

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Original Application No. 043/00373/2015

Date of Order: This, the 9th day of May, 2019

**THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER**

**THE HON'BLE MR. NEKKHOMANG NEHSIAL, ADMINISTRATIVE MEMBER**

Dr. Umesh Kumar Mishra  
Director (Retired)  
Geological Survey of India  
Near Kid's Care, Upper New Colony  
Shillong – 793003.

**...Applicant**

By Advocates: Mr. M. Chanda & Ms. S. Begum

-VERSUS-

1. The Union of India  
Represented by the Secretary to the  
Government of India  
Ministry of steel & Mines, Department of Mines  
Shastri Bhawan, New Delhi – 110001.
2. The Director General  
Geological Survey of India  
27, Jawaharlal Nehru Road  
Kolkata – 700016.
3. The Secretary to the Government of India  
Ministry of Personnel, Public Grievances & Pensions  
Department of Personnel & Training  
3<sup>rd</sup> Floor, Lok Nayak Bhavan, Khan Market  
New Delhi – 110003.

**... Respondents**

By Advocate: Mr. A. Chakraborty, Addl. CGSC

**Date of Hearing: 15.03.2019**

**Date of Order:**

## **ORDER**

### **NEKKHOMANG NEIHSIAL, MEMBER (A):**

Being aggrieved for non-granting the entitled benefit of pay parity being a Member of Organised Group 'A' service, the applicant has preferred the instant O.A. seeking the following main reliefs:-

- “8.1 That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to get the benefit of pay parity being a member of organized Group 'A' services in terms of DOPT O.M. dated 24.04.2009 in the grade pay of Rs. 10,000/- atleast w.e.f. 01.01.2006, since 1980 batch, IAS Officer have been granted the benefit of grade pay of Joint Secretary level while posted at Centre, as per O.M. bearing No. AB.14017/64/2008-Estt.(RR) dated 01.07.2010, since applicant belong to 1978 batch, with a further declaration that the applicant is entitled to be placed on functional basis in the scale of Rs. 67,000-79,000/- w.e.f. 26.10.2010 in terms of DOPT, O.M. No. AB. 14017/64/2008-Estt.(RR) dated 04.01.2011, since the IAS Officer of 1980 batch, has been given the benefit of Additional Secretary.
2. That the respondents be directed to grant the benefit of pay parity in terms of DOPT, O.M. dated 24.04.2009, since applicant belongs to 1978 batch of organized Group 'A' service in the grade pay of Rs. 10,000/- w.e.f. 01.01.2006 along with five increments, as well as benefit of pay parity by way of non-functional upgradation (NFU) in the scale of Rs. 67,000-79,000/- w.e.f. 26.10.2010 in the level of Additional Secretary with all consequential benefit including arrear monetary benefit.”

2. Facts of the applicant in the present case are that following selection through the Union Public Service Commission (UPSC) in 1977 batch, the applicant was initially appointed to the post of Geologist (Junior) in Class-I scale in the Geological Survey of India (GSI) w.e.f. 06.07.1978. He was promoted to the post of Geologist (Senior) in March, 1992 and subsequently after 14 years he was promoted to the post of Supdt. Geologist (earlier known as Director) on 29.12.2006. Again he was promoted as Director [earlier known as Director (G)] w.e.f. 01.09.2008. Finally he was granted a Non-functional upgradation (in short N.F.U.) to the pay scale of Joint Secretary with Grade Pay of Rs. 10,000/- w.e.f. 01.04.2011. He retired from service on 31.07.2013 as Director (G).

3. Main grounds of the claim of the applicant is that the services of Geologists in Geological Survey of India has been recognized as organized Group 'A' service vide O.M. dated 31.07.1982 and as such he is legally entitled to get the benefit of Group 'A' organized service since 1982. According to him, officers who were similarly situated to the applicant, were granted the benefit of Group 'A' organized service from 1985 (claimed by applicant)

and as such, denial of the same benefit to him is arbitrary, malafide, unfair, discriminatory and opposed to the provisions of Article 14 and 16 of the Constitution of India. The judicial pronouncements lend support to the claims of the applicant regarding his benefit of organized service from 1985 and the consequential benefits thereafter. As per DOPT notification, the applicant is entitled for further benefit of pay parity by way of non-functional upgradation (NFU) to the status of Additional Secretary in the scale of Rs. 67000/- to 79000/-.

