



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.100/1348/2020

This the 12th day of October, 2020

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Premlata Gussain,
Aged 59 years,
Designation Artist Grade-III,
R/o Flat No.11&12, Building No.2,
A-Block, Dayal Bagh Colony,
Faridabad, Haryana.

...Applicant

(By Advocate : Shri Devender Singh)

Versus

1. N.C.E.R.T,
Through Secretary,,
NIE Campus, NCERT,
Arbindo Marg, New Delhi-110016.
2. Dr. Veena Kumar,
Asst. Grade-II,
NIE Campus, NCERT,
Arbindo Marg, New Delhi-110016.

...Respondents

(By Advocate : Shri Ashok Kumar Panigrahi)

ORDER (ORAL)

Mr. Justice L. Narasimha Reddy, Chairman :-

The applicant was appointed as Artist Grade-III, in the National Council of Educational Research and Training (NCERT) on 23.10.1984. Since there were no promotional avenues for that post under the relevant Rules 1990, which were still in force from the year 2017, he was extended the benefit of ACP/MACP.

2. Till the year 2017, the appointment to the next higher post i.e. Artist Grade-II was exclusively by way of direct recruitment. Through amendments, which became effective from 28.07.2017, a provision is made for promotion, to the extent of 50%. The applicant made a representation with a request to promote her to the post of Artist Grade-II. Earlier, she filed OA No.2919/2019, stating that no action has been taken, on the representation. The OA was disposed of on 30.09.2019, with a direction to the respondents to pass orders. In compliance with the same, the respondents passed an order dated 04.12.2019. It was mentioned that only one



post of Artist Grade-II is available for promotion and that one Smt. Veena Kumar, the 2nd respondent herein was promoted against that. This OA is filed challenging the order dated 04.12.2019.

3. The applicant contends that the Rules which came into force in the year 2017, cannot be permitted to defeat her rights. She also contends that the post of Artist Grade-II ought to have been filled through promotion alone.

4. We heard Shri Devender Singh, learned counsel for applicant and Shri Ashok Kumar Panigrahi, learned counsel for respondents, at the stage of admission.

5. The brief background of the case is furnished in the preceding paragraphs. The applicant is under the impression that before the rules were amended in the year 2017, the appointment to the post of Artist Grade-II is exclusively by way of promotion. The impression is totally misplaced and the appointment was exclusively through direct recruitment.





6. The amendment of the Rules resulted in 50% of the posts becoming available for promotion. The 2nd respondent herein was appointed against the only vacancy available for promotion. The applicant is not able to demonstrate that the promotion of the 2nd respondent is contrary to any particular provisions of law.

7. We do not find any merit in the OA and the same is accordingly, dismissed.

8. Pending MAs, if any, shall stand disposed of.

9. There shall be no orders as to costs.

(Aradhana Johri) **(Justice L. Narasimha Reddy)**
Member (A) **Chairman**

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