

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

...

**OA No. 060/00339/2014**

**Date of decision- 22.12.2014.**

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)  
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)**

...

Varinder Kumar, A/C No. 8327750, aged 59 years, S/o Lae Sh. S.D. Gupta, presently working as Assistant Accounts Officer, O/o Joint Controller of Defence Accounts (BR), Chandigarh.

**...APPLICANT**

**BY ADVOCATE : Sh. R.K. Sharma**

**VERSUS**

1. Union of India, through the Secretary Govt. of India, Ministry of Defence, New Delhi.
2. Controller General of Defence Accounts, Ulan Batar Road, Palam, Delhi Cantt. 110010.
3. Principal Controller of Defence Accounts (Border Roads), Ring Road, Naraina, Delhi Cantt-110010.
4. Joint Controller of Defence Accounts (BR), GREF Complex, Sector 48-C, Chandigarh.

**...RESPONDENTS**

**BY ADVOCATE: Sh. K.P.S. Dhillon**

1

**ORDER (ORAL)**

**HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J):-**

1. On consensual basis, the matter is taken up for final disposal at admission stage.

2. By means of the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has sought following relief:-

- i) quash order AN/1/017/MACP dated 18.03.2014, copy Annexure A-1, whereby claim of the applicant for grant of third financial upgradation in the Grade pay of Rs. 5400/- has been deferred on the ground that order dated 09.02.2000 passed by this Hon'ble Tribunal in O.A No. 253/CH/1991 titled Bharat Bhushan & Ors. Vs. Union of India is subjudice and that till finalization of the said case, no clarification can be offered, whereas that case has already been finalized and even the benefit has been extended not only to the applicants but even to the non-applicant and quashing thereof.
- ii) Issue direction to respondents to consider and grant first ACP to the applicant w.e.f. 09.08.1999 in the pay scale of Rs. 5500-9000 in terms of judgment rendered by this Hon'ble Tribunal in O.A No. 168/HP/2010 titled H.C. Sharma and others decided on 23.11.2010 along with a bunch of Original Applications, as corrected vide order dated 02.06.2011 in MA No. 364/2011 against which Review Application No. 82/2011 was also rejected on 02.12.2011 and even the judicial review raised through C.W.P No. 8772/CAT/2012 has been rejected by the Hon'ble Punjab and Haryana High Court Judgment dated 16.11.2012 and for grant of third MACP in the pay band of Rs. 9300-34800 with Grade Pay Rs. 5400/- w.e.f. 01.06.2009 with all consequential benefits including arrears of pay and allowances.

- iii) Any other relief, which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case may also be granted in favour of the applicant.

3. In support thereof, Sh. R.K. Sharma, learned counsel for the applicant submitted that impugned order dated 18.03.2014 (Annexure A-1) has been passed without considering the fact that similar issue has already been settled by the Hon'ble High Court in favour of the applicant and have rejected the claim of the applicant on the ground that against the order of this court in similar case, the matter is subjudice, as reflected in the impugned order. He also submitted that the pending SLP preferred by the respondents has also been dismissed in the month of September, therefore, being similarly situated person, the applicant cannot be deprived from his legal right. It is also stated by the authorities that they will consider the case of the applicant after the final decision in SLP. Therefore, the respondents are duty bound to grant the similar benefit to the applicant.


4. Sh. K.P.S. Dhillon, Advocate puts in appearance on behalf of respondents. He produced a copy of letter dated 11.12.2014 written by Sh S.C. Gupta, CGDA to the PCDA (WC), Chandigarh wherein they, themselves, have admitted this fact that pending SLP No. 15031-33 filed by U.O.I. in the similar case of H.C. Sharma has now been decided and they are in the process of granting the benefit and the case is being taken up with the Ministry. He submitted that as case of

the applicant is identical to that the applicant therein, therefore, they will grant the same benefit to him within a period of three months, which is objected by the counsel opposite on the ground that once the similar issue has already been decided by the highest court of law, then they have to pass the order in favour of the applicant without any delay.

5. Considering the ad-idem between the parties that the issue as raised in the instant O.A. with regard to the grant of third financial upgradation, has already been put to rest by this Tribunal and also upheld upto the Hon'ble Supreme Court in similar case, we allow the present Original Application and accordingly, impugned order is quashed. The matter is remitted back to the respondents for grant of the similar benefit in terms of the judgment relied upon by the applicant, within a period of 60 days from the date of receipt of copy of this order, by passing a speaking and reasoned order in accordance with law and rules. Orders so passed be duly communicated to the applicant.

6. No costs.

  
(UDAY KUMAR VARMA)  
MEMBER (A)

  
(SANJEEV KAUSHIK)  
MEMBER (J)

**Dated: 22.12.2014**

'jk'