

**Central Administrative Tribunal
Principal Bench**

OA No.3767/2015

New Delhi, this the 14th day of August, 2019

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

Shri G. S. Purba
S/o Sh. Udham Singh,
aged about 64 years,
Ex-Chief Engineer,
Central Water Commission,
R/o C-60, Hari Nagar,
Clock Tower,
New Delhi.

... Applicant.

(By Advocate : Shri B. K. Berera)

Versus

1. Union of India
Through Secretary
Ministry of Water Resources, RD & GR
Shram Shakti Bhawan,
New Delhi 110 001.
2. The Secretary
Ministry of Personnel, Public Grievances and Pension,
Department of Personnel and Training,
New Delhi.
3. Chairman
Central Water Commission
Sewa Bhawan, R. K. Puram,
New Delhi 110 066.

... Respondents.

(By Advocate : Shri Rajinder Nischal)

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

The applicant retired as Chief Engineer from the Central Water Commission in the year 2010. Since he was an officer of 1975 batch of organized Group 'A' service, he was entitled to be extended the benefit of Non Functional Upgradation (NFU) in terms of OM dated 24.04.2009. In OM dated 21.05.2009, particulars of the IAS Officers of various batches who were promoted to the post in the Central Government were furnished. It was mentioned therein that an IAS Officer of 1977 batch was appointed as Secretary w.e.f. 26.12.2007. The applicant was extended the benefit of NFU w.e.f. 01.04.2008.

2. The grievance of the applicant is that once an IAS officer who was two years junior to him, was promoted to the post of Secretary in the year 2007, he was also entitled to be extended the benefit of NFU from that very date.

3. The respondents filed the counter affidavit opposing the OA. It is stated that the DoP&T issued various office memoranda and circulars as regards the implementation of the NFU, and one of it is, the OM dated 18.01.2011. It is stated that according to said OM the concerned departments were required to amend their service rules.

4. We heard Shri B. K. Berera, learned counsel for the applicant and Shri Rajinder Nischal, learned counsel for the respondents.

5. The matter pertaining to the extension of benefit of NFU to Group-A Officers in the Central Water Commission itself was dealt with by us in OA No.1640/2017 vide order dated 05.02.2019. Various orders that were issued in this behalf were taken note of.

6. It is not in dispute that the applicant became eligible to be extended the benefit of NFU before he retired from service in 2010. The whole controversy in this OA is as to whether the applicant is entitled to be extended the benefit of NFU from 2007 or 2008. The salient feature of the NFU is that whenever an IAS officer of a particular batch is appointed to the post of Director and above in the central services, a member of organized Group-A service, who is two years senior to such an officer, shall be entitled to be put in NFU. The applicant is an officer of 1975 Group-A service in his organization. An IAS officer of 1977 batch was promoted to the post of Secretary on 26.12.2007.

7. The extension of benefit of NFU is not automatic. The officer must acquire the eligibility under the rules pertaining to his service. In the light of OM dated

24.04.2009, the service rules were amended. As regards the engineering service, the eligibility criteria such as residency period were stipulated, but also it was mentioned that in the context of implementation of NFU, the officer of Group-A organized service must acquire the eligibility as on 1st of January of the concerned year; and if he is not eligible by that date he would be entitled to be promoted w.e.f. 1st April of the subsequent year. Item Nos.14 & 15 of “Frequently asked questions on Non-Functional Upgradation (NFU) (Annexure R-2 to the OA), are relevant for this purpose. They read as under:-

S. No.	Point of doubt	Clarification
14.	What is the due date of upgradation if found unfit on the date assigned to a batch?	If an officer is not found eligible during a vacancy year and is found fit in the next vacancy year, NFU may be granted from the 1 st April, i.e. the 1 st day of the next vacancy year.
15.	How to consider cases where the officer do not meet the qualifying service in the vacancy year in which the batch is covered for non-functional up gradation?	If an officer does not meet the eligibility requirements as on the 1 st January of the corresponding vacancy year then such officer is to be considered for grant of NFU in subsequent vacancy year on completion of qualifying service w.e.f. 1 st April i.e. 1 st day of the next vacancy year.

The applicant states that he was entitled to be extended the benefit of NFU from the date, on which the IAS officer of 1977 batch was promoted, i.e., 26.12.2007. That would have been possible if only the applicant acquired the

eligibility as on 01.01.2007. Since that did not happen, he has to be extended the benefit only w.e.f. 01.04.2008. That is what exactly the respondents have done.

8. We do not find any merit in the OA. It is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/pj/