

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 1324/2014

New Delhi, this the 11th day of July, 2019

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

Shri Pankaj Sharma,
Aged about 58 years,
S/o Shri M.B. Sharma,
R/o 539, Sector III,
R.K. Puram, New Delhi. .. Applicant

(By Advocate : Shri S.K. Gupta)

Versus

1. Secretary
Ministry of Water Resources
Sharam Shakti Bhawan,
New Delhi - 110 001.
2. Director
Central Soil & Materials Research Station,
Ministry of Water Resources
Olof Palme Marg, Hauz Khas,
New Delhi - 110016.
3. Secretary
Union Public Service Commission
Dholpur House, Shahjahan Road,
New Delhi. .. Respondents

(By Advocate : Shri Rajinder Nischal)

O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman

The applicant joined the service of Central Soil and Material Research Station under Ministry of Water

Resources in the year 1978 as Research Assistant (Scientific). Thereafter, he was promoted as Assistant Research Officer in the year 1988. He was promoted as Scientist-'B' (erstwhile Research Officer) in the year 2005 and was promoted to the post of Scientist-'C' on 12.11.2012.

2. The grievance of the applicant is that though he acquired eligibility to be promoted as Scientist-'C' in the year 2010, on completion of 5 years under Flexible Complimenting Scheme (for short, FCS), the respondents did not initiate steps in that direction and in contemplation of amendment of rules and that, ultimately, he was promoted only in accordance with the amended rules in the year 2012.

3. The applicant submits that the rules that were amended w.e.f. 01.01.2011 would govern the service of only those employees, who have joined subsequent to that and the applicant ought to have been considered for promotion on FCS basis in accordance with the unamended rules.

4. The respondents have filed counter affidavit opposing the O.A. It is stated that the applicant does not have any right to be promoted and his case was considered by the

DPC, when it met. Various other contentions made by the applicant are denied.

5. We heard Shri S.K. Gupta, learned counsel for the applicant and Shri Rajinder Nischal, learned counsel for the respondents.

6. The only issue that arises for consideration in the O.A. is as to whether the applicant was entitled to be considered for promotion on NFU basis, in accordance with the unamended rules or the rules which were amended in the year 2011. This very issue was dealt by the Tribunal in O.A. No. 535/2014 with O.A. No.4063/2013 through order dated 14.11.2018. Placing reliance on the judgment of the Hon'ble Supreme Court in **Y.V. Rangaiah And Ors. vs J. Sreenivasa Rao And Ors.**, (1983) 3 SCC 284, the O.A. was allowed. A direction was issued to the respondents to convene a review DAB to consider the cases, in accordance with the unamended rules of the year 1983.

7. Following the same, we allow the O.A. and direct the 2nd respondent to convene a review DPC/DAB to consider the case of the applicant and other eligible persons against all the vacancies that existed before 01.01.2011, in accordance with the Rules of 1983 in all respects, including the one of eligibility and ceiling limits. In case it is found

that they are eligible to be promoted, promotion shall be effected under the said rules in all respects. The exercise in this behalf shall be completed within a period of four months from the date of receipt of certified copy of this order. This order shall not be construed as expressing any view on the fitness of the applicants. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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