

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00266/2018
Date of Order: This, the 10th day of August 2018

**THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER
THE HON'BLE MR. N. NEIHSIAL, ADMINISTRATIVE MEMBER**

1. Sri Nripemo Odyuo
S/O E.Ramongo Odyuo
Age ab out 49 years
Residence:
Quarter No.6, Typ-IV, Block-3
Botanical Survey of India
Lower New Liatumkhrah
Eastern Regional Centre, Shillong Meghalaya
Posted at: Scientist D
Botanical Survey of India
Eastern Regional Centre,
Shillong-meghalaya Applicant

By Advocate N.Zubemo Lotha

-Versus-

1. Union of India through its Secretary
Ministry of Environment, Forest & Climate Change
Govt. of India
Indira Paryavaran Bhawan
Jor Bagh Road, New Delhi-3
2. The Secretary
Ministry of Personnel
Public Grievances & Pensions
Department of Personnel & Training)
Govt.. of India, New Delhi.

Advocate: None

ORDER (ORAL)

PER MANJULA DAS, JUDICIAL MEMBER;

Being aggrieved, the applicant approached before this Tribunal under Section 19 of the Administrative Tribunals Act 1985 seeking the following reliefs:-

- (a) Direct the respondent authorities to antedate and grant –in-situ promotion from Scientist-C to Scientist-D with effect from the due date of eligibility i.e 01.01.2010 along with all consequential benefits due with the promotion.
- (b) Direct the respondents authorities to antedate and grant in-situ promotion again from Scientist-D to Scientist-E from the due date of eligibility i.e 01.01.2014 along with all consequential benefits due with the promotion.
- (c) Direct the respondent authorities that the arrears which are due from his antedated in-situ promotion from Scientist-B to Scientist-C w.e.f. 01.01.2006 onwards and all other arrears accrued in time up to the date on which this Hon’ble Court may pass orders in the favour of the applicant be paid.”

2. The brief facts of the case are that applicant was promoted to Scientist –D dated 28.01.2015, as against his actual due date which shall be 01.01.2010, as a result his promotion was delayed by a period of 5 years. As per the Modified Flexible Complementing Scheme

(MFCS), the residency period for promotion from Scientist-C to Scientist –D being 4 years, the promotion order of the applicant should have been considered from his actual due date of promotion which shall be 01.01.2010.

3. Mr.N.Z.Lotha, learned counsel appearing for the applicant submitted that applicant approached before the respondents authority by making several representations dated 13.06.2011, 23.04.2013, 15.06.2015, 31.08.2015 & 23.11.2015. However, the department authority did not pay and heed to the grievances of the applicant. Being aggrieved, the applicant approached before this Tribunal praying for direction upon the respondents to grant the relief as sought for.

4. Learned counsel further submitted that a similarly situated person approached before the Principal Bench, CAT vide O.A.No.4364/2015 wherein the O.A. was allowed by directing the respondents No.1-MOEF to grant in Situ promotions to the applicants from their eligibility date (1st January or 1st July of the relevant year) if they are found eligible, in terms of their performance reports and residency period. Respondent No.1 is further directed to grant all consequential benefits including arrears of pay following such promotions. This shall be done within a period of four months from the date of receipt of this order.

5. Learned counsel further submitted that the similarly situated person has filed an appeal before the Hon'ble Apex Court in SLP No.6864/2011 dated 02.05.2011 and submitted that similar direction has been issued as the Judgment of Hon'ble Principal Bench in O.A.No.4364/2015. Accordingly, learned counsel prayed similar benefits in the present O.A.

6. Learned counsel further submitted that vide office order dated 24.06.2014 9(nine) persons who were junior to the applicant were recruited as Scientist –C during 2008 to Scientist-D.

7. Having heard the learned counsel for the parties, perused the O.A. and materials placed before us, and the decision relied upon, we direct the applicant to send the matter before the authority the respondents has yet to dispose of the representation as filed by the applicant.

8. Accordingly, we direct the applicant to produce the O.A. along with the copy of this order before the Respondent No.1, Ministry of Environment, Forest and Climate Change, within a period of 15 days from the date of receipt of this order. It is also directed that on receipt of such O.A., the authority shall treat this O.A. as a comprehensive representation and take a decision keeping in mind the decision of the Hon'ble Apex Court as well as the PB's decision dated 02.05.2011 and

consider the case of the applicant by passing a speaking order with giving an opportunity of being heard. The decision shall be taken within a period of 3 months from the date of receipt of this O.A. It is made clear that the decision so arrived shall be communicated to the applicant forthwith.

9. In view of the above directions, O.A. is disposed of at the admission stage. No order as to costs.

(N.NEIHSIAL)
(ADMINISTRATIVE MEMBER)

(MANJULA DAS)
JUDICIAL MEMBER

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