

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

**CP-257/2015 in  
OA-1156/2014**

**Reserved on : 09.05.2016.**

**Pronounced on : 11.05.2016.**

**Hon'ble Mr. Shekhar Agarwal, Member (A)  
Hon'ble Mr. Raj Vir Sharma, Member (J)**

H.P. Srivastava  
Scientist-F (Retd.)  
S/o Sh. J.P. Srivastava,  
R/o C-5, Andrews Ganj Extn.,  
New Delhi-110049.

Retired on 31.12.2013 from:  
National Informatics Centre  
Head Quarter, CGO Complex,  
New Delhi.

.... Applicant

(through Sh. R.K. Kapoor, Advocate)

**Versus**

1. Ram Sewak, Secretary  
Union of India, through the Secretary,  
Department of Electronics and Information  
Technology (DeitY), Ministry of Communications  
&Information Technology, Govt. of India,  
Electronics Niketan, 6, CGO Complex,  
Lodhi Road, New Delhi.
2. Ajay Kumar, Joint Secretary  
Holding Addl. Charge of DG  
The Director General, National Informatics Centre,  
Department of Electronics and Information Technology,  
Govt. of India, A Block, CGO Complex,  
Lodhi Road, New Delhi.
3. Sanjay Kothari, Secretary  
The Secretary, Ministry of Personnel,  
Public Grievances & Pensions,  
(Department of Personnel & Training),  
Govt. of India, New Delhi. .... Respondents

(through Sh. R.K. Sharma, Advocate)

**O R D E R****Mr. Shekhar Agarwal, Member (A)**

This Contempt Petition has been filed for alleged non compliance of our order dated 04.04.2014 in OA-1156/2014, the operative part of which reads as follows:-

"3. In view of the above position, we dispose of this OA at the admission stage itself by issuing the same directions as issued in the aforesaid OAs. Accordingly, we direct the respondents to consider cases of the applicant for grant of benefit of FCS, as prayed for by him in this OA from the due date with all consequential benefits or pay fixation and payment of arrears as already directed by the Hon'ble Supreme Court in the case of Union of India & Anr. Vs. S.K. Murti in SLP(Civil)-6864/2011.

4. The aforesaid directions shall be implemented within a period of six weeks from the date of receipt of a certified copy of this order. No costs."

2. In compliance thereof, the respondents have filed affidavits dated 04.09.2015, 31.10.2015 and 18.02.2016. Along with affidavit dated 31.10.2015, they have attached a copy of Office Memorandum dated 30.10.2015, which shows how the order of the Tribunal has been complied with. According to this O.M., the claim of the applicant for promotion as Scientist-E w.e.f. 01.01.1997 was not found to be in order as he was not covered under the Flexible Complementary Scheme. However, the promotion of the applicant from Scientist-E to Scientist-F has been ante dated to 01.01.2002. As far as promotion from Scientist-F to Scientist-G was concerned, the respondents have considered the claim for three years i.e. 01.01.2008, 01.01.2009 and 01.01.2010. For 01.01.2008 and 01.01.2009, the respondents have submitted that the applicant did not obtain the minimum prescribed marks in personal interview. Hence, he has not been recommended for promotion for those years. As far as 01.01.2010 was concerned, the respondents have submitted that although his case for promotion was recommended by the department, it was not approved by the

Appointments Committee of the Cabinet. With their affidavit dated 18.02.2016, the respondents have also produced a communication from Establishment Officer, DoP&T, regarding Appointment Committee of the Cabinet orders on the case of applicant as well as some other officers. The same is reproduced below:-

"Sub: Contempt Petition No. 257/2015 filed by Shri H.P. Srivastava in OA No.1156/2014 before the CAT, Principal Bench, New Delhi.

Department of Electronics & Information Technology's ID Note No. 18(07)2014-Pers. Dated 31.12.2015 on pre-pages refers.

In this regard, it is conveyed that the ACC had approved in-situ promotions of the Scientists recommended by the DPRC dated 09.07.2013 to the grade of Scientist 'G'under FCS w.e.f. 01.01.2014, considering that the extant instructions of DoPT prescribe that promotions under FCS have to be granted prospectively after the approval of the competent authority.

It may be noted that Shri P.V. Lakshminarayan and Shri H.P. Srivastava had superannuated before 01.01.2014 i.e. prior to the date from which the ACC had approved to effect the promotions.

This issues with the approval of the Establishment Officer."

3. Learned counsel for the applicant was satisfied as far as his claim for promotion upto the level of Scientist-E was concerned. Even for promotion to Scientist-F, learned counsel for the applicant did not dispute that as far as the years 01.01.2008 and 01.01.2009 were concerned, the claim of the applicant has been rightly considered by the respondents. However, as far as promotion to Scientist-G w.e.f. 01.01.2010 was concerned, learned counsel for the applicant argued that the order of the DoP&T reproduced above reveals that it has been turned down by ACC on the ground that the applicant had superannuated on 01.01.2014. Learned counsel argued that if the applicant was eligible to be granted promotion under Flexible Complementary Scheme from 01.01.2010, his superannuation on 01.01.2014 should not have been a hindrance for granting the same. Learned counsel also argued that the respondents have failed to

consider the provisions of Flexible Complementary Scheme and the judgment of Hon'ble Supreme Court in the case of Union of India & Anr. Vs. S.K. Murti in SLP(Civil)-6864/2011, which lay down grant of promotion from due date and not prospectively.

4. Be that as it may, the fact remains that our directions to the respondents in this case were only to consider granting Flexible Complementary Scheme benefits to the applicant from due date. After seeing the affidavit filed by the respondents, we are satisfied that our order has been complied with. Nothing, therefore, survives in this Contempt Petition and accordingly the same is closed. Notices issued to the respondents are discharged. If the applicant is still aggrieved, he shall be at liberty, if so advised, to avail of his legal remedies under law.

**(Raj Vir Sharma)**  
**Member (J)**

/Vinita/

**(Shekhar Agarwal)**  
**Member (A)**