



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.4165/2015

Friday, this the 3rd day of January 2020

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)

D K Gupta,
 age 61 years
 s/o Sri R L Gupta
 613, New Ashiana CGHS
 Plot No.10, Sector 6,
 Dwarka, New Delhi – 110 075

..Applicant
(Nemo)

Versus

1. The Secretary
 Department of Telecommunications
 Sanchar Bhawan,
 20, Ashoka Road, New Delhi – 110 001

..Respondent
 (Mr. Subhash Gosain, Advocate)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant joined the service of Department of Telecommunications as Assistant Executive Engineer (Civil) in the year 1977. He was promoted to the Senior Administrative Grade (SAG) w.e.f. 15.12.2008. He became eligible to be considered for promotion to Higher Administrative Grade (HAG) in the year 2009. In terms of the scheme framed by the



Government of India, a Group 'A' officer in the Organized Services shall be entitled to be conferred the HAG on non-functional basis in case an IAS officer, who is junior to him by two years, is posted in the Central Service, with that grade. Conferment of such benefits shall be on the basis of evaluation as to eligibility by the Screening Committee.

2. The Screening Committee, for the purpose of determining eligibility to confer the HAG for the applicant and other similarly placed officers, met on 19.12.2012. However, on finding that the ACR of the applicant for the year 2007-08 was below the benchmark, he was not found fit. He was permitted to make a representation for upgradation of the concerned ACR. The applicant has accordingly submitted representation. It is also stated that the Departmental Promotion Committee (DPC) held on 22.07.2015 but its recommendations were not accepted.

In this background, the applicant has filed this O.A., seeking a direction to the respondent to grant him the benefit of HAG w.e.f. 15.12.2009 and to review the decision on recommendations of DPC held on 22.07.2015 (wrongly mentioned in the prayer as 25.07.2012).

3. The respondent filed counter affidavit opposing the O.A. It is stated that the case of the applicant was considered for HAG, by the Screening Committee, but on finding that the ACR for the year 2007-08 was below benchmark, he was declared



not fit for conferment of HAG benefit and he was permitted to make a representation. It is stated that the representation was forwarded to the competent authority and the disposal thereof is awaited.

4. The O.A. was filed in person but the applicant did not turn up on the last several occasions. Therefore, we have perused the record, as provided under Rule 15 of CAT (Procedure) Rules, 1987. We also heard Mr. Subhash Gosain, learned counsel for respondent.

5. It is not in dispute that the applicant has reached the stage of SAG and became eligible to be considered for conferment of HAG on non-functional basis. The Screening Committee, for this purpose, met on 19.12.2012, but has taken the view that since the ACR of the applicant for the year 2007-08 was recorded as 'Good', which is below benchmark, he cannot be treated as found fit for conferment of the benefit. As provided for under the prescribed procedure, the applicant was permitted to make a representation to the competent authority, for upgradation of below benchmark remarks in ACR.

6. The respondent filed a copy of letter dated 08.12.2015 through which the representation of the applicant was disposed of. In paragraph (ix) thereof, it is observed as under:-



“(ix) However, DOP vide their D.O. letter no.5-2/2013-CWP dated 11.06.2014 had stated that the case was submitted for final decision and disposal of representation to Shri Kapil Sibal, the then Hon’ble MOC & IT, being Competent Authority. However, the file has been returned from Minister’s Office with the remarks that Minister could not see. The case will be submitted shortly to the present Hon’ble MOC&IT for final decision and disposal of representation. The further development of the case is still awaited.”

7. In other words, the representation made by the applicant to the competent authority is still pending. Therefore, the prayer of the applicant for conferment of benefit of HAG even while his ACR for the year 2007-08 remains below benchmark, cannot be considered.
8. So far as the proceedings of the DPC, which met on 22.07.2015, are concerned, the Department has taken the view that the very conducting of the DPC was defective since no common seniority list amongst three disciplines was drawn and for certain other reasons. The case of the applicant cannot be singled out. When the other similarly situated candidates did not have any qualms, the applicant cannot seek revival or review thereof.
9. We, therefore, dispose of the O.A. directing that the representation made by the applicant to the competent authority for upgradation of his ACR for the period 2007-08 shall be disposed of within three months from the date of receipt of a copy of this order, and depending upon the outcome



thereof, further steps, if necessary, in the context of conferment of HAG on non-functional basis, shall be considered.

There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

January 3, 2020
/sunil/