

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD
(Circuit Bench at Nainital)**

This the **20th** day of **February, 2018**.

HON'BLE DR. MURTAZA ALI, MEMBER (J).
HON'BLE MR. GOKUL CHANDRA PATI, MEMBER (A).

Original Application Number. 331/00022/2015.

Dr. J.R. Sharma, Son of Late Sri Jeet Ram Sharma, H. No. 186A,
Lane-8, Panditwari, Phase-2, Dehradun 248007, Uttarakhand .
.....Applicant.

VE R S U S

1. Union of India through the Secretary, Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi - 11003.
2. The Secretary, Ministry of Personnel, Public Grievance and Pensions (Department of Personnel and Training), New Delhi.
.....Respondents

Advocate for the applicant : Shri Pankaj Srivastava

Advocate for the Respondents: Shri L.M. Singh

O R D E R

(Delivered by Hon'ble Mr. Gokul Chandra Pati, A.M)

Heard counsel for both sides.

2. The O.A is filed with prayer for the following reliefs: -

“(i). To direct the respondent department to Ante-date the promotion of the applicant from scientist D to Scientist -E to the due date (1.1.2004) with all consequential benefits as granted to the applicants in OA No. 1926/2013 filed before the Principal Bench,

(ii). To hold the assessment for grant of in-situ promotion from scientist-E to Scientist-F with effect from the due date i.e 1.1.2009.

(iii). To issue any other order or direction as this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case."

3. The facts of the case in brief are that the applicant was working as a Scientist under Botanical Survey of India (in short BSI) and retired on 30.04.2010 on attaining the age of superannuation while working as Scientist (E). The prayer in this O.A is for ante-dating his promotion as Scientist (E) effected from 1.1.2008 and for his promotion to the next higher grade as Scientist (F) w.e.f 01.01.2008 on the ground that similarly situated persons have been allowed such benefits in pursuance of the order of CAT Principal Bench in O.A No. 826/2003, which was upheld by the Hon'ble High Court and by Hon'ble Supreme Court. Accordingly, the applicant filed O.A No. 1926/2013 before the Principal Bench of this Tribunal, which was disposed of with the observation that after issue of the order dated 24.05.2013 of the Ministry of Environment and Forest (Annexure A-8), the applicant's case may be considered in the light of the said order. However, the respondents did not consider the case of the applicant, for which the applicant has moved the representations dated 07.05.2011 (Annexure A-5) and 01.08.2011 (Annexure A-6) to the respondents to consider his case. Since no action was taken by the respondents,

he has filed the present O.A. It is stated that the applicant is entitled for promotion to Scientist (E) w.e.f. the due date i.e. 01.01.2003 with all consequential benefits as such benefit was extended to many Scientists of BSI.

4. At the time of hearing, learned counsel for the applicant submitted that the case of the applicant is squarely covered by the judgment of the Principal Bench of this Tribunal in O.A No. 1926/2013 as well as the order dated 24.05.2013 of the Ministry of Environment and Forest (Annexure A-8). He further submitted that he will have no objection if this O.A is disposed of with direction to the respondents to consider the case of the applicant in the light of the judgment of this Tribunal as well as the judgment dated 02.05.2011 of the Hon'ble Supreme Court in CC 6864/2011 (Annexure A-4) for the Scientists in similar situation as the applicant.

5. Learned counsel for the respondents submitted that as mentioned in para 9 of the Counter Reply, the ante-dating of promotion from 01.01.2008 in respect of the applicant can be considered only after approval of ACC for implementation of order dated 24.05.2013 issued by the M/o Environment and Forest and that the judgment of the Hon'ble Supreme Court dated 02.05.2011 was in-personem and not in-rem. It was further submitted that the promotion from the date of acquiring eligibility is a policy matter

which is to be decided by the DOPT in consultation with the concerned Scientific Departments/Ministries.

6. In view of the above and considering the fact that the respondent No. 1 has already taken a decision in this matter vide order dated 24.05.2013 (Annexure A-8), we dispose of this O.A with direction to the respondents to consider the representations of the applicant dated 07.05.2011 (Annexure A-5) and 01.08.2011 (Annexure A-6) to the respondents in the light of the order dated 24.05.2013 and the judgments of this Tribunal and Hon'ble Supreme Court in case of similarly situated Scientists and dispose of the said representations by a reasoned and speaking order to be communicated to the applicant within two months of receipt of a copy of this order. It is made clear that we have not examined or commented anything about the merits of the case including the question of delay, if any. No order as to costs.

MEMBER- A.

MEMBER- J.

Anand...