

**Central Administrative Tribunal
Principal Bench**

OA No.2530/2014

New Delhi, this the 12th day of September, 2018

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

1. Dr. Brahma Dutt Parashar
S/o Late Shri Ghansundar Lal Parashar
Age 62 years, Designation: Retd. Scientist 'F'
R/o Taraganj, Near Shani Deo Temple
Lashkar, Gwalior-474001.
2. Dr. Dinesh Chandra Gupta
S/o Late Shri Dhuli Lal Gupta
Age 61 years, Designation: Retd. Scientist 'F'
R/o A-401, DB City, Sachin Tendulkar Marg
Gwalior – 474001
3. Awanish Chandra Pandey
S/o Shri Sant Ram Pandey
Age 47 years, Designation: Scientist 'F'
DRDO-DRDE, Gwalior
R/o 54/1, Defence Colony
Gwalior-474002.
4. Dr. Satish Chandra Pant
S/o Late Shri Hargovind Pant
Age: 57 years, Designation: Scientist 'F'
DRDO-DRDE, Gwalior
R/o 123/1, RakshaVihar, Capt. Roop Singh
Stadium Road, Gwalior-474002.
5. Dr. Devanathan Sukumaran
S/o Late Shri G. Devanathan
Age: 53 years, Designation: Scientist 'F'
DRDO-DRDE, Gwalior
R/o 67/1, Raksha Vihar, Satadium Road
Gwalior – 474002.
6. Dr. Vepa Kameswara Rao
S/o Shri Vepa Venkata Ramana
Age: 55 years, Designation: Scientist 'G'

DRDO-DRDE, Gwalior
R/o 98/1, Raksha Vihar Colony, Roop Singh
Stadium Road, Gwalior-474002.

7. Dr. Gauri Shanker Agarwal
S/o Late Shri Dwarika Prasad Agarwal
Age: 58 years, Designation: Scientist 'F'
DRDO-DRDE, Gwalior
R/o 837, Patel Nagar, City Centre
Gwalior-474011.
8. Dr. Rahul Bhattacharya
S/o Late Shri Sunit Kumar Bhattacharya
Age: 54 years, Designation: Scientist 'F'
DRDO-DRDE, Gwalior
R/o P-123/3, Type V, Raksha Vihar Colony
Capt. Roop Singh Stadium Road
Gwalior-474002.
9. Jai Kumar Jain, S/o Shri Sewa Ram Jain
Age 58 years, Designation: Scientist 'F'
DRDO-HQ, New Delhi
R/o D-II/108, Kidwai Nagar (West)
New Delhi-110023.
10. Suresh Kumar Jindal
S/o Shri Kasturi Lal
Age 59 years, Designation: Scientist 'G' and
Director, DESIDOC, DRDO, Delhi
R/o J-2/3, M.S. Flats, Sector-13
R.K. Puram, New Delhi-110066.
11. Dr. Sharat Chandra Agarwal
S/o Late Shri S.B.L. Agarwal
Age 58 years, Designation: Scientist 'F'
DRDO-CFEEF, Delhi
R/o R-10/B-3, New Raj Nagar
Ghaziabad-201002.
12. Ajay Kumar Dhamija
S/o Late Shri G.L. Dhamija
Age 46 years, Designation: Scientist 'F'
DRDO-DIPR, Delhi
R/o G-002, Jhulelal Aptts, Pitampura
Delhi-110034.

13. Bansh Raj, S/o Shri Biraju Ram
 Age 57 years, Designation: Scientist 'D'
 DRDO-LASTEC, Delhi
 R/o B-5/93, Sultanpuri
 Delhi-110041. ...Applicants

(By Advocate: None)

Versus

1. Union of India
 Through its Secretary
 Department of Personnel & Training (DoPT)
 M/o Personnel, Public Grievances & Pensions
 North Block, New Delhi-110011.
2. Department of Defence
 Research & Development
 M/o Defence through its Secretary
 DG of DRDO & Scientific Advisor
 To Raksha Mantri, DRDO Bhawan
 Raja Ji Marg
 New Delhi-110011. ..Respondents

(By Advocates: Shri Satish Kumar and Shri Sourabh Ahuja for Shri D.S. Mahendru)

ORDER (ORAL)

Justice L. Narasimha Reddy:-

The applicants were Scientists of various categories working in different organisations. They filed this OA challenging the office memorandum dated 02.04.2012 issued by the M/o Personnel, Public Grievances and Pensions (DoP&T). The gist of memorandum is that the Non Functional Upgradation (NFU), which is introduced for the benefit of organized group 'A' service, cannot be extended to the employees

of services where the Schemes for promotions such as DACP and FCS are in vogue. The applicants contend that compared to other All India Services, there is acute stagnation in the Scientists community and there is absolutely no basis for denial of the benefit of NFU to them.

2. The respondents filed counter affidavit opposing the OA. It is stated that the claim of NFU has a different connotation, and that for the benefit of scientists not only separate schemes were introduced but separate rules are also framed, providing for the periodical promotions, even if no vacancy exists.

3. There is no representation for the applicants. We have, therefore, gone through the record, since this is one of the oldest cases pending in the Tribunal.

4. Heard the argument of ShriSaurabhAhuja proxy counsel for Shri D.S. Mahendru and ShriSatish Kumar, learned counsel for the respondents.

5. The applicants are not aggrieved by any individual orders that are passed specifically with reference to them. They challenged the office memorandum dated 02.04.2012 (Annexure A-1) which has only clarified the

applicability of the NFU. Para 3 of the impugned order reads as under:-

“3. Keeping in view that it would not be desirable to mix the provisions of one scheme with the other at different levels, it is clarified that the benefit of NFU to Organised Group A Services shall not be applicable to the officers in those Organised Services where FCS and DACP Schemes are already operating and where officers are already separately covered by their own in-situ Career Progression Schemes.”

6. The Scheme of NFU is framed to reduce the impact of absence of promotional avenues in certain Group 'A' services. The gist thereof is that wherever an officer of IAS cadre is promoted to the post of Director, the officers in Group 'A', who are senior by two years or more to the IAS officer, so promoted, and not promoted to that particular grade shall be entitled to be extended the scale of pay and other benefits on non functional basis. Even this is subject to evaluation by the Screening Committee.

7. The NFU is a typical scheme which is made applicable to the officers of the administrative side. It is not as if that no scheme is evolved for the benefit of scientist community. A set of rules were framed in this behalf, in compliance with the directions issued by the

Hon'ble Supreme Court and a series of promotions to the categories of scientists 3, 4, 5, 6 and 7 is provided. In addition to that, the scheme like DPCP and FCB are in force, in those categories. The applicants can complain if only persons similarly situated, as them, are accorded a different treatment.

8. In the context of extension of benefits, the group 'A' services constitute a separate class by itself and that there is no occasion for the principle of equality, enshrined in Article 14 of the Constitution, being invoked.

9. We do not find any merit in this OA. It is accordingly dismissed.

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

/vb/