

**Central Administrative Tribunal
Principal Bench**

**OA No.4473/2015
MA No.1367/2019**

New Delhi, this the 3rd day of May, 2019

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

A. K. Malhotra,
Age: 71 Yrs, Retired Director G.S.I., Jaipur,
S/o Late Ram Chand Malhotra,
R/o: Plot No. 255, Flat No. s/2,
Anand Niketan Apartments, Adarsh Nagar,
Jaipur (Rajasthan)- 302004.

... Applicant

(By Advocate: Mr. Yogesh Sharma and Mr. Ashok k. Vij)

Vs.

1. Union of India,
Through its Secretary,
Ministry of Mines,
Shastri Bhawan, New Delhi.
2. The Director General,
Geological Survey of India,
No. 27, Jawahar Lal Nehru Road,
Kolkata – 700016.
3. The Deputy Director (P&A),
Section – 19A,
15A&B, Kyd Street,
Kolkata – 700016.

... Respondents

(By Advocate : Mr. Ravinder Agarwal and Mr. Girish Pandey)

: O R D E R (ORAL) :**Justice L. Narasimha Reddy, Chairman :**

The applicant joined the Geological Survey of India (GSI) as Assistant Geologist in the year 1972. He was promoted to the post of Geologist in the year 1985 and as Director on 01.01.2003. He retired from the service on 31.07.2004 on attaining the age of superannuation.

2. There exists a facility of Non Functional Selection Grade (for short, NFSG) to the extent of 15% of the cadre in certain categories. The employees of respective categories, to the extent of 15% of the cadre, were extended the benefit, subject to their fulfilment of the stipulated conditions and the clearance by the Screening Committee.

3. The applicant contends that the Union of India issued a circular dated 06.06.2000 enhancing the limit of 15% to 30% for extending the benefit of NFSG and the GSI, in turn, has adopted the same on 16.01.2009. He contends that though he was entitled to be extended the benefit when he was in service, he was denied the same. Reference is made to an order dated 19.03.2012 passed by the Bangalore Bench of the Tribunal in the OA No. 404/2009. It is stated that the applicant therein was junior to the applicant herein. In this background, the applicant claims the relief. The applicant made a representation in this

behalf and the same was rejected by the respondents on 03.03.2015. This OA is filed challenging the order dated 03.03.2015 and for directing the respondents to convene a review Screening Committee for grant of NFSG w.e.f. 02.01.2003.

4. Respondents filed a counter affidavit opposing the OA. It is stated that though the Government of India enhanced the percentage from 15% to 30% on 06.06.2000, the decision to implement the same in GSI was taken in the year 2010. It is stated that benefit to be extended under the rules is prospective and, therefore, the applicant is not entitled to the same.

5. We heard Mr. Yogesh Sharma, Mr. Ashok K. Vij, learned counsel for the applicant and Mr. Ranjan Tyagi, learned counsel for the respondents.

6. The issue in this OA is as to whether the applicant is entitled to be extended the benefit of NFSG for the period, when he was in service. It is not the case of the applicant that he was denied any benefit which he was otherwise entitled to, while in service.

7. Though the Union of India decided to enhance the NFSG to 30% on 06.06.2000, the same was adopted by the GSI on 16.01.2009. This again was subject to rules. The

plea of the applicant is that once a decision as to enhancement of percentage of NFSG was adopted in 2009, it was to be implemented w.e.f. 01.01.2003, in his case, particularly when the Government of India took the decision on 06.06.2000.

8. We would have examined the matter in detail as to the retrospectivity or otherwise of the decision or rules that have bearing on that; but for the fact that Bangalore Bench of this Tribunal dealt with this very issue in OA No. 404/2009. One, Mr. M.N. Ramchandra Rao, who was stated to be junior to the applicant therein and retired in the year 2004, filed the OA claiming the relief under the very orders of 06.06.2000 and 16.01.2009. The OA was allowed and the relief in the form of direction to hold a review Screening Committee was granted. The order passed by the Tribunal was upheld by the High Court of Karnataka in Writ Petition No. 45591/2012. SLP filed against it was dismissed on 17.10.2014. The respondents have since implemented direction through order dated 08.04.2015.

9. The respondents placed reliance upon an order dated 06.08.2015 passed by Lucknow Bench of the Tribunal. We, however, find that result of that OA does not accord with the discussion undertaken therein and we, therefore, prefer not to take the same into account.

10. Since the applicant filed the OA only in the year 2015, we are of the view that the relief can be granted from that date while denying the arrears.

11. We, therefore, set aside the impugned order dated 03.03.2015 and direct that the review Screening Committee shall consider the case of the applicant for extending the benefit of NFSG within six weeks from the date of receipt of a certified copy of this order. In case, the review Screening Committee finds the applicant fit to be extended the benefit, his pension shall be revised but he shall not be entitled to be paid any arrears. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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