



CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

O.A. No. 60/379/2017

Chandigarh, this the 25th day of February, 2020

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

HON'BLE MRS. NAINI JAYASEELAN, MEMBER (A)

Jagdish Raj, s/o Sh. Inder Dass, aged 70 years, presently r/o # 110, Abrol Nagar, Tehsil & District Pathankot, Punjab (Group -C)

...Applicant

(BY: Mr. Jagdeep Jaswal, Advocate)

Versus

1. Union of India through Secretary, Ministry of Defence, North Block, New Delhi.
2. Engineer in Chief, E-in-C's Branch, Army Headquarters, Kashmir House, New Delhi-110011.
3. Garrison Engineer (Independent) Air Force, Pathankot 145001.

... Respondents

(BY: Mr. Mukesh Kaushik, Advocate)

O R D E R (Oral)

Sanjeev Kaushik, (Member) (J):

The applicant in this Original Application has challenged impugned order dated 20.2.2017 (Annexure A-1), rejecting his request for grant of 2nd ACP in the pay scale of Rs. 5000-8000 on the ground that he is not entitled



for the same because the post of Valveman falls under the skilled category.

2. Learned counsel representing the applicant submits that in terms of decision in his earlier O.A. NO. 504-PB-2011, dated 17.1.2013, copy placed on record, respondents here passed order, copy of which has been placed at page 54 of the paper-book, vide which the applicant has been treated under skilled category and has been granted pay scale of Rs. 260-6-290-EB-6-326-8-366-EB-390-10-400 revised from time to time thus the impugned order in this case is contrary to that order.

3. Learned counsel representing the respondents has produced a copy of order passed by this Tribunal in a bunch of O.As leading one being O.A. NO. 61/00081/2017-

Bishamber Dass & Ors. vs. Union of India & Ors. decided on 1.6.2018 where the similar stand has been negated by this Court that Valveman cannot be treated as skilled category. Learned counsel for applicant submitted that the judgment referred by the respondents also helps the applicant as in para no. 13 at page no. 12 of the said judgment this Court has opined that if any decision, prior thereto has attained finality, then it will be *per incuriam* and will not render any assistance to the others for getting the same relief. Thus he submitted that once the applicant has



been treated as skilled category then respondents cannot deny him benefits of 2nd ACP in the pay scale of next promotion in hierarchy which element has not been considered by the respondents while passing the impugned order. The Apex Court in the case of **Anil Ratan Sarkar etc vs State of West Bengal**, AIR 1969 SC 189 has held that administrative ipse dixit cannot infiltrate to an judicial order.

4. Therefore, the impugned order is quashed and set aside and the case is remitted back to the respondents to reconsider the case of the applicant for grant of pay scale of higher post as expeditiously as possible.

5. In view of above, the O.A. stands disposed of. No costs.

(Naini Jayaseelan)
Member (A)

(Sanjeev Kaushik)
Member (J)

Place: Chandigarh
Dated: 25.02.2020
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