated by the DOP T in this respect for which they have already been approached."

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Attached to this letter is a communication from respondent No. 1 dated 7.3.2002 in which a reference has been made to various representations from Scientists regarding effective date of promotion under FCS and that the matter has been taken up with respondent No. 2 in order to enable them to take a final decision in the matter.

3. We note from paragraph 8 of this OA that one of the reliefs prayed for by the applicant is that a direction should be given to the respondents to implement & relief (i), i.e., to revise the effective date of promotion from the due date in terms of para 51.25 of 5th Central Pay Commission within a specified time.

4. It is further seen from the relevant facts and documents placed on record and more particularly referred to by the learned counsel, which has also been mentioned above, that the very same issue, which is the subject matter of this OA, appears to be under consideration by respondent Nos. 1 & 2 right from March/April, 2002. Apparently, no final decision has been taken by the respondents which, we feel, could have been taken by this time, so that perhaps the infructuous litigation like the present OA, might have been avoided which is also in the public interest. Although, Shri S.S. Tiwari, learned counsel has very vehemently submitted that neither consultation nor decision of respondent No. 2, i.e., the Department of Personnel & Training is required in the present case, we are unable to agree with this contention because this is a matter raising issue of service conditions and fixation of pay on promotion of the incumbents who are Scientists, under the relevant Rules issued by the Government of India, consultation with respondent No. 2 is a pre-requisite. We further find that respondent No. 1 has made such a reference to DOP&T in April, 2002, so that a final decision taken by them could be communicated to the concerned persons till which time they have <sup>them</sup> told/not to make any further representation on the same issue.

5. In the above view of the matter, we consider that this is an appropriate application where the ends of justice would be met with if a direction is issued to the respondents to take a final decision in the pending matter dealing with the grievance raised by the applicants which is already under their consideration and which has also been raised in the present OA within the shortest possible time. If a decision has ~~already~~ not been taken by the respondents, they shall do so within one month from the date of receipt of a copy of this order, ~~with intimation to the applicants~~. They shall keep in view the relevant provisions and the observations mentioned above together with the relevant rules and instructions and their own orders issued with respect to Scientists in ICFRE which has been relied upon by the applicants. In case, the respondents are not granting the reliefs as prayed for by the applicants, they shall do so by passing a detailed and reasoned order supporting their reasons with the specific provision of law/instructions they rely upon, which shall be intimated to the applicants.

6. The OA is disposed of in the aforesated terms.

  
(S.A.T. Rizvi)  
M (A)

/sunil/

  
(Mrs. Lakshmi Swaminathan)  
VC (J)