4. Applicant further contended that due to non-consideration for grant of pay parity benefit of Group 'A' organized service to the applicant w.e.f. 01.01.2006 the level of Joint Secretary and also w.e.f. 26.10.2010 in the level of Additional Secretary (which has been granted to even his juniors), the applicant has suffered heavy financial loss and serious civil consequences in terms of his service prospect and thus he has been denied natural justice. Accordingly, 1980 batch IAS Officer has been granted the benefit of Joint Secretary level w.e.f. 01.01.2006/03.01.2006 in the grade pay of Rs. 10,000/- as DOPT, O.M. dated 01.07.2010 as per DOPT, O.M. dated 04.01.2011, thereby applicant has acquired a valuable

legal right for pay parity on non functional basis with all consequential benefit in terms of DOPT O.M dated 24.04.2009. In view of that, the respondents be directed to grant the pay parity w.e.f. 01.01.2006 by way of non-functional upgradation (NFU) to the scale with Grade Pay of Rs. 10000/- w.e.f. 01.01.2006 with 5 increments and scale of Rs. 67000/- to Rs. 79000/- w.e.f. 26.10.2010, with all consequential benefits within reasonable time.

5. In response to the submission made by the applicant, the respondents have filed their written statement on 12.05.2016. They have contested the applicant's contention as here under:-

That in terms of DOPT OM No. AB14017/64/2008/Estt.(RR) dated 24.04.2009 and subsequent orders and clarifications that all the prescribed eligibility criteria and promotional norms including 'benchmark' for up gradation to particular grade pay would have to be met at the time of screening for grant of higher pay scale under NFU scheme. In accordance with the DOPT order, the NFU to the Grade Pay of Rs. 10,000/- w.e.f. 01.04.2011 as was due and admissible has already been granted to the applicant. The demand of the applicant to grant NFU to the scale of Rs. 67,000/- to 79,000/- based on length of service or Batch Concept is not covered by the extant rules. In regard to demand of the applicant to grant him benefit of Organised Service w.e.f. 1982, the application is barred on the grounds of delay and laches on the part of the applicant.

That in terms of DOPT OM No. AB14017/64/2008/Estt.(RR) dated 24.04.2009 and

subsequent orders and clarifications, all the prescribed eligibility criteria and promotional norms including bench mark for up-gradation to a particular Grade Pay would have to be met at the time of screening for grant of Higher Pay Scale under NFU scheme. In accordance with the DOPT orders, NFU to the Grade Pay of Rs. 10,000/- w.e.f. 01.04.2011 has already been granted to the applicant. In view of the condition as laid down by the DOPT orders dated 24.04.2009 and subsequent orders and clarifications for grant of NFU, it was not feasible to strictly apply batch concept or length of service as a criterion to grant NFU to the officers of Geology Stream of GSI. If batch parity is restored then it is not possible to adhere to eligibility criteria, this is because the Geology Stream was regulated prior to 29.09.2010, by the provisions of General Central Service (GCS) and the sanctity of Batch was distorted.

In addition, the respondents have also pointed out as follows:

That it is not possible to use Batch together with eligibility, since the Eligibility criteria flowed from RRs, while in Batch concepts flowed from the DOPT guidelines for the purpose of NFU and rules take precedence, as such, it is not possible to ignore eligibility and give preference to Batch. No such non-functional up-gradation under NFU scheme was issued by this office in compliance of any Court Orders. Therefore, the statement made by the applicant that the benefit of NFU extended to some officers under NFU scheme in compliance of Court Order is not correct.

6. In response to the above, rejoinder has been filed by the learned counsel for the applicant on 18.07.2016. Apart from the point wise arguments, the applicant had brought additional information regarding grant of NFU to the Indian Revenue

Service Officers as notified by the Ministry of Finance, Department of Revenue, Central Board of Excise & Customs dated 02.09.2011 containing list of officers who have been granted HAG indicating the year of service batch and date of granting NFU in HAG. It is seen that Sri P.S. Pruthi at Sl. No. 18 and another three officers of 1978 are indicated to have been granted NFU in HAG with effect from 26.10.2010.

