



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A./100/1154/2015

New Delhi, this the 3rd day of January, 2020

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

Vibeka Nand Vibek
S/o Sh. Bishwa Nath Mehta,
Aged about 46 yrs., Superintending Engineer,
DTTDC, Govt. of Delhi,
Aruna Nagar, Majnu Ka Tilla,
Delhi-110054

...Applicant

(None appeared)

Versus

1. Union of India
Through the Secretary,
M/o Urban Development, Govt. of India,
Nirman Bhawan,
New Delhi-110001
2. The Director General CPWD
Govt. of India, Nirman Bhawan,
New Delhi-110001
3. The Secretary
Ministry of Personnel, PG & Pensions
Department of Personnel & Training
Govt. of India, North Block,
New Delhi-110001

... Respondents

(Through Dr. Ch. Shamsuddin Khan, Advocate)



ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman

The applicant was selected and appointed to the Central Engineering Service (CES) in the Ministry of Urban Development, Government of India. The Central Government framed a Scheme vide OM dated 24.04.2009 for extension of the benefit of Non-Functional Upgradation (NFU) to Group 'A' officers of organized services in case they did not get the actual promotion.

2. The applicant contends that he was granted the benefit of NFU through order dated 2.11.2012 with effect from 24.09.2011 and the order of implementation thereof was issued on 11.12.2012. He challenged both the orders in this OA, by pleading that he was entitled to be extended the benefit from 1.01.2006. He has cited the example of Group 'A' officers belonging to certain other services and the order dated 23.10.2013 passed in OA 761/2012. He prayed for the relief of extension of the benefit of NFU, with effect from 1.01.2006.

3. The applicant contends that once he acquired the eligibility under the OM dated 24.04.2009 to be extended the



benefit from 1.01.2006, there was absolutely no basis for the respondents in not extending it.

4. The respondents filed counter affidavit opposing the OA. It is stated that though the applicant was otherwise eligible to be conferred the benefit of NFU from 1.01.2006, he was denied it on account of the punishment imposed upon him through order dated 24.08.2008 directing postponement of his future increments for a period of three years. They have further stated that on expiry of the period of punishment, his case was considered by the Screening Committee and benefit was extended through the impugned orders.

5. There is no representation for the applicant. Since this is one of the oldest cases, we perused the record, as provided under Rule 15 of the CAT (Procedure) Rules 1987.

6. Heard Dr. Ch. Shamsuddin Khan, learned counsel for the respondents.

7. The applicant was a Group 'A' officer of organized service. On the basis of the recommendations of the 6th CPC, the Government of India issued OM dated 24.04.2009, providing for extension of the benefit of upgradation, on non-functional basis. The OM is to the effect that whenever an IAS officer of a particular batch is posted to the central



service in a particular grade carrying a specific grade pay, group 'A' officers in the organized services who are senior to him by two years, shall be entitled to the same benefit, on non-functional basis, subject to his being found fit, by the Screening Committee. In other words, the parameters of promotion will apply but the benefit will be extended on non-functional basis.

8. It is true that the applicant was otherwise eligible to be extended the benefit from 1.01.2006 on the basis of the particulars furnished regarding the posting of the IAS officer of the concerned batch, in the central service. However, he did not mention the fact that a charge memo dated 29.03.2006 was issued to him and through order dated 24.09.2008, the Disciplinary Authority imposed the punishment of reduction in time scale of pay by one stage for a period of three years. The punishment operated upto the year 2011. Once the disqualification of the applicant ceased, the benefit of NFU was conferred upon him through the impugned order. In fact, the applicant is guilty of suppression of relevant fact.

9. We do not find any merit in the OA. It is, therefore,



dismissed. There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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