

**Central Administrative Tribunal  
Principal Bench**

**OA No.972/2016**

New Delhi, this the 6<sup>th</sup> day of March, 2019

**Hon'ble Sh. Justice L. Narasimha Reddy, Chairman  
Hon'ble Sh. Mohd. Jamshed, Member (A)**

Ms. S. Radha (Age 56 years)  
W/o K. Soundararajan  
Presently working as Addl Director  
Defence Institute of Quality Assurance  
S.K. Garden, Benson Town Post  
Bangalore – 560 046.  
R/o No.457, 4<sup>th</sup> Main  
HMT Layout, Anand Nagar  
Bangalore-560024. ... Applicant

(By Advocate: Shri Padma Kumar S)

Versus

1. Union of India through Secretary  
Defence Production (M/o Defence)  
Room No. 136, South Block  
D.H.Q. PO, New Delhi-110011.
2. Director General Quality Assurance  
Dte Gen of Quality Assurance  
Room No.308-A, D-1 Wing  
Sena Bhawan, New Delhi-110011.
3. Shri KSN Murthy  
Addl DGQA (R&S)  
HQ DQA (R&S) DGQA Complex  
Manovikas Nagar  
Secunderabad-500009. ... Respondents

(By Advocates: Shri Rajeev Kumar)

**ORDER (ORAL)****Justice L. Narasimha Reddy:-**

The applicant is holding the post of Principal Scientist, which occurs in the Junior Administrative Grade (JAG), in the establishment of Directorate General of Quality Assurance, i.e., the second respondent. The promotion from that post is to the post of Director Grade-I, which has since been re-designated as Additional Director General (ADG).

2. The qualification stipulated in this behalf is that the officer must have 8 years of regular service in the JAG grade, including Non Functional Selection Grade (NFSG), or 17 years of regular service in Group 'A' post out of which atleast four years of regular service shall be in JAG. The applicant falls into the second category. Her grievance is that the respondents are not considering her case for promotion to the post of ADG on the ground that she does not hold the requisite qualifications. She contends that once the rule itself provides for alternative qualification, there is no basis to deny her the right to be considered for promotion.

3. The respondents filed a detailed counter affidavit. According to them, the applicant does not hold the stipulated qualifications and at any rate, the mere holding of a qualification does not entitle an employee to insist on being promoted.

4. We heard Shri Padma Kumar S, learned counsel for the applicant and Shri Rajeev Kumar, learned counsel for the respondents.

5. The issue in this OA is in a very narrow compass. It is not in dispute that the applicant is holding the post in JAG in the second respondent organization. The qualifications for promotion to the post of ADG are prescribed under the Recruitment Rules and the relevant clause reads as under:-

“Officers of the Junior Administrative Grade (Principal Scientific Officer) with eight years’ regular service in the grade including Non Functional Selection Grade or with seventeen years’ regular service in Group ‘A’ posts out of which at least 4 years regular service should be in the Junior Administrative Grade.”

6. From a perusal of this, it becomes clear that rule making authority provided two alternative qualifications. In other words, not only officers with eight years of service in JAG, including NFSG, but also

the officers with 17 years of regular service in Group 'A', out of which atleast 4 years regular service shall be in JAG, are eligible. When the rule is so clear, there is absolutely no basis to insist that the occasion to consider the second category of officers for promotion would arise, if only those one in the first category are not available. Such a course would have been possible if only the expressions such as "failing which" or "if not available" were employed as conjunctives to the two sets of qualifications. The word "or", though separates both of them, it is more a conjunctive than a disjunctive, connoting that both the categories of officers are equally eligible for being considered for promotion.

7. Once an officer is treated equally eligible to be promoted, the scene next shifts to the DPC. It is there, that the relative merit of the eligible officers is evaluated and thereafter promotions are effected.

8. We, therefore, allow the OA directing that the case of the applicant shall be considered for promotion to the post of ADG. Since the applicant is scheduled to retire from service on 30.04.2019, we direct that the

exercise in this behalf shall be completed within a period of six weeks from the date of receipt of a copy of this order. We also make it clear that the respondents shall not raise the plea that the applicant cannot be promoted since she retired from service in view of the fact that ample time is available to them. There shall be no order as to costs.

**(Mohd. Jamshed)**  
**Member(A)**

**(Justice L. Narasimha Reddy)**  
**Chairman**

/vb/