

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A./100/3628/2014

New Delhi, this the 27th day of November, 2018

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

Dr. S.S. Tak,
A-5B/54B, 2nd Floor,
Janakpuri,
New Delhi-110058

... Applicant

(Through Shri Ashish Rana and Shri Harshit Garg, Advocates)

Versus

Union of India through

1. The Secretary
Ministry of Steel
South Block,
New Delhi
2. Through Under Secretary
Ministry of Steel,
South Block,
New Delhi
3. The Secretary,
Department of Personnel & Training
North Block,
New Delhi-110001

... Respondents

(Through Shri Vidya Sagar and Shri Mayank Kapoor for Shri H.K.
Gangwani, Advocate)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman

The applicant was working as the Joint Industrial
Advisor in the Ministry of Steel. The post is said to have

been classified as Group 'A'. The Government of India in the Ministry of Personnel, Public Grievances and Pensions (DoP&T) evolved different mechanisms to avoid stagnation in service. In respect of Organized Group 'A' Services, Non Functional Upgradation (NFU) was introduced through OM dated 24.04.2009. In respect of other services, Assured Career Progression (ACP) Scheme was introduced through OM dated 19.05.2009. This was replaced by Modified Assured Career Progression (MACP) Scheme.

2. The applicant was extended the benefit of MACP Scheme. However, he made a representation stating that being a Group 'A' officer, he is also entitled to be extended the benefit of NFU instead of MACP. The same was rejected through an order dated 18.09.2014. This OA is filed challenging the OM dated 19.05.2009 i.e. the one which provides for MACP Scheme and OM dated 18.09.2014 through which the request of the applicant is rejected.

3. It is stated that once the applicant is classified as Group 'A' officer, it does not make any difference whether it is part of organized service or not and denial of NFU is unjustified. Other grounds are also pleaded.

4. The respondents filed a detailed counter affidavit opposing the OA. It is stated that MACP on the one hand and NFU on the other, operate in two different fields and the applicant cannot take any exception to the application of MACP to him.

5. We heard Shri Ashish Rana, for the applicant and Shri Vidya Sagar proxy for Shri H.K. Gangwani, for the respondents.

6. An employee in the government service expects forward movement, by way of promotion. However, there are certain services and organizations where the promotion from a post is not provided at all and in certain cases, it occurs after a long wait. To avoid the feeling of stagnation in employees, the Government has taken certain measures. In case of Group 'B' and 'C' categories, initially ACP was introduced. Under this Scheme, an employee who did not get any promotion on completion of 12 or 24 years of service, is extended the benefit of higher pay scale almost on par with promotion. This was substituted in the year 2009 by MACP Scheme. The periodicity is changed from 12 and 24 years to 10, 20 and 30 years. Another aspect is that securing of financial upgradation is also treated at par with

promotion in the context of extension of benefit under MACP Scheme. NFU is a concept which is introduced for organized Group 'A' services. Under NFU, if an IAS officer of a particular batch is promoted as Director in the central services, the officers of organized Group 'A' services who are senior to him by two years, would be entitled to be extended the same benefit.

7. It is not in dispute that the service in which the applicant was serving does not fall in organized Group 'A'. Here itself, it needs to be mentioned that neither MACP nor NFU are part of any Service Rules. These are the administrative measures taken by the government to ensure that there does not exist feeling of stagnation in the employees. As long as the policy is not violative of any specific provision of law, an employee who is otherwise entitled to be considered, cannot take exception to the same.

8. It is fairly well settled that the comparison can be as between equals. The employees of organized Group 'A' services clearly constitute a class by itself and those who are not part of organized Group 'A' service, albeit drawing the same emoluments, cannot insist that the classification was discriminatory or contrary to Articles

14 and 16 of the Constitution of India. Added to that, there is a legal implication since the applicant has deprived himself by availing the benefit of MACP. Having accepted the benefit without a demur, he cannot now challenge the very OM under which he got it. It is also brought to our notice that the applicant has since retired from service. Secondly, the applicant did not seek any prayer in the form of declaration.

9. On behalf of the applicant, reliance is placed on the judgment of the Delhi High Court in W.P.(C) 153/2013, **G.J. Singh and others Vs. Union of India and others** dated 3.09.2015. That was a case in which the Writ Petition was directly filed in the Delhi High Court and it was in relation to a different service altogether. This service was governed by different set of rules and office memoranda.

10. Under these circumstances, we do not find any basis to interfere with the impugned orders. O.A. is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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