

**Central Administrative Tribunal
Principal Bench**

OA No.47/2015

New Delhi, this the 11th day of October, 2018

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

Arvind Kumar Sood
Aged about 66 years,
S/o Shri R. C. Sood
R/o 17/18, Shakti Nagar,
Delhi 110 007. ... Applicant.

(By Advocate : Ms. Richa Ojha for Shri A. K. Ojha)

Vs.

Union of India through

1. Secretary
Ministry of Power
Shram Shakti Bhavan,
New Delhi 110 001.

2. Secretary
Central Electricity Authority,
Sewa Bhavan,
R. K. Puram,
Delhi. Respondents.

(By Advocates : Shri Rajnish Prasad)

: O R D E R (ORAL) :

Justice L. Narasimha Reddy, Chairman:

The applicant joined the service of Central Electricity Authority, the 2nd respondent herein, in the year 1975, and was promoted as Extra Assistant Director Grade-II on 31.03.1981. Thereafter, he was promoted as Assistant Director Grade-I on being selected by the Union Public

Service Commission (for short, UPSC), and as Deputy Director on 30.07.1997. He retired from service on 26.03.2007.

2. The Scheme of Non-Functional Upgradation (for short, NFU) was implemented in the office of the 2nd respondent w.e.f. 01.01.2006 through office Memo dated 24.04.2009. According to the Scheme, if an IAS Officer of a particular batch is assigned any position carrying higher pay scale and other benefits, Group-A Officers who are senior by two years or more to such IAS Officer, shall be extended the same benefits. For this purpose, the screening process, and minimum qualifications are stipulated.

3. Through office order dated 29.03.2011, the respondents prepared a panel for extension of NFU to the Junior Administrative Grade (for short, JAG) in PB-4 with Grade Pay of Rs.8700. The name of the applicant figured in the panel for the year 2006-2007 w.e.f. 01.07.2006. However, he was not extended the benefit since he did not have two years of left over service, to his credit. He asserts that he is entitled to be included in the panel for earlier years.

4. The applicant contends that though he was entitled to be promoted to the post of Deputy Director for the panel

years 1994-1995 and 1995-1996, he was wrongfully shown as having been promoted in the year 1997 and that, in turn, had resulted in denial of benefit of NFU.

5. The respondents filed the counter affidavit opposing the OA. They stated that on account of the pendency of litigation as regards seniority and other aspects, promotions had been made to the post of Deputy Director only on *ad hoc* basis, despite the fact that DPC was held in 1994 and that the regular promotions were not made for a long time. It is stated that the review DPC was held on 19.01.1996 for the panel years 1984 to 1995, and for subsequent years, the review DPCs were held in July, 1997, and the applicant came to be promoted to the post of Deputy Director in his turn only w.e.f. 30.07.1997. It is stated that the panel for the purpose of NFU was prepared duly taking into account, the seniority of the officers, and in the process, the applicant came to be included in the panel for the year 2006.

6. We heard Ms. Richa Ojha for Mr. A. K. Ojha, learned counsel for the applicant and Shri Rajnish Prasad, learned counsel for the respondents.

7. The case of the applicant was considered for inclusion in the panel for the purpose of extension of the benefit of

NFU. He came to be included in the panel for the year 2006. However, since he did not have two years left over service, he was not extended the benefit. Therefore, the applicant is making efforts to push his date of regular appointment to the post of Deputy Director as much backward, as possible.

8. The record discloses that the issue relating to promotion to the post of Deputy Director was mired in serious legal battle for years together. Though the DPC met sometime in 1995, only ad hoc promotions had to be effected. The matter became clear somewhere in the year 1996 & 1997, and the respondents started convening DPCs for the vacancies of the concerned years. The proceedings of such DPCs were also placed before us.

9. The DPC that met on 19.01.1996 considered the cases for promotion for the panel years 1994 onwards. Since quite large number of SC vacancies remained unfilled or were carried forward, for many years, corresponding number of SC candidates were recommended. For the year 1994-1995, twelve names were recommended, out of which the first three were general and rest were SC candidates. Thereafter, the DPC met on 25.07.1997. This time, three ST candidates referable to the year 1994-1995 were recommended. The next day, another meeting was held for

the vacancies of the years 1995-96, 1996-97 & 1997-98. The name of the applicant figured at Sl. No.6 for the panel year 1995-96. Accordingly, he was promoted w.e.f. 31.07.1997.

10. The applicant is not able to point out any defect in these proceedings. An effort is made by learned counsel for the applicant to demonstrate that one candidate, by name, M. S. Satija, who was included in the same panel in which the applicant was included, was granted NFU by preponing his date of promotion to 1991. The circumstances under which such a course was adopted are not immediately before us.

11. We do not find any merit in the OA. It is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/pj/