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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 2197/93

New Delhi, dated the 3rd March, 1994

Hon'ble Sh.N.V.Krishnan, Vice Chairman(A)

Hon'ble Sh.B.S. Hegde, Member(Judicial)

Shri Sudarshan Kumar Sardana
resident of 25/17,
Tilak Nagar,
New Delhi

... Applicant

(By Advocate Sh. D.C. Vohra)

Versus

1. Union of India through the Secy.,
Ministry of Defence,
South Block, New Delhi
2. Shri A.D. Sawala/151413-SW
C/o Secretary Min.of Defence
South Block, New Delhi-11

..... Respondents

(None for the respondents)

ORDER(ORAL)

(Hon'ble Sh. N.V.Krishnan, Vice Chairman(A)

When the matter came up before us
for admission on 14.10.93, we noticed that the
applicant was seeking reliefs based on the judgment
dated 28.8.1987 rendered by this Tribunal in some
other cases. In the circumstances, the applicant
filed MA 3599/93 for condonation of delay. Notice
was directed to be issued to the respondents. The

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respondents were served on 7.2.1994. None appeared on 9.2.1994, 18.2.1994, None is present today also though called twice. Hence the case is being disposed of ex-parte.

2. The applicant is an employee under the MES and while employed as an Assistant Surveyor of Works (ASW) he filed this O.A. seeking the following reliefs:-

- " 1. An order/direction by this Hon'ble Tribunal to the Respondent 1 to grant to the applicant all the reliefs that have been granted by this Hon'ble Tribunal in the case of his similarly-placed colleague Krishan Chander V. Union of India ATR 1987(2) CAT Delhi 631; (p.23/OA)
2. An order/direction by this Hon'ble Tribunal to the Respondent/1 to -grant to the applicant all those benefits which this Hon'ble Tribunal has granted in OAs 254/90, 1028/90, 1548/91 and 343/92 decided by the Ernakulam Bench (vide Ann.P p.29/OA)

3. The brief case is that the respondents demerged the cadre of Engineers and Surveyor of works in 1978. Separate seniority list of Surveyor Assistant Grade-I (Ann.B), which is relevant for promotion to A.S.W., was prepared. That was challenged by one Shri Krishan Chander in OA No.1037/1986. That OA was disposed of by the judgment on 28.8.1987 of the Principal Bench (ATR 1987(2) CAT 631) copy of the same is enclosed as Ann.E. That O.A. was disposed of with the following directions:-

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- a) The panel prepared by the DPC in March, 86 and promotions, if any, made on that basis are set aside as illegal being in complete violation of Government of India's own instructions of preparing annual panels for promotions.
- b) The applicant's seniority in the grade of SA-1 should be based on his total length of service as Supdt.Gr.I commencing from 19.1.1963.
- c) His induction as SA-I should be deemed to have taken place from 1978 and a review DPC should consider him for promotion as ASW as in 1982. If he is found suitable for promotion, he should be given promotion with all consequential benefits against a supernumerary post w.e.f. the date his next junior in the revised seniority list of SA-1 was promoted through the D.P.C. of 1982 against the vacancies of 1979.
- d) The respondents should identify yearwise regular vacancies in the promotion quota in the grade of ASW's between 1982 and 86 and hold review D.P.C. for each of the years till 1986 to prepare year-wise panels in accordance with the instructions of 24th December, 1980. Promotions of ASW's should be made on the basis of the year-wise panels so prepared.
- e) If the applicant is included in any of the panels so prepared through the review DPC his promotion should be regularised from the year for which he is empanelled and his entire adhoc service from that year should count for seniority in the grade of ASW. His ad-hoc officiation, if any, prior to that year cannot count for seniority because once considered and not empanelled he has to concede seniority to those who are on the panel.

The application is disposed of on the above lines There will be no order to costs."

4. The applicant then made a representation in this behalf on 10.7.91 (Ann.M.IX) -enclosed to the MA claiming that he should be given promotion as A.S.W. from 1982 in view of the earlier promotion of his juniors.

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5. Thereafter, on the basis of the judgment in Krishan Chander case (Supra) the applicant sent a letter dated 20.1.1993 (Ann.G) and claimed the benefit of that judgment for his seniority as ASW. Therein, he also referred to another case of Krishan Kumar and F.S. Verma (OA No.1548/91 and OA 343/92) disposed of by the Ernakulam Bench of this Tribunal, giving similar relief.

6. It is also stated that the respondents themselves had issued a circular dated 29.4.93 (Ann.M.X) wherein a reference has been made to the various judgements delivered by Benches of this Tribunal, some disposed of and the pending cases. As many representations had been received from other affected individuals who were senior to those who have been given benefit by the judgments of the Tribunal, the Ministry wanted information about such cases yet no action has been taken to give the benefit of the judgment to the applicant.

7. It is in this background that this OA has been filed.

8. Respondents have not filed any reply to the OA and MA.

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9. We have heard the ld.counsel for the applicant.

10. In view of the fact that apart from the judgment in Krishan Chander's case in OA No.1037/86(Ann.E), similar judgements have been delivered in OA filed much later (e.g. OA 1548/91 and 343/92) filed by Sh. Krishan Kumar and F.S. Verma in Enakulam Bench, we are of the view, that this application is also to be considered by the respondents and accordingly in the interest of justice we allow MA for condonation of delay.

11. In view of the averments made and the prayers made in the OA we are of the view that this OA can now be disposed of with a suitable direction to the respondents. Accordingly, we dispose of this OA with a direction to the respondents to consider the reliefs claimed by the applicant in this OA in the light of the various decisions rendered by this Tribunal in the cases stated by the applicant and, in case the applicant's case is similar to the cases decided earlier by the Tribunal, the benefit of these decisions shall be given to him, notwithstanding that the applicant was not a party to any of these decisions. Suitable orders, in accordance with law, in the light of the above direction shall be issued within a period

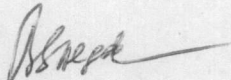
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of four months from the date of receipt of this order.

12. The applicant has since retired on 30.9.93.

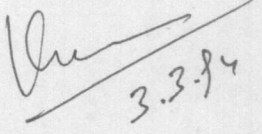
Considering the fact that he has approached the Tribunal late, we make it clear that the effective benefits that the applicant shall be entitled to would be revision of his pensionary benefits on retirement. In other words, if the applicant is entitled to the relief as mentioned above, notional pay shall be fixed from the appropriate date for the subsequent period till retirement and the pensionary benefits shall be recalculated on the basis of the pay as so refixed. The dues on this account shall be paid within a further period of month.

13. O.A. is disposed of with the above directions.


(B.S. Hegde)

Member(J)

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(N.V. Krishnan)

Vice Chairman(A)