

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD

(This the 08th Day of **October** 2021)

Hon'ble Mrs. Justice Vijay Lakshmi, Member (Judicial)
Hon'ble Mr. Tarun Shridhar, Member (Administrative)

Original Application No. 276 of 2013

K.P Kanchan, son of Sri Ayodha Prasad, resident of House No. 38
Chaubiyana, Tehsil and District Lalitpur.

-----Applicant

By Advocates: Shri Rajesh Kumar Ojha

Versus

1. Union of India through the Ministry of Defence, New Delhi.
2. The Chief Engineer, Central Command Lucknow Cant., Lucknow.
3. The Commander Works Engineer, Rani Laxmi Bai Marg, Jhansi
Cantt. District Jhansi.
4. The Garrison Engineer, MES Talbehat, District Lalitpur.

By Advocate : Shri M.K. Sharma

O R D E R

Delivered by Hon'ble Mr. Tarun Shridhar, Member (A)

The applicant in the present original application seeks various service benefits such as seniority, MACP and pay fixation from different dates which are earlier to the dates on which these benefits were actually extended to him, on the grounds that his initial seniority during his first promotion was erroneously fixed.

2. Brief facts of the case are that the applicant was appointed on 26.12.1972 to the post of Wireman and after going through the Normal Career Progression of promotion, an ACP/MACP etc. retired

on 30.06.2011 on attaining the age of superannuation. Initially he claimed all such benefits by filing an Original Application No. 1065 of 2012, which was disposed of by giving a direction to the respondents to consider the claim of the applicant for which he had submitted his representation and decide the same by way of a reasoned and speaking order. This was accordingly decided by the respondents vide their order dated 01.12.2012 which is detailed as also reasoned and speaking. His claim was not found to be admissible in accordance with the rules. The applicant has challenged that order in the instant OA. For the sake of clarity, the reliefs sought by the applicant in the present OA, in the relief portion are reproduced below verbatim:-

- "(a) issue an order or direction quashing the order impugned dated 01.12.2012 passed by the respondent No.3 (Annexure -1 to this OA in compilation No. 1).
- (B) Issue an order or direction, directing the respondents not to give effect to the impugned order dated 01.12.2012 passed by the respondent NO. 3 (Annexure -1 to this OA in compilation No. 1).
- (C) Issue a writ, order or direction directing the respondents to make payment of the arrears of salary as mentioned in the representation/notice dated 03.10.2011 for which the applicant is entitled under the law, within a specific time period, in accordance with law.

- (D) Issue an order or direction, directing the respondents to provide all service benefits for which the applicant is entitled under the law within specific time period.
- (E) Issue an order or direction which this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case.
- (F) To award the cost of the application".

3. Learned counsel for the applicant contends that since applicant was first promoted on 5.6.1978 as Instrument Repairer and thereafter promoted in the year 1984 as HS - II, his seniority should have been assigned w.e.f 15.10.1984 instead he was given the benefit of the same from 15.10.1987. He further contends that he should have been given pay scale of Rs. 260-400/- after the recommendations of the 3rd Pay Commission, which was denied to him even in the subsequent upgradation of the pay scales, thus he was put to loss on account of initial wrong fixation of his seniority. Amongst other things, learned counsel further argues that the benefit of MACP on completion of 30 years of service was also denied to him.

4. Learned counsel for the applicant relies upon the various judgments of different courts including Hon'ble Apex Court to support his claim and has annexed the copy of the same. He particularly makes a mention of following cases:-

- (i) Union of India and others Vs. Shri Balbir Singh Turn & another decided on 08.12.2017 in Civil Appeal Diary No. 3744 of 2016 by Hon'ble Apex Court.

- (ii) Bhagwan Sahai Carpenter Vs. Union of India and another decided on 15.03.1989 passed by Hon'ble Apex Court.
- (iii) P.K. Sabu Rao Vs. The Government of India and others decided on 06.10.1995 in OA No. 658 of 1990.

5. Learned counsel for the respondents, on the other hand, argues that all the grievances and claims of the applicant have been meticulously examined by the respondents and disposed of by way of a reasoned and speaking order and now the applicant has no ground to question the same. He particularly points out that while the applicant was given his first promotion as Electrician (HS-II), his pay was fixed in accordance with the Ministry of Defence letter dated 19.03.1993. He goes on to submit that the seniority has been assigned to the applicant w.e.f. 15. 10.1987 as per the directions given by the superior authorities. He further argues that he could not have been given seniority or financial benefits from October 1984 as the relevant instructions of the period did not pertain to the category of employees to which he belongs.

6. We have heard learned counsel for the parties and gone through the written submissions submitted by them and also carefully perused the documents on record.

7. In fact the order passed by the respondents on the representation of the applicant is crystal clear and leaves no scope for ambiguity. This order deals with all the issues raised by the applicant in the instant OA right from his claim for pay scale in

accordance with the recommendation of 3rd Pay Commission to the upgradation of his position, promotion to Electrician (HS-II) and subsequently to Electrician (HS-I), incorrect pay fixation and leave encashment etc. It is pertinent to mention here that although on the face of it, it appears that the applicant is challenging only one impugned order, in fact he is seeking multiple reliefs in the instant OA. Moreover, all these reliefs stem from his promotion in the year 1984, which he challenged for the first time in the year 2012. Now in the year 2021, it is too belated a stage to reopen those issues, nor is it possible to determine the genuineness of his claim. Moreover, it is apparent on the face of it that all these claims have been examined on the basis of official records by the respondents and disposed of through a well reasoned and speaking order. Applicant during the course of his service kept getting the benefit of promotions and the financial benefits which go along with that, and further he has also got all his legitimate retiral dues. Now in this much delayed OA, he seems to be asking for the moon.

8. In light of discussion above, we do not find any merit in this present OA, which is accordingly dismissed. No costs.

(TARUN SHRIDHAR)
Member (A)

Manish/-

(JUSTICE VIJAY LAKSHMI)
Member (J)