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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

**Contempt Petition No.180/00145/2017
&
Miscellaneous Application No.180/0922/2017
in
Original Application No.180/00283/2013**

Thursday, this the 4th day of April , 2019

CORAM:

HON'BLE Mr.E.K.BHARAT BHUSHAN,	...ADMINISTRATIVE MEMBER
HON'BLE MR.ASHISH KALIA,	...JUDICIAL MEMBER

1. Dr.R.Sadasivan Nair,
S/o N.Raghavan Nair,
(Retd. Deputy Director General,
Geological Survey of India, Unit Kerala,
Manikanteswaram, Trivandrum),
Residing at "SURABHI", VP.7/272A(B-4/1),
Chitranagar, Vattiyooorkavu P.O.,
Thiruvananthapuram -695 013.
2. Shri N.M.Abdulla,
Aged 63 years,
S/o N.A.Mohammed,
(Retd. Director, Geological Survey of India),
Permanent address: FAJR, Chala Road,
Vidyanagar P.O.,
Kasargode – 671 123.
3. Shri Subir Dasgupta,
Aged 62 years,
S/o Narendra Bhushan Dasgupta (late),
(Retd Superintending Geologist),
Geological Survey of India,
residing at: Quartr No.508, Block-38,
CPWD Complex, HSR Layout, Sector-I,
Bangalore – 560 102.
4. Shri B.Ranganatha,
Aged 63 years,

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S/o B.Narayan (late),
(Retd. Superintending Geologist,
Geological Survey of India),
Residing at: Asshaya, S-1, RJR,
“Laguna”, Near B.K.Circle,
Kothanur Divine, J.P.Nagar, 8th Phase,
Bangalore – 560 076.

....Petitioners

(By Advocate Mr.T.C.Govindaswamy)

V e r s u s

Shri Arunkumar,
Secretary to the Government of India,
Ministry of Mines,
Shastri Bhavan,
NEW DELHI – 110 001.

.....Respondent

(By Mr. N.Anilkumar, SCGSC for Respondents)

This application having been heard on 1st April, 2019, the Tribunal on
4th April, 2019 delivered the following :

ORDER

HON'BLE MR.E.K.BHARAT BHUSHAN,ADMINISTRATIVE MEMBER_

CP No.145/2017 in OA No.283/2013 was heard along with MA No.922/2017 filed for implementation of order at Annexure MA1, finally on 02.04.2019. The OA has been filed by past and present employees of Geological Survey of India. They alleged discrimination in the matter of granting benefit of Non-Functional Upgradation to higher pay band/grade pay at par with others identically situated in other organised cadres working in different attached offices and departments of the Government of India. The OA was disposed of by order dated 26.10.2016 (Annexure MA1),

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directing as below:

In the 2012 Recruitment Rules for the service we notice that the Rule III below the conditions for Geologist has incorporated the provisions of DoPT OM Annexure A-3. Hence the respondents had intended to give the benefit, but are unable to, in view of the actual residency period in various grade pay due to stagnation. It takes anywhere between 10-15 years for a Scientist in GSI to come to Senior Time Scale and another 14 years to get Junior Administrative Grade as these promotions are vacancy based. Hence A-3 benefits can never be operated for applicants as intended ie. for those who are senior by two years or more after an IAS officer of a particular batch posted at the Centre had got the grade. It is necessary therefore to mould the relief so that the applicants can draw the benefit intended to relieve the stagnation. We note from the Recruitment Rules produced that the residency period from Geologist to Senior Geologist is 4 years, from Senior Geologist to Superintending Geologist is 5 years. Hence a minimum residency period is already prescribed in the Recruitment Rules though the same may be only a paper prescription as actual residency on vacancy based promotion is higher. There is also a provision that a Superintending Geologist is eligible for non-functional grade, who has entered the fourteenth year of service on the 1st of January of the year calculated from the year following the year of examination on the basis of which such member was recruited. Hence if the applicants have completed the above minimum residency period as per above provisions in the Recruitment Rules he is entitled to the benefit of non-functional higher pay scale, subject to the proviso under clause (1) of A-3 OM of DoPT dated 24.4.2009 which states that whenever an Indian Administrative Services Officer of the State of Joint Cadre is posted at the Centre to a particular grade carrying a specific grade pay in Pay Band 3 or Pay Band 4, the officers who belong to batches of Organized Group A Services that are senior by two years or more, and have not so far been promoted to that particular grade, would be granted the same grade on non-functional basis from the date of posting of the Indian Administrative Service Officers in that particular grade at the Centre. This non-functional higher pay scale will also be subject to all other conditions stipulated in Annexure I of A-3 DoPT OM cited above inclusive of condition (3) of Annexure I of Annexure A-3 DoPT OM dated 24.4.2009. The functional promotion will, however, be vacancy based as provided in the Recruitment Rules. Taking note of the fact that the O.A has been filed in 2013 the arrears shall be restricted to a period of 3 years immediately prior to the filing of OA as held by the Supreme Court in **Union of India & another Vs. Tarsem Singh**, reported in (2008) 8 SCC 648. (emphasis supplied)

2. The emphasis in the order is to consider the applicants if they have completed the required minimum residency period as per the provisions in the Recruitment Rules when they will be entitled to the benefits of Non-

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Functional High Pay Scale. The Tribunal had also stressed the fact that functional promotion will be vacancy based.

3. The respondents have given details of service of the four petitioners in the Contempt Petition/Implementation Petition. As can be seen none of these individuals are seen to have completed their required residency period and none of them were found fulfilling the eligibility criteria for NFU as per extant Rules.

4. Shri T.C.Govindaswamy on behalf of the petitioners submitted that the applicants have reservation about the matter in which their eligibility for the said benefit has been examined. However, it is to be understood that the scope in a contempt petition or in an implementation petition is limited. After examining the affidavit filed in compliance with orders of this Tribunal and after having heard the Counsel on both sides, we are of the view that the report filed by the respondents indicates substantial compliance with the orders of the Tribunal. Accordingly, the CP and the MA No.922/2017 are ordered to be closed. Notices stands discharged. In the event of the petitioners having grievance with regard to the specifics by which the respondents have acted in compliance with our order, they may choose to agitate these through an appropriate Application.

(ASHISH KALIA)

(E.K.BHARAT BHUSHAN)

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JUDICIAL MEMBER

ADMINISTRATIVE MEMBER

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List of Annexures in c.p.nO.145/2017 in O.A. No.180/00283/2013

1. **Annexure P1** – True copy of the Order dated 26 October 2016 in OA No.180/00283/2016 rendered by this Hon'ble Tribunal.
