

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O.A. No.60/891/2017

Date of decision: 08.01.2019

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
HON'BLE MRS. P. GOPINATH, MEMBER (A).**

...

Ram Lal Garg, aged about 72 years, S/o Sh. Dhan Raj, retired Director Geological Survey of India, Chandigarh, R/o H. No.312, Sector-15, Panchkula. Group A.

... APPLICANT

VERSUS

1. Union of India through the Secretary, Government of India, Ministry of Mines, 3rd Floor, 'A' Wing, Shastri Bhawan, New Delhi-110001.
2. Director General Geological Survey of India, 27, Jawaharlal Nehru Road, Kolkata-700016.
3. Secretary to Govt. of India, Ministry of Finance, Department of Expenditure, Central Secretariat, North Block, New Delhi.
4. Secretary to Govt. of India, Ministry of Personnel Public Grievances and Pensions, Department of Pension and Pensioners Welfare, Lok Nayak Bhawan, Khan Market, New Delhi-110003.

... RESPONDENTS

PRESENT: Sh. R.K. Sharma, counsel for the applicant.

Sh. A.K. Sharma, counsel for the respondents.

ORDER (Oral)

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SANJEEV KAUSHIK, MEMBER (J):-

1. The applicant herein assails order dated 11.09.2015 (Annexure A-1), passed by respondent no.2 whereby his claim for grant of benefit of JAG-NFSG of Rs.14300-18300 w.e.f. the date he completed 14 years of service in Group 'A', has been rejected. He has further sought issuance of a direction to the respondents to grant him NFSG grade w.e.f. 2002 as revised from time to time and to revise his retiral benefits as per revised pay scale w.e.f. 1.1.2006 and 1.1.2016 in terms of OM dated 6.6.2000 along with 12% interest.
2. Facts are largely not in dispute.
3. The applicant initially joined the respondent department as Assistant Geologist as a result of direct recruitment examination through UPSC and took charge as Geologist (Junior) on 10.11.1975. He was placed in senior time scale w.e.f. 5.3.1985. Subsequently, he was promoted as Director Geology in the Junior Administrative grade on 24.06.2002 in the pay scale of Rs.12000-16500. He retired on attaining the age of superannuation w.e.f. 30.06.2004.
4. Sole claim of the applicant in this O.A. is for grant of NFSG of Junior Administrative grade based upon notification issued by DoPT on 31.07.1982 whereby they introduced NFSG in group 'A' central services and as per Sr. No.23 of the said OM, Geological Survey of India is listed as an Organized Group 'A' service under the Ministry of Steel and Mines (Department of Mines). One Sh. M. N

Ramachandaran approached Bangalore Bench of the Tribunal by filing O.A. No.404/2009 for identical relief which was decided on 19.03.2012. Subsequent to notification dated 31.07.1982, DoPT issued another notification dated 14.08.1987 wherein in para no.2 they have decided that 15% of senior posts are to be given for NFSG, which was later on increased to 30%, vide circular dated 6.6.2000. Based upon the benefit granted by Bangalore Bench of the Tribunal, applicant also made representations during 2010 (A-2 to A-6) for relevant benefit, but his request was turned down. This led to filing of O.A. No.1175/HR/2011 by applicant and 2 others, which was disposed of vide order dated 3.9.2012 (Annexure A-17), wherein a direction was issued to the respondents to examine and decide the case of the applicants in the light of decision in the matter of M. N Ramachandaran Rao and if their cases are found to be identical, to pass appropriate orders within a period of three months. When respondents did not comply with the order, the applicants were compelled to file C.P. No.23/2013. Pending C.P., respondents approached Hon'ble High Court by filing C.W.P. No.23188 of 2012, which was disposed of vide order dated 19.02.2013, directing respondents to consider the case of the applicant after decision of Karnataka High Court in the light of M. N Ramachandaran Rao's case, which had been relied upon as the matter was pending before the Karnataka High Court at that time. In view of the order of the Karnataka High Court, C.P. was also disposed of on 9.5.2013. Vide order dated 22.04.2013 respondents again rejected the claim of the applicants (therein) by submitting that order of Bangalore Bench has already been stayed

and therefore, they cannot be extended benefit arising out of M. N Ramachandaran Rao's case (Annexure A-20). This order also became subject matter in O.A. No.1456/HR/2013, which was disposed of on 6.2.2014 considering the fact that matter in the case of M. N Ramachandaran Rao was still pending before the Karnataka High Court with an understating that applicant will abide by decision of the Hon'ble High Court in the case of M. N Ramachandaran Rao. Orders of the Hon'ble High Court in the case of M. N Ramachandaran Rao was upheld by the Karnataka High Court dismissing the Writ Petition No.45591 of 2012(S-CAT) at the hands of Govt. of India. It has also been brought on record that SLP against that order was also dismissed on 17.10.2014. After decision by the Apex judicial dispensation, respondents rejected claim of the applicant vide order dated 2/25.3.2015 (Annexure A-39) stating that he cannot be extended benefit of judgment in the case of M. N Ramachandaran Rao because he was not party to proceedings. Then applicant filed C.P. No.75/2015 in O.A. No.1456/HR/2013, which was disposed of as the respondents withdrew their order and passed fresh order dated 11.9.2015. Aggrieved against that order, applicant filed O.A. No.60/23/2016, which was subsequently withdrawn on account of some technical defect with liberty to applicant to file fresh O.A. with same cause of action. Therefore, the present O.A. has been filed impugning the order dated 11.9.2015 (Annexure A-1).

