

7/13

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 490/2011, 491/2011 & 204/2012

Jodhpur this the 4th day of April, 2013.

CORAM

Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J)

Hon'ble Ms Meenakshi Hooja, Member (A)

1. Bhawani Singh S/o Sh. Nathu Singh aged 46 years
2. Raj Kumar S/o Sh. Mangal Singh aged 48 years
3. P.O. Augustine S/o Sh. Ousef aged 48 years
4. P.V. Kesavan S/o Sh. Kunji Krishna Kurup aged 46 years
5. Verghese Oommen S/o Sh. Oommen Koshi aged 48 years
6. Mohan Lal Joshi S/o Sh. Ram Niwas Jodhi aged 48 years
7. Mirza Alias Beg S/o Sh. Megh Raj Sharma aged 48 years
8. Bal Mukand S/o Sh. Megh Raj Sharma aged 48 years
9. Anand Kumar S/o Sh Purna nand aged 48 years

All applicants are working on the post of FGM in the office of Garrison Engineer (AF) nal and all are resident of C/o GE (AF) Nal Bikaner (Raj.)

.....Applicants in O.A. No. 490/2011

1. Man Singh S/o Sh. Maktul Singh aged 49 years
2. Jai Pal Singh S/o Sh. Gokul Singh aged 47 years
3. Bajrang Singh S/o Sh. Surjan Singh 49 years

All applicants are working on the post of FGM in the office of Garrison Engineer (P) Bikaner and all are resident of C/o GE (P) Bikaner (Raj.)

.....Applicants in O.A. No. 491/2011

1. Kamaljeet Singh S/o Sh. Joginder Singh, aged about 51 years, R/o Ward No. 18, Near Government Middle School No. 2, Suratgarh, District Sriganganagar (Raj)
2. Shambhu Dayal S/o Sh. Ram Kumar aged about 46 years, R/o Ward No. 19, Partap Nagar, Suratgarh, District Sriganganagar, (Raj)
3. Digambar Singh S/o Shri Hari Krishan, aged about 52 years, R/o MES Colony, GE (AF), Suratgarh, District Sriganganagar, (Raj)
4. Lal Bihari S/o Sh Chokhe Lal aged about 52 years R/o Quarter No. 520, Rajasthan Canal Project, Tibba colony, Suratgarh, District Sriganganagar, (Raj)
5. Krishan Kumar S/o Sh. Kaushal Singh aged about 52 years, R/o Warde No. 12/309, bypass, Suratgarh, District Sriganganagar, (Raj)

~
1

6. Kayamuddin S/o sh. Nasruddin, aged about 50 years, R/o Ward No. 27
New Sikargarh Mohalla, Suratgarh, District Sriganganagar, (Raj)

(All the applicants are presently working on the post of FGM in the office of Garrison Engineer, MES (AF), Suratgarh, District Sriganganagar, (Raj)

.....Applicants in O.A. No. 204/2012

(Through Advocate Mr. S.K. Malik)

Versus

1. Union of India through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi
2. Commander Works Engineer MES (AF) Bikaner (Rajasthan)
3. Garrison Engineer, MES (AF), Nal, Bikaner (Rajasthan) in O.A. No. 490/2011 & 204/2012
4. Garrison Engineer (P), Nal, Bikaner (Rajasthan) in O.A. No. 491/2011

(Through Advocates Mr Mahendra Prajapat proxy for Mr Ravi Bhansali in O.A. No. 490/2011, Mr Kuldeep Mathur in O.A. No. 491/2011 and Mr Mohd. Sajid in O.A. No. 204/2012 proxy for Sanjeet Purohit respectively)

5. Sh. Parmatma Swaroop MCM C/o GE (P) No. 2, Bikaner (Raj)
6. Sh. Ram Lal Meena MCM C/o GE (Army), Suratgarh, District – Sri-Ganganagar (Raj)
7. Sh. Mohan Lal MCM C/o GE (Army), Suratgarh, District – Sri-Ganganagar (Raj)
8. Sh. Gomand Ram MCM C/o GE (Army), Suratgarh, District – Sri-Ganganagar (Raj)
9. Sh. Lila Dhar MCM C/o GE (AF), Suratgarh, District – Sri-Ganganagar (Raj)

(Through Advocate Mr J.K. Mishra)

..... Respondents

ORDER (Oral)

Per Justice Kailash Chandra Joshi, Member (J)

This order will govern the disposal of OAs No. 490/2011, 491/2011 and 204/2012.

2. All these OAs are off shoots of the judgment dated 05.09.2006 passed in O.A. No. 221/2004 by which above OA was

allowed and the impugned order Annex. A/1 was quashed and set aside and the respondents were directed to consider the regularization of the applicants in the posts against which they were initially appointed as per Recruitment Rules, 1971, w.e.f. 18.11.1989 when they were reinstated in service, by virtue of the order passed by the Hon'ble Supreme Court. It has been further held that they were also entitled to the consequential benefits of difference of pay and allowances for the said period. In compliance to the above order, different orders were passed by the respondent-department in all the 3 OAs in respect of the applicants and the applicants being dissatisfied with the impugned order filed the representation to the respondent-department on different dates and when their representations were not decided for a long period, reminders to the representations were also submitted by the applicants. Due to non-communication of any order, the present OAs have been filed by Bhawani Singh and others. In all the cases instead of promotion, 2nd benefit under Assured Career Progression (ACP) Scheme was granted.

3. By way of counter in all these OAs, the respondent-department denied the right of the applicants for promotion. However, the pendency of the representations and the subsequent reminders have not been denied. The private respondents have also filed separate reply in which the right of the applicants have been challenged in the light of the judgment of the Hon'ble

Supreme Court passed in Union of India & Ors vs Bhawani Singh & Ors in I.A. No. 128 of 1992 in Civil Appeal No. 4201-4208 of 1989.

4. Counsel for the applicant in all these OAs contended that the applicants have been denied their promotion without any material available on record and benefit of 2nd ACP under ACP Scheme was granted to them whereas they were entitled to get the promotions as per rules.

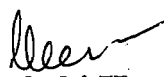
5. Per contra learned counsel for the respondents contended that no right for promotion is available to the applicants and they were granted 2nd benefit under ACP Scheme as per rules.

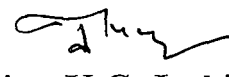
6. We have considered the rival contentions of all the parties and also perused the pleadings; it is admitted position that representation and reminders are pending before the competent authority for a long time and competent authority is sitting over these representations and reminders without any further action in the matter though the order passed in O.A. No. 221/04 has been upheld by the Hon'ble Rajasthan High Court as well as by the Apex Court.

7. In view of the fact that the representation and reminder of the applicants are pending before the competent authority and matter

has been settled upto the Apex Court, we are proposing to dispose off these OAs with the direction to the respondents No. 2 & 3 to decide the representation as well as the reminder of the applicants pending before then by a speaking and reasoned order within 3 months from the date of receipt of this order.

8. Looking into the entire facts and circumstances of the case, these OAs is forwarded to respondents No. 2 & 3 to treat these OAs as an additional representation so as to decide the real controversy in the issue. The private respondents also be heard before passing any order. There shall be no order as to costs.


(Meenakshi Hooja)
Administrative Member


(Justice K.C. Joshi)
Judicial Member