

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH

Original Application No.202/2013

Jodhpur this the 09th of July, 2014

CORAM :

Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J)
Hon'ble Ms. Meenakshi Hooja, Member (A)

Sunil Sharma S/o Shri Raman Shanker Sharma, aged 48 years, FGM
MCM in the office of Garrison Engineer (P), MES, Kanasar, Bikaner; R/o
Plot No.12, Sadul Colony, Bikaner.

.....Applicant

(Through Adv. Mr. Vijay Mehta)

Versus

1. Union of India, through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer, Air Force, MES, Bikaner.
3. Garrison Engineer (P), Kanasar, Bikaner.

.....Respondents

(Through Adv. Smt. K. Parveen)

ORDER (Oral)

The present OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 challenging the legality of the order No.10210/HS/780/E1C-II dated 22.05.2007 passed by the Commander Works Engineer, Air Force, MES, Bikaner, whereby the due benefits and payment of salary of the post of MCM to the applicant has been granted from the date of 20.05.2003 instead of 01.01.1996..

2. The brief facts of the case as averred by the applicant are that the applicant and nine other FGMS were appointed on the post of FGM on

06.07.1994 and they were promoted to the post of FGM HS-I on 31.01.2000. Thereafter, the respondent No.2 vide order dated 22.05.2007 placed all these FGMs as MCM w.e.f. 01.01.1996 but the applicant has been placed as MCM vide this order w.e.f. 20.05.2003 and no reasons have been given by the respondents No.2 for not granting the applicant MCM w.e.f. 01.01.1996 as has been granted to the nine other FGMs. It has been further averred that in the order dated 22.05.2007 no reasons have been assigned as to how these two dates were chosen. Aggrieved by that order, the applicant submitted a representation on 06.02.2010. Thereafter the matter was raised in the JCM meetings held on 17.03.2010 and 08.11.2012. Though the matter has remained under active consideration of the respondents No.2 since the filing of the representation but the said representation has not been disposed of by the respondent No.2. Therefore, the action of the respondent No.2 is arbitrary and discriminatory and the applicant has been treated unequally with reference to the above nine FGMs. Hence, the applicant by way of this application has sought the following reliefs:-

"The applicant prays that the respondents may kindly be directed to give the same and similar benefits like salary, bonus, seniority etc at par with the above said FGMs and consequently the date 20.05.2003 from which the benefits of MCM to the applicant has been granted kindly be ordered to be modified by deleting the said date and by replacing date of 20.05.2003 by 01.01.1996 as the date for granting the benefits of MCM to the applicant. Any other order, as deemed fit, giving relief to the applicant may also be passed. Costs may also be awarded to the applicant."

3. The respondents by way of reply averred that all the nine individuals whose name is mentioned in the OA were initially appointed as OED, MPA, DES, PHO & Road Roller Driver from 14.02.1975 to

30.03.1987 and were re-designated as FGM on 06.07.1994 vide Government of India, Ministry of Defence Letter No.6(1) 94/D/(W-II) dated 06.07.1994 whereas the applicant was appointed as MPA on 25.02.1998 and re-designated as FGM on 06.07.1994. Thus, these nine individuals were senior to the applicant and were promoted as per the availability of vacancy based on their seniority in the grade as shown in the seniority list. The respondent in their reply further averred that no representation dated 06.02.2010 (Annexure-A/2) has been received by the department and prayed for dismissal of the OA.

4. In rejoinder, the applicant while reiterating the same facts as averred in the OA denied the fact that due to non availability of vacancies and due to seniority position all the nine individuals were promoted as MCM w.e.f.1996.

5. Heard both the parties. As per the averments made in the OA, the applicant has filed a representation dated 06.02.2010 (Annexure-A/2) before the respondent authority, which has been denied by the respondent department in their reply.

6. Looking to the entire facts and circumstances of the case, we are proposing to dispose of this application with certain directions. Accordingly, the respondent department is directed to treat this OA as an additional representation on behalf of the applicant and decide the same within three months from the date of receipt of a copy of this order. If

any grievance remains with the applicant after the decision of the said representation then he will have a right to approach the appropriate forum.

7. The OA is thus disposed of, as stated above, with no order as to costs.



(MEENAKSHI HOOJA)
Administrative Member



(JUSTICE K.C.JOSHI)
Judicial Member

Rss

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W. J. P.