7. We have carefully gone through the submissions made by both the parties. We have also given detailed hearing on 15.03.2019. After going through all the submissions made by the parties, it is clear from the order of the DOPT dated 24.04.2009 that as and when an IAS Officer is posted to the Centre Deputation Organized Group 'A' Services who are senior by two years or more are entitled to be granted NFU in PB-3 and PB-4. This benefits has also been further extended to level of HAG vide order dated 04.01.2011. The dates for eligibility for JS level has been indicated as 03.01.2006 for Group 'A' services of 1983 and earlier batches and for HAG as 26.10.2010 for 1978 and earlier batches.

8. On going through the submissions made by the learned counsel for the applicant, it has also been observed that this particular date of 03.01.2006 has been strucked down by Central Administrative Tribunal, Principal Bench vide judgment and order dated 23.10.2013 in O.A. No. 761/2012 in respect of Dr. Badri Singh Bhandari Vs. Union of India and Ors. Another issue raised by the respondent authorities in their submission is that the effective date for declaring this particular service of the applicant was notified in the Gazette dated 29.09.2010 and for that the benefit of NFU cannot be given to officers by counting the service rendered prior to 29.09.2010. Accordingly, the applicant along with others have been granted correctly w.e.f. 01.04.2011 in the Grade Pay of Rs. 10000/-. In this context, the learned counsel for the applicant has submitted a copy of the judgment and order of Central Administrative Tribunal, Ernakulam Bench dated 26.10.2016 in O.A. No. 283/2013 in respect of Geological Survey of India Scientific Officers' Association and another Vs. U.O.I. & Ors. He also has submitted a copy of the judgment and order of Central Administrative Tribunal, Bangalore Bench dated 19.03.2012 in O.A. No. 404/2009 in respect of M.N. Ramachandra Rao Vs.



U.O.I. & Ors. wherein the officers of Geological Survey of India have been declared as Organized Services w.e.f. 31.07.1982.

9. It is observed from the records submitted by the learned counsel for the respondents and also during the hearing that the respondent authorities do not have any other order which are contrary to the orders/judgments as quoted by the learned counsel for the applicant. The respondent authorities also have not elaborated the basis on which the applicant was granted NFU in the Grade Pay of Rs. 10000/- w.e.f. 01.04.2011.

10 During the hearing, Mr. A. Chakraborty, learned Addl. CGSC was specifically asked whether these judgments of CATs in regard effective date for granting NFU with effect from 01.01.2006 and the judgment that the Geological Survey of India would be deemed organized Group 'A' Service with effect from 31.07.1982 have been challenged and whether these orders have been struck down by any higher court. He informed that he was not aware.

11. Keeping in view of the above, we are of the considered opinion that the applicant is entitled to get NFU in the pay scale of Rs. 10000/- w.e.f. 01.01.2006 and also HAG

w.e.f. 26.10.2010 provided he fulfills the criteria as stipulated by order of DOPT in their order dated 24.04.2009. Accordingly, we hereby direct the respondent authorities to consider his case for grant of NFU in the Grade Pay of Rs. 10,000/- w.e.f. 01.01.2006 and HAG w.e.f. 26.10.2010 within a period of four months from the date of receipt copy of this order. If he is granted, his pay will be fixed as per orders/rules specified by the Government of India i.e. provisions of CCS (RP) Rules, 2008 and benefits of arrear of pay etc. however, if any should be subject to the judgment of the Hon'ble Supreme Court in **Union of India & another Vs. Tarsem Singh, reported in (2008) 8 SCC648** as quoted by Co-ordinate Bench of CAT, Ernakulam Bench in O.A. No. 283/2013 dated 26.10.2016.

13. With the above observations and directions, O.A. stands disposed of accordingly. No order as to costs.

**(NEKKHOMANG NEIHSIAL)**  
**MEMBER (A)**

**(MANJULA DAS)**  
**MEMBER (J)**

