

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No. 2702/2015

Reserved on : 03.05.2017
Pronounced on : 17.07.2017

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)**

P.K. Gandhi, Age 76 years
S/o Late Shri G.L. Gandhi,
(Retd) Under Secretary
Department of Agriculture & Co-operation,
New Delhi.
R/o A-69, East of Kailash,
New Delhi-110065. ... Applicant

(By Advocate : Shri R.D. Maurya)

Versus

1. Union of India through its Secretary,
Ministry of Personnel, Public Grievances
& Pensions, Deptt. of Personnel & Training,
Lok Nayak Bhawan, Khan Market,
New Delhi.

2. Union of India through its Secretary,
Ministry of Agriculture,
Department of Agriculture & Co-operation,
Krishi Bhawan, New Delhi. ... Respondents

(By Advocate : Shri Ashok Kumar)

ORDER

By Mr. V. Ajay Kumar, Member (J)

The applicant, a retired Under Secretary in the 2nd respondent – Ministry of Agriculture, filed the O.A. seeking the following relief(s):

- “(i) The applicant may kindly be given notional promotion as Deputy Secretary w.e.f. 01.07.1995 as given to his junior, being promoted to the post of Deputy Secretary w.e.f. 01.07.1995 on the basis of CAT order in the aforesaid matter vide OA No.985/2011 dated 11.03.2011.
- (ii) The applicant may kindly be granted arrears of pay and all other allowances from retrospective due date i.e. 01.07.1995.
- (iii) Any further relief which this Hon’ble Court deem fit and proper in the facts and circumstances of the case.”

2. This Tribunal by its common order dated 11.03.2011 disposed of a batch of OAs bearing O.A. No.985/2011 and batch and the said order reads as under:

“By this common order, we propose to dispose of twelve Original Applications bearing OA Nos. 985 to 996 of 2011.

2. The bare minimum facts that may, however, need a necessary mention, have been extracted from OA No.985/2011 in the matter of **S.G. Vazirani V/s. Union of India & Anr.** The applicant, who joined Union of India, was a member of Central Secretariat Services (CSS) and retired on 31.08.1997 as Under Secretary from Ministry of Urban Development, second respondent herein, without assuming the charge of the next promotional post of Deputy Secretary. The first respondent issued select list of Selection Grade of CSS for the year 1995 vide OM dated 15.09.2005 and the name of the applicant was duly approved by the competent authority and included at serial no. 62 of the select list aforesaid. This Tribunal on 22.04.2010 decided OA No. 1409/2009 and other connected OAs in the matter of **P.G. Geoerge V/s. Union of India & Anr.**, wherein it was held as follows:-

“12. In the result, the OAs are allowed. The Respondents are directed to grant notional promotion to the Applicants from the date their immediate juniors were promoted in various Select Lists of the years 2003, 2004, 2005 and 2006. The promotion would be notional but it would count towards increments and consequently in recalculation of post-retirement dues. The Respondents would recalculate the dues and make

these over to the Applicants as expeditiously as possible but not later than 15.06.2010.”

On 10.05.2010, this Tribunal in OA No. 204/2010 in the matter of **Jagdish Lal Jokhani V/s. DOP&T & Anr.**, while taking into consideration the aforesaid judgment, held as under:-

“The Respondents are directed to grant notional promotion to the Applicants from the date their immediate juniors were promoted in various Select Lists of the years 2003, 2004, 2005 and 2006. The promotion would be notional but it would count towards increments and consequently in recalculation of post-retirement dues. The Respondents would recalculate the dues and make these over to the Applicants as expeditiously as possible but not later than 15.06.2010.”

3. The applicant made representation dated 05.10.2010 to the first respondent, *inter alia*, seeking promotion and consequential benefits arising therein from the date when his name was included in the select list for the year 1995. It is the case of the applicant that he was orally told that the matter would be looked into but so far the representation made by the applicant has not been decided.

4. Considering the averments made in the Application and hearing the learned counsel for the applicant, we are of the view that, at this stage, it will be sufficient if the directions are issued to the first respondent to deal with the representation of the applicant dated 05.10.2010 and pass orders thereon as expeditiously as possible. Surely, the first respondent, while disposing of the representation of the applicant, would take into consideration the judgment of this Tribunal in the matter of **P.G. Geoerge V/s. Union of India & Anr.**, (supra). We order accordingly.

5. With the above directions, all these twelve Original Applications bearing OA Nos. 985 to 996 of 2011 stand disposed of. Process **DASTI**.

3. The respondents have complied with the aforesaid orders and granted the benefits to the applicants therein as directed by this Tribunal.

4. The applicant in the instant O.A., who retired as Under Secretary w.e.f. 28.02.1997, on attaining the age of superannuation submits that some of the applicants in the aforesaid batch of OAs were his juniors and the applicant was also identically placed like the applicants in the said batch of OAs and, hence, he is also entitled for granting of the same benefits by extending the benefit of said judgment to him.

5. The respondents vide their counter, while not disputing the fact that the applicant is identically placed like the applicants in the above referred batch of OAs and that some of the applicants therein were his juniors and were granted the notional promotion as Deputy Secretary w.e.f. 01.07.1995, however, submits that the applicant is not entitled for the identical benefit as he was not a party to the above referred common judgment.

6. Heard Shri R.D. Maurya for the applicant and Shri Ashok Kumar for the respondents and perused the pleadings on record.

7. The Hon'ble Apex Court in **Inder Pal Yadav vs. Union of India**, (1985) 2 SCC 648, held that "Those, who could not come to the court need not be on a disadvantage to those who rushed in here. If they are otherwise similarly situated, they are entitled for similar treatment if not by anyone else at the hands of this Court." This principle was reiterated by the Hon'ble Apex Court in **K.I.**

Shephard & Ors. vs. Union of India & Ors., AIR 1988 SC 686, **K.T.**

Veerappa & Ors. vs. State of Karnataka & Ors., 2006 (9) SCC 406

and **State of Karnataka & Ors. vs. C. Lalitha**, 2006 (2) SCC 747.

8. Since it is not disputed that the applicant is identically placed like the applicants in the above referred common judgment, which was duly complied with by the respondents, and in view of the aforesaid settled position of law, the applicant is entitled for granting of the identical relief.

9. In the circumstances and for the aforesaid reasons, the O.A. is allowed and the respondents are directed to grant notional promotion to the applicant as Deputy Secretary w.e.f. 01.07.1995 as given to his juniors by extending the benefit of the judgment in O.A. No.985/2011 and batch dated 11.03.2011 (S.G. Vazirani vs. Union of India & Anr.). This exercise shall be completed within three months from the date of receipt of a certified copy of this order. No costs.

(K.N. SHRIVASTAVA)
MEMBER (A)

/Jyoti /

(V. AJAY KUMAR)
MEMBER (J)