5. Respondents have resisted the claim of the applicant by submitting that this petition deserves to be dismissed on account of delay and laches as the benefit of the order which was passed in the year

2012 has been sought by filing O.A. in 2016. On merit, it has been submitted that applicant cannot be granted benefit arising out of M. N Ramachandaran Rao's case because Hon'ble High Court, while dismissing the writ petition at the hands of Govt. of India, had made it clear that benefit cannot be extended to other persons, therefore, it is prayed that O.A. may be dismissed.

6. We have heard learned counsel for the parties.
7. Sh. R.K. Sharma, learned counsel for the applicant vehemently argued that once plea of the applicant has already been accepted by this Court while allowing O.A. on 3.9.2012, based on judgment in the case of M. N Ramachandaran Rao then the plea raised by the respondents with regard to delay and latches cannot sustain. Secondly, he argued that order of the High Court, while dismissing writ petition, has noticed this fact that benefit arising out of that judgment will not be available to persons who approached the Court now but since applicant is before Court of law since 2011, therefore, he cannot be denied benefit on this ground.
8. Per contra Sh. A.K. Sharma, learned counsel for the respondents reiterated what has been stated in the written statement.
9. We have given our thoughtful consideration to the entire matter and have perused pleadings available on record with the able assistance of learned counsel for the parties.
10. A conjunctive perusal of the pleadings makes it clear that the applicant had submitted his first representation for grant of JAG-NFSG grade way back on 10.01.2010 and subsequently representations based on judgment passed by the Bangalore Bench of the Tribunal in the case of M. N Ramachandaran Rao (supra),

where same very plea, which the applicant is raising now, has been accepted holding the applicant therein entitled for relevant benefit. O.A. No.1175/HR/2011 filed by the applicant was disposed of on 3.9.2012 by directing the respondents to consider his claim in the light of ratio laid down in the relied upon case of M. N Ramachandaran Rao (supra). That order was upheld by Hon'ble High Court holding that applicant will be granted benefit subject to final outcome of the writ petition filed in the case of M. N Ramachandaran Rao. Though subsequently, respondents considered case of the applicant but have rejected the same vide order dated 22.4.2013. O.A. No.1456/HR/2013 filed by the applicant along with similarly placed persons was disposed of on consensual basis as the matter in the case of M. N Ramachandaran was pending adjudication before the Karnataka High Court. Order dated 10.04.2012 passed by Bangalore Bench of the tribunal in the case of M. N Ramachandaran was upheld by the Hon'ble Karnataka High Court by observing that benefit will not be available to persons who approached Court belately, which has been upheld by the Hon'ble Apex Court. Relevant para of the judgment of the Hon'ble High reads as under:-

"13. In so far as the direction of the tribunal to extent the benefit even to persons who have not approached the tribunal is concerned, we are of the view that there is considerable force in the argument of the learned Additional Solicitor General, because, the official memorandum as per Annexure-A1 is of the year 1982. Even after 32 years, if the parties have not approached the Union of India or the Tribunal, and when the learned Additional Solicitor General contends that the said official memorandum has not been given effect to, we are of the view that the tribunal, without application of mind, has directed the petitioners to reconsider the entire matter and to extend the benefit even to persons who have not approached the tribunal. We are of

the view that the said submission of the learned Additional Solicitor General is to be accepted, because, if fresh applications are filed by persons who have not approached the tribunal now, it was open for the Union of India to raise the question of delay and laches. In such circumstance, the tribunal could have rejected the cases of such persons who have not approached it earlier."

11. In the wake of above noted facts, we are of the considered view that objection raised by the respondents, with regard to limitation as well as that benefit cannot be granted on the basis of order of Hon'ble High Court, lacks substance since applicant is under litigation since 2011, therefore, it cannot be said that he has approached the Court in 2016 only. The above extracted para of judgment of the Hon'ble High Court is relevant for those who approached Court thereafter and not earlier. There is no other dispute qua the case of the applicant being similar in nature. Therefore, the impugned order cannot sustain and is hereby quashed and set aside. The respondents are directed to consider the case of the applicant for grant of relevant benefit in view of the judgment in the case of M. N Ramachandaran Rao (supra) within a period of two months from the date of receipt of a certified copy of this order. No costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 08.01.2019.
Place: Chandigarh.

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