

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

(n)

O.A No. 060/00029/2014

Date of decision -14.08.2015

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MS. RAJWANT SANDHU, MEMBER (A)**

Shri Paramjit Saini, son of Shri Dev Raj Saini, age 61 years (Ex-Assistant Engineer (Civil)), now Resident of 15/2, Rail Vihar, Sector-4, Mansa Devi Complex, Panchkula.

...APPLICANT

BY ADVOCATE: SH. D.R. SHARMA.

VERSUS

1. Union of India through the Secretary to Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, North Block, New Delhi.
2. Directorate General of Works, Central Public Works Department, Nirman Bhawan, New Delhi through its Director General.
3. Superintending Engineer, CPWD (Central), Sector-9, Chandigarh.

...RESPONDENTS

BY ADVOCATE: SH. SANJAY GOYAL.



ORDER (ORAL)

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

1. MA No. 060/00854/2015, for placing on record additional affidavit on behalf of the respondents, is allowed on 'no objection' from the counsel opposite. The same is taken on record. Pleadings are complete.
2. The present O.A is directed against letters dated 19.12.2013 & 20.11.2013 whereby the applicant has been declared ineligible for grant of financial upgradation in the pay scale of Rs. 37000-67000/- with Grade pay of Rs. 8700/- on the basis of non-communicated below bench mark ACRs, which according to applicant is against the law.
3. Sh. D.R. Sharma, learned counsel for the applicant submitted that in terms of the order passed by this court, the respondents have now admitted the claim of the applicant in the additional affidavit, therefore, the present O.A can be disposed of with a direction to the respondents to consider the case of the applicant in the next DPC and grant him the benefit of financial upgradation from the due date.
4. Sh. Sanjay Goyal, learned counsel for the respondents has endorsed the same and submitted that in para 3 & 4 of the additional affidavit, the authorities have themselves admitted

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the claim of the applicant, which shall be considered in the next meeting/DPC for the above purpose. Being relevant, para 3 and 4 of the additional affidavit are reproduced below:-

"3. That the answering respondents are filing the present additional affidavit and submit that on perusal of the record as well as letter 09.07.2012 upon which the applicant has placed reliance, the matter has been minutely looked into. It is clarified herein that the said letter dated 09.07.2012 of Chief Engineer submitted by the applicant has been verified and the same has been found to be genuine. However, submission of the applicant that his ACR of the year 2007-2008 has been upgraded vide letter dated 09.07.2012 is not correct. As per letter dated 09.07.2012 vide which applicant claims his ACR for the year 2007-2008 is upgraded is written by the Chief Engineer (NZ-I). However, it is pertinent to mention that Chief Engineer is not competent authority for upgradation of ACR of the Assistant Engineer. The Additional Director General, CPWD is the competent authority for upgradation of ACR of Assistant Engineer as per CPWD establishment manual. The letter dated 09.07.2012 vide which the Chief Engineer (NZ-I) has upgraded the ACR of the applicant was not forwarded to ADG(NR) for giving finality to upgradation, but was forwarded to Section Officer, EC-II, Directorate of CPWD, New Delhi. Now on 27.07.2015, Directorate CPWD forwarded Chief Engineer's letter dated 09.07.2012 and copy of the ACR for the year 2007-2008 of applicant for the consideration of ADG (NR-I) for

giving finality to the process of upgradation of ACR. The ADG (NR-I) upon considering the representation of applicant and upon recommendation of controlling, reviewing and countersigning authority (SE & CE) has upgraded the ACR of the applicant for the year 2007-2008 from 'Good to very Good' vide letter dated 06.08.2015. Copy of the same is being attached herewith as Annexure R-1. The letter showing upgradation of ACR of the applicant from 'Good to very Good' for the year 2007-2008 has been fully forwarded to Directorate General, CPWD, Nirman Bhawan, New Delhi for further necessary action in the matter. The original ACR of the applicant along with copy of upgradation letter dated 06.08.2015 upgrading the ACR for the year 207-2008 from 'Good' to Very Good shall be produced before this Hon'ble Court at the time of hearing.

4. That the answering-respondents further submit that DPC is conducted twice a year for grant of third MACP after 30 years of completion of service. The name of the applicant shall accordingly, be considered as and when the next DPC is conducted for grant of third MACP and if the applicant is found fit, the relevant relief being sought for in the present O.A shall be granted. However, it is again reiterated that entire exercise will consume a minimum of period of six months. Once, the applicant has been found fit, relevant benefits to which he is legally entitled to shall be granted."
5. Considering the ad-idem between the parties and the respondents have themselves upgraded the ACR of the

applicant, which was not communicated being below bench mark, the present Original Application is disposed of with a direction to the respondents to consider the case of the applicant for grant of 3rd MACP in the next DPC meeting and also grant the consequential benefit arising thereupon, as the applicant has already retired, expeditiously.

6. No costs.

(SANJEEV KAUSHIK)
MEMBER (J)

(RAJWANT SANDHU)
MEMBER (A)

Dated: 14.08.2015

'jk'