

**Central Administrative Tribunal
Principal Bench**

CP No.340/2007
In
OA No.727/2004

New Delhi this the 2nd day of April, 2009.

**Hon'ble Mr. Shanker Raju, Member (J)
Hon'ble Dr. (Mrs.) Veena Chhotray, Member (A)**

J.K. Dang, 7943/4, Gali No.6,
Arakasha Road, Paharganj,
New Delhi-110 055.

-Applicant

(By Advocate Shri Amit Anand)

-Versus-

1. Shri Shekhar Dutt,
Secretary, Ministry of Defence,
South Block, DHQ Post Office,
New Delhi.
2. Shri Jatinder Bir Singh,
The Joint Secretary (Trg.) &
Chief Administrative Officer,
Ministry of Defence, E Block,
DHQ Post Office,
New Delhi-110011.

(By Advocate Shri S.M. Arif)

ORDER

Mr. Shanker Raju, Hon'ble Member (J):

Through this CP applicant seeks implementation of the directions of the Tribunal dated 7.8.2006 in OA No.727/2004 wherein post-retirement applicant sought antedating of his appointment and consequential benefits on the basis of the decision of the Tribunal in ***Sher Singh v. Union of India***, OA No.1590/1988, whereby having regard to the decision in ***Sher Singh*** in CA No.7295/1996 by the Apex Court directions have been issued to reckon the seniority of applicant as LDC and re-fixation for antedating the promotion in the grades of UDC, Assistant and ACSO with retrospective effect and consequential

benefits. The Tribunal in OA-727/2004 having regard to the above on the ground that applicant being identically situated with that of Sher Singh the decision of the respondents that applicant would not get consequential benefits when processed is yet to be completed a final decision was directed to be taken in true letter and spirit of the directions in **Sher Singh** (supra) to antedate the promotion of applicant in the grade of LDC, UDC, Assistant and ACSO and in such an event grant consequential benefits of pay fixation with arrears.

2. It appears that by an order passed on 7.3.2002 Sher Singh has been given, on antedating at all levels, consequential benefits with arrears whereas the applicant has been denied the same. Applicant raised the issue before us. Insofar as antedating the promotion as ACSO is concerned, in the light of the decision of the Apex Court in CA No.1384/2008 (SLP No.4545/2007) in **AFHQ/ISOs SOs (DP) Association & Ors. v. Union of India & Ors.**, decided on 19.2.2008 promotion of applicant in 2001 has not undergone any change as to his position. This issue being the contentious one, it is fairly stated by the learned counsel of applicant that liberty be accorded to him to raise it in appropriate proceedings.

3. Shri S.M. Arif, learned counsel of respondents would contend that two level promotions had already been effected in the case of applicant before filing of the OA, yet the same has been meticulously complied with in case of applicant with due regard to Sher Singh's case. However, on the issue whether applicant has to

be accorded consequential benefits at par with Sher Singh, simply referring to the decision at ACSO level no satisfactory explanation has come-forth.

4. In our considered view, antedating the promotions as LDC, UDC and Assistant level, as done in the case of applicant cannot be differently treated with that of Sher Singh and admittedly when consequential benefits have been given to Sher Singh the import of the directions of this Tribunal is to give benefits to the applicant also at par with Sher Singh. Denial thereof is non-compliance. Accordingly, CP stands disposed of with a direction to the respondents to comply with our directions in true letter and spirit by according consequential benefits at three levels to the applicant, antedating his promotion with arrears at par with Sher Singh except at the level of ACSO for which liberty is accorded to the applicant, within a period of two months from the date of receipt of a copy of this order. No costs.

V. Chhotray
(Dr. Veena Chhotray)
Member (A)

S. Raju
(Shanker Raju)
Member (J)

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