

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

O.A. No.1287/2018

M.A.No.1433/2018

Wednesday, this the 28<sup>th</sup> day of March 2018

**Hon'ble Mr. Justice Permod Kohli, Chairman**  
**Hon'ble Mr. K.N. Shrivastava, Member (A)**

1. P S Sastry, Meteorologist 'B'  
Age 58 years  
s/o late P L N Sastry  
r/o 299, A Type Quarter  
Pandara Road Flats, New Delhi – 110 003
2. Pratap Kumar Jena, Meteorologist 'B'  
Age 50 years  
s/o Shri Harekrishna Jena  
r/o G-1/126, Vaishali  
Ghaziabad, UP 201010
3. Suprakash Chakraborty, Meteorologist 'B'  
Age 52 years  
s/o late Suresh Chakraborty  
r/o Flat No.303/B, Sagar Housing Complex  
Kamakhya Nagar, Guwahati – 781012
4. K G Tarodekar, Meteorologist 'A'  
Age 58 years  
s/o late Ghanshyam Tarodekar  
r/o 298, H B Estate, Sonegaon  
Nagpur, Maharashtra – 440 025
5. Atul Kumar Mishra, Meteorologist 'A'  
Age 53 years  
s/o Shri Manik Raj Mishra  
r/o 79-M, CGH Complex, Vasant Vihar  
New Delhi – 110 057
6. Anil Kumar Pandey, Meteorologist 'A'  
Age 50 years  
s/o Shri Ram Pujan Pandey  
r/o G-40, First Floor, Sakarpur  
Delhi – 110 092
7. Sumesh Chand Verma, Meteorologist 'A'  
Age 47 years  
S/o Shri Maamchand  
r/o M-66/A, Meteorological Housing Complex  
IMD Campus, Lodhi Road

New Delhi – 110 003

8. Prashant Saraswat, Sc. Asstt. 'B'  
Age 44 years  
s/o Shri B S Saraswat  
r/o B-11 A, East Baldev Park  
Delhi – 110 051
9. Abhishek Kumar Rai, Sc. Asstt. 'B'  
Age 31 years  
s/o Shri Om Prakash Rai  
r/o M-09, IMD Residential Complex  
Plot No.6 B, Dwarka Sector 10  
New Delhi – 110 075

..Applicants

(Mr. M K Bhardwaj, Advocate)

Versus

1. Union of India through the Secretary  
Ministry of Earth Sciences  
Prithvi Bhavan, Lodhi Road  
New Delhi – 110 003
2. The Director General of Meteorology  
India Meteorological Department  
Mausam Bhawan, Lodhi Road  
New Delhi – 110 003
3. The Deputy Director General of Meteorology  
(Administration & Stores)  
India Meteorological Department  
Mausam Bhawan, Lodhi Road  
New Delhi – 110 003

..Respondents

### **O R D E R (ORAL)**

**Mr. K. N. Shrivastava:**

M.A. No.1433/2018

M.A. seeking joining together in a single petition is allowed.

O.A. No.1287/2018

Through the medium of this O.A., filed under Section 19 of the Administrative Tribunals Act, 1985, the applicants have prayed for the following reliefs:-

“(i) To declare the action of respondents in applying reservation while making promotion to the post of Met-A, Met-B & Scientific Officer-I as illegal and arbitrary and direct the respondents to consider the applicants for promotion to the post of Met-A, Met-B & Scientific Officer-I by redrawing the Seniority Lists and holding review DPC as per judgment dated 23.08.2017 of Hon’ble High Court of Delhi in WP (C) No.3490/2010 and grant promotion to the applicants against the aforesaid posts with all consequential benefits.

(ii) To direct the respondents to fill up all the available vacancies of Met-A, Met-B & Scientific Officer-I by considering the claim of applicants and without applying rule of reservation in promotion in view of law laid down in M. Nagraj case and in other similar case and grant promotion to the applicants to Met-A, Met-B & Scientific Officer-I with all consequential benefits.

(iii) To direct the respondents to grant seniority to the applicants as per the law laid down by Hon’ble Supreme Court of India in the case of B.K. Pavitra & Ors. vs. Union of India & Ors. on 09.02.2017.”

2. The factual matrix of these cases, in brief, as noticed from the records, is as under:

2.1 The applicants were initially appointed as Scientific Assistant (erstwhile Senior Observer) on different dates between the years 1981 – 2013. Some of them have got their promotions to the next grade of Meteorologist ‘A’ (erstwhile Assistant Meteorologist-II) and thereafter to Meteorologist ‘B’ (erstwhile Assistant Meteorologist-I) on the basis of their seniority. The details in this regard are given in paragraph 4.2 of the O.A.

