Central Administrative Tribunal
Principal Bench, New Delhi

O.A.No.4409/2014

Tuesday, this the 13th day of December 2016

Hon'ble Dr. K.B. Suresh, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)

Prakash Chandra Tripathi
Aged about 59 years
Working as Assistant Director (H)
s/o late Mr. Bhola Dutt Tripathi
r/o Dunga Dhara Road
Almora – 263607

..Applicant

(Mr. M K Bhardwaj, Advocate)

Versus

Union of India through

1. The Secretary
   Ministry of Textiles
   Udyog Bhawan, New Delhi

2. The Development Commissioner
   (Handicraft)
   West Block-7, R K Puram
   New Delhi

..Respondents

(Mr. Subhash Gosain, Advocate)

O R D E R (ORAL)

Dr. K.B. Suresh:

Heard the learned counsel for the parties.

2. The applicant, a fence sitter, approached the Court for a relief on the basis that benefits have been granted to similarly situated in O.A. No.1063/2008 decided on 16.12.2008. In the impugned order also, this is mentioned that even though one of the employees have been given benefit in compliance of the order of the Tribunal, this cannot be given to the applicant, as he will not come in the ambit of the order at the same time.

This view taken by the respondents seems to be incorrect, as once the principles have been accepted, it has to be equally applicable to all other similarly situated persons, who have been parties to it. All others claiming equivalent benefit must, therefore, have the genesis of their cause on the day they seek relief.

3. In the reply, the respondents submit that the applicant had been given a cadre change and, therefore, his seniority had to be re-fixed but that had been expressly expressed in O.A. No.366/2012 decided on 10.10.2012 by this Tribunal. Therefore, these aspects do not carry any worth or weight.

4. Therefore, we have to hold that the applicant is eligible for the benefit of Assured Career Progression Scheme/Modified Assured Career Progression Scheme as the case may be. But then the financial benefits of it must be given to the applicant from the date of filing of the O.A. and not before that. Learned counsel for applicant submits that it may not be correct, as other peoples have been given the benefits from back date. But then the Hon'ble Apex Court has also consistently held that the fence sitters cannot claim any special benefits so as to take an equivalent benefit along with others, who had approached the Court and obtained the favourable orders. This appears to be a correct solution.

5. Therefore, while holding that the applicant is entitled for financial benefits, we declare that the applicant is eligible for the benefits only from the date of filing of the O.A. and not before that. At this point of time, learned counsel for applicant seeks another clarification that the notional benefits may be given to the applicant notionally but the actual benefits may be given to him from the date of filing this O.A. This is allowed.

6. The O.A. stands disposed of. No order as to costs.

(K.N. Shrivastava)
Member (A)

(Dr. K.B. Suresh)
Member (J)

December 13, 2016
/sunil/