

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 394/2012

Order Reserved on 04.10.2016

DATE OF ORDER: 7.10.2016

CORAM

**HON'BLE MR. SANJEEV KUMAR KAUSHIK, JUDICIAL MEMBER
HON'BLE MS. MEENAKSHI HOOJA, ADMINISTRATIVE MEMBER**

Naresh Kumar Sharma (MES No. 192691) S/o Shri Om Prakash Sharma, aged about 54 years, R/o E-162, Kardhani (Govindpura), Kalwar Road, Jhotwara, Jaipur and presently working as Upper Division Clerk (UDC), office of Garrison Engineer, Military Engineer Services, Khatipura Road, Jaipur – 302012.

....Applicant
Mr. C.B. Sharma, counsel for applicant.

VERSUS

1. Union of India through its Secretary to the Government of India, Ministry of Defence, New Delhi – 110001.
2. Director General (Pers), Military Engineer Service, Engineer-in-Chief Branch, Integrated HQ of MOD (Army), Kashmir House, DHQ PO, New Delhi – 110011.
3. Chief Engineer, Headquarter Southern Command, Engineers Branch, Pune – 411001.
4. Garrison Engineer, Military Engineer Services, Khatipura Road, Jaipur – 302012.

....Respondents

Mr. N.C. Goyal & Mr. Kinshuk Jain, counsels for respondents.

ORDER

(Per MR. SANJEEV KUMAR KAUSHIK, JUDICIAL MEMBER)

The present O.A. under Section 19 of the Administrative Tribunals Act, 1985 is directed against the order dated 21st May, 2012 (Annexure A/1) whereby the respondents have changed the date of grant of second financial up-gradation of the applicant from 08th December, 2006 to 20th October, 2007. He has further sought issuance of directions to the respondents to count 24 years of service from the date of his initial appointment i.e. from 08th December, 1982 for grant of all benefits.

2. The facts, which lead to filing of the present O.A., are that the applicant initially joined the respondents-department as Lower Division Clerk (LDC) on 20th October, 1983 on the basis of a select list, which was published in the year 1982. The applicant had approached this Tribunal by filing O.A. No. 329/2002 praying for assigning the correct seniority by taking his position in the panel and not from the date when he actually joined service. The said O.A. was disposed of vide order dated 08.07.2003 and the applicant was assigned panel seniority with effect from 04th November, 1982. He was then promoted as UDC vide order dated 27th September, 2003 with effect from 24th June, 2003. The Government of India introduced Assured Career Progression Scheme ("ACP Scheme", for short) with effect from 09th August, 1999. Under the said Scheme, two financial up-gradations are to be granted to the employees on completion of 12/24 years of regular service. Accordingly, the applicant was granted the second financial up-gradation vide order dated 3rd December, 2007 which was subsequently

reviewed by order dated 17th December, 2007 and the date was changed from 08th December, 2006 to 20th October, 2007 on the ground that the applicant was not having 24 years of regular service on the date when he was wrongly granted second financial up-gradation i.e. 08th December, 2006 which the applicant claims to be illegal. Hence, this O.A.

3. The respondents have contested the claim of the applicant by filing a detailed written statement wherein they submitted that since the applicant had actually joined the service on 20th October, 1983, therefore for grant of financial up-gradation under ACP Scheme, his services are to be counted from that date only and not from the earlier date i.e. 08th December, 1982 because the ACP Scheme provides counting of regular service only for financial up-gradation.

4. The applicant has filed a rejoinder controverting the claims made in the written statement.

5. We have heard the learned counsel for the respective parties and perused the record.

6. The short question that arises for our consideration, is as to whether the applicant is entitled for grant of 2nd financial up-gradation under ACP Scheme on completion of 24 years of service on 20th October, 2007 or 08th December, 2006 by taking into consideration only regular service.

7. As is clear from the pleadings that the applicant had initially joined the respondent-department on 20th October, 1983

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pursuant to selection and panel dated 04th November, 1982. His earlier O.A. for grant of panel seniority was allowed by this Court and he was granted panel seniority with effect from 04th November, 1982. Para 3.2 of the ACP Scheme makes it clear that for grant of financial up-gradation, an employee is required to have "regular services". Since the applicant joined the respondent-department on 20th October, 1983, therefore, he completed 24 years of regular service only on 20th October, 2007. Therefore, rightly the respondents have reviewed their earlier order whereby the applicant was granted the benefit of 2nd financial up-gradation from 08th December, 2006. Therefore, we find no illegality in the impugned order. The respondents were well within their power and authority to correct an administrative error which had resulted into grant of a wrong benefit to the applicant and that does not create any right in him to claim that such mistake should be allowed to be perpetuated by a court of law. The Original Application is, therefore, dismissed being devoid of any merit. No order as to costs.


(MS. MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER
(SANJEEV KUMAR KAUSHIK)
JUDICIAL MEMBERkumawat