

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

ALLAHABAD this the **25th** day of **July 2012**.

**HON'BLE MR. SANJEEV KAUSHIK, MEMBER- J
HON'BLE MR. SHASHI PRAKASH, MEMBER -A**

ORIGINAL APPLICATION NO. 293 OF 2006

Ally Kumar Verma son of late Ratan Singh Verma, Resident of 1246, W-2 Block, Basant Vihar, Kanpur Nagar.

.....Applicant.

VE R S U S

1. Union of India through Secretary, Ministry of Defence, North Block, Government of India, New Delhi.
2. Director General Ordnance Services, D.H.Q. Office of Director General Ordnance Services, Sena Bhawan, New Delhi.
3. Commandant, Central Ordnance Depot, Kanpur Nagar.

.....Respondents

Advocate for the applicant: Shri R.K. Saxena

Advocate for the Respondents : Sri Anil Dwivedi

OR D E R

DELIVERED BY HON'BLE MR. SANJEEV KAUSHIK, MEMBER- J

Heard Sri R.K. Saxena, learned counsel for the applicant and Shri Anil Dwivedi, learned counsel for the respondents.

2. Instant O.A. has been filed whereby applicant seeks to issue writ, order or direction in the nature of certiorari quashing the impugned order dated 21.11.2005 (Annexure A-1), with a further direction to issue a writ, order or direction commanding the

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respondents to promote the applicant on the post of Packer (O) in the pay scale of Rs.3050-4590 and pay regular salary with effect from 1.8.2003. The applicant further prayed for a direction to the respondents to pay him salary for the post of Packer (O), with a further direction to the respondents to pay him salary for the post of Packer (O) for the period when he was worked on the said post.

3. Pursuance to the notice, Shri Anil Dwivedi, Advocate who represents the respondents, filed a detailed counter affidavit. The facts are not in dispute, therefore, the brief note is sufficient. From perusal of the impugned order dated 21.11.2005, it is evidently clear that claim of the applicant for promotion on the post of Packer (O) has been rejected on the ground that there was no sanctioned post rather against 43 actual sanctioned post 71 persons are working i.e. 28 persons are working in excess, therefore, his request for promotion has been rejected. With regard to pay scale of said post is concerned, since he has not been promoted on the said post, therefore, he is not entitled for pay of that post. As far as the claim of the applicant that he worked on the said post by order of the respondents w.e.f 1.8.2003, therefore he is entitled for pay on the said post on the principle of equal pay for equal work, we are convinced with this argument.

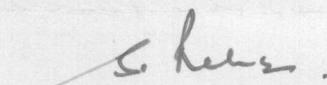
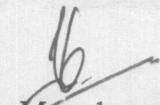
4. Shri R.K. Saxena, learned counsel for the applicant produced a copy of the office order dated 10.7.2012 by which the applicant has again been directed to work as Packer. He submitted that till today applicant is performing the work as Packer on the sanctioned post but he has not been paid salary on that post. After

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(28)

Going through the above document, we are satisfied that applicant is entitle for the same pay which is admissible to post upon which he is working on the principle of quantum meruit. We also find support from the judgment of the Principal Bench of this Tribunal passed in O.A NO.1753 of 2010 decided on 3.1.2011 whereby similar controversy has put in on rest by relying upon the judgment of Hon'ble Supreme Court upholding that if an employee has performed higher duties with higher responsibility, he is entitle to the corresponding salary.

5. In view of the above, O.A is allowed. Respondents are directed to ascertain the period when the applicant actually worked on the said post and pay him the wages accordingly. Let the above exercise be completed within 3 months from the date of receipt of a certified copy of the order. No costs.


Member (A)
Member (J)

Manish/-