2.2 The applicants do not belong to SC/ST categories. Their grievance is that their colleagues belonging to SC/ST categories and who are juniors to them at the time of their initial appointments as Scientific Assistant, by virtue of granting them reservation in promotion, have become senior to these applicants. The details of such SC/ST officers are given in 2<sup>nd</sup> table of paragraph 4.2 of the O.A.

2.3 The applicants have contended that the respondents in granting reservation in promotion to their colleagues belonging to SC/ST categories have failed to follow the dictum of Hon'ble Supreme Court in **M. Nagaraj & others v. Union of India & others** (2006) 8 SCC 212, wherein it has been categorically observed that no reservation in promotion as well as consequential seniority could be granted unless certain preconditions stipulated therein are fulfilled. It is further stated that the Hon'ble Apex as well as various Hon'ble High Courts have quashed reservation in promotion and held that 'catch-up' rule for fixation of seniority of general category candidates must be followed. These judgments are:

Hon'ble Apex Court:

- i) **U P Power Corporation Limited v. Rajesh Kumar & others** (2012) 4 SCALE 687.
- ii) **Suraj Bhan Meena & another v. State of Rajasthan & others**, (2011) 1 SCC 467.
- iii) **S. Paneer Selvam & others v. Government of Tamil Nadu** (SLP No.8366-8367/2012) decided on 27.08.2015.
- iv) **B.K. Pavitra & others v. Union of India & others** (C.A. No.2368/2011) decided on 09.02.2017.

Hon'ble High Courts

- v) **Lachhmi Narain Gupta & others v. Jarnail Singh & others** decided on 15.07.2011

- vi) **Rajbir Singh v. State of Haryana & others** decided on 14.11.2014.
- vii) **Lagnajit Ray & others v. State of Orissa & others** decided on 24.12.2010.
- viii) **Pritpal Singh v. State of Punjab & others** (CWP No.1960/2008) decided on 09.09.2009
- ix) **Bajrang Lal Sharma & others v. State of Rajasthan & others** decided on 05.02.2010.
- x) **Union of India & others v. Shiv Dayal Sharma & others** (W.P. (C) No.8585/2014)
- xi) **H P Samanaya Varg Karamchari Kalayan Mahasang v. State of H.P. & others**

2.4 The applicants are also anguished of the Department of Personnel & Training (DoPT) O.M. dated 26.10.2017 (p.47) as well as the Circular dated 30.01.2018 (p.44) of respondent No.2, relevant portions of which are reproduced below:-

“O.M. dated 26.10.2017

The undersigned is directed to refer to Hon’ble High Court’s judgment dated 23.08.2017 in WP (C) No.3490/2010 filed by “All India Equality Forum & Others Vs. UoI & Ors.” and to say that a large number of representations have been received from officers of CSS belonging to Section Officer, Under Secretary, Deputy Secretary/Director grades requesting for promotion/revision of Select Lists with reference to the above mentioned judgment.

2. All the representationist officers are, hereby, informed that the matter is under examination in the Department.”

Circular dated 30.01.2018

“With reference to the Hon’ble Delhi High Court Order dated 23.08.2017 in WP (C) No.3490/2010 & CM No.6956/2010 (Stay), it is mentioned that the Administrative Ministry has advised to watch the development of the case in DoPT in view of DoPT OM No.9/15/2017-CS.I(U) dated 26.10.2017 (Copy enclosed).”

Since their grievance has not been addressed by the respondents, the applicants have filed the instant O.A. praying for the reliefs as indicated in paragraph (1) above.

3. When the case was taken up for admission today, Mr. M K Bhardwaj, learned counsel for applicants submitted that the issue involved in the present O.A. is squarely covered by the judgment of this Tribunal in O.A. No.1111/2017 dated 21.03.2018 and prayed for disposal of the instant O.A. in accordance with the *ibid* judgment.

4. We have gone through the issue raised in the present O.A. as also the pleadings in support of the reliefs claimed. We are convinced that the issue involved is squarely covered by our judgment dated 21.03.2018 in O.A. No.1111/2017. Accordingly, we dispose of this O.A. in terms of the judgment dated 21.03.2018 passed in O.A. No.1111/2017. No costs.

**( K.N. Shrivastava )**  
**Member (A)**

**( Justice Permod Kohli )**  
**Chairman**

**March 28, 2018**  
**/sunil/**