

CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH

O.A.No.060/00755/2014

Decided on: 01.09.2014

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

Bikram Singh (T-1396) S/o Sh. Kishan Lal aged 51 years, working as Fitter Pipe in the office of Garrison Engineer, Chandigarh.

Applicant

By: Mr. D.R. Sharma, Advocate.

Versus

1. Union of India through its Secretary, Ministry of Defence, South Block, New Delhi.
2. The Chief Engineer, Headquarters, Western Command, Chandimandir C/o 56 APO.
3. The Garrison Engineer, Chandigarh.

By: None.

Respondents

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

1. The applicant has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985 for the following reliefs:-

"(i) That the respondents be directed to grant the pay scale of Rs.5200-20200 plus grade pay of Rs.1900 to applicant w.e.f. 16.11.2006 when he was promoted as Valveman along with all consequential benefits as has been granted to other Valveman including arrears along with interest.

(ii) That the applicant may be extended the benefit of judgements dated 29.05.2003 (A-3) and 06.09.2010 (A-4).

2. In support of his claim, learned counsel for the applicant submitted that the applicant has submitted a legal notice dated 19.1.2014 (A-1) and more than 6 months have expired but no decision thereon has been taken till date nor any communication has been sent to him in that regard. Thus, the Original Application may be entertained by this Tribunal on merit more so when the issue stands settled in O.A.No.750-HR-2001 (Baldev Singh etc. Vs. UOI etc.) decided on 29.5.2003 as upheld by Hon'ble High Court in CWP No.19729-CAT-2006 (Commander Works Engineer, Chandimandir & Others Vs. Baldev Singh & Others) decided on 6.9.2010 and issue stands upheld by Hon'ble Apex Court in Civil Appeal No.(s) 1475 of 2004- Union of India etc. Vs. Gepa Ram Valveman etc. decided on 16.6.2011.

3. We may notice here that if an effective departmental remedy is available to an aggrieved person, he or she should avail of the same

instead of rushing to this Court. As per Section 20 of the Administrative Tribunals Act, 1985, there is a bar on entertaining an Original Application if departmental remedy is not exhausted by the applicant. Hon'ble Supreme Court of India in the case of S.S Rathore v. State of M.P., AIR 1990 SC 10 (rendered by Seven Judges Bench), has made it clear that availing of remedies available under the Service Rules is the condition precedent to maintenance of Original Applications under the Administrative Tribunals Act.

4. It is settled proposition of law that when a legal notice is sent by an employee for claiming his right, the claim has to be considered objectively by department by passing a reasoned and speaking order. In this context, our own jurisdictional High Court in the case titled **Satbir Singh Versus State of Haryana** reported as 2002 (2) SCT, 354 issued directions for disposal of such notices/representation. The said directions are prescribing the manner in which State should react and respond to the legal notice, which are reproduced hereunder:-

"18. Further, we are of the considered view that the State must react and respond to a legal notice/representation served by a person, particularly its employee, within a reasonable time. There are two obvious advantages of such action. Firstly the employee would know how and for what reasons he is being denied the benefit/relief, and secondly, the reasoned version of the State would be on judicial record

↓

before the Courts for its judicial scrutiny at the very initial hearing. We must notice with appreciation that the learned Advocate General, Haryana, not only supported the issuance of such directions but also brought to the notice of the Court that the Advocate General's office had already taken up the matter with the Government and the Government is expected to deal with the same effectively and expeditiously."

19. Be that as it may, particularly in the afore-referred premises, we still feel that it is the bounden duty of the Court to issue the following directions to the State in the larger public interest and for proper administration of justice: -

(i) Wherever the right of the parties have been settled by a judgment of the Court, the State has taken all remedies available to it in law against the judgment even upto the highest Court of the land and the judgments has attained finality, then the State must accept the judgment and implement it in its true spirit and command. There is implicit obligation on the part of the State to grant same relief to other members of the cadre whose claim was based upon identical facts and points of law.

(ii) The State Government shall as expeditiously as possible in any case not later than four months re-act and respond to a legal notice/representation served upon it by any of its employees in redressal of his grievance/grant of relief, which has been granted to his co-employee similarly situated, in furtherance to the judgment of the Court unless for reasons to be indicated in the reply, the State feels compelled to deny such relief. Needless to point out that denial must neither be evasive nor intended to circumvent the orders of the Court.

✓

(iii) in the event such an employee is compelled to approach the Court of law, whereupon the court awards interest and/or costs while allowing such a petition, then the expenditure incurred by the State including the costs/interests paid in furtherance to the orders of the Court should be recovered from the erring officer(s).

(iv) The concerned quarters of the Government are expected to work out the details in furtherance to the above directions and issue pervasive but definite instructions to all its departments forthwith to ensure compliance."

5. No doubt the aforesaid instructions were issued to concerned states but the same would apply to the respondents as well as the underline theme of direction was to minimize litigation and to at least offer a response on grievances of employees. Considering that the claim of applicant is pending with the respondents and unless they take a view on the matter it would not be possible to carry out judicial review of the issue, it would be in the fitness of things to let the respondents take a view in the first instance.

6. For the order which we propose to pass there is no need to issue any notice to the respondents and call for their reply as we are simply asking them to take a view on the pending legal notice, within a fixed time frame and no prejudice would be caused to them more so when a litigant is ordinarily expected to avail of departmental remedy provided under


section 20 of the Administrative Tribunals Act, 1985 and a legal notice is filed, the authorities are expected to take a view thereon expeditiously but in this case no decision has been taken despite lapse of about 6 months.

7. In view of the above factual scenario and without commenting upon anything on merits of the case, we dispose of this Original Application with a direction to the Competent Authority amongst the respondents to take a view on the legal notice aforesaid by passing a speaking and reasoned order in accordance with law and rules within a period of two months from the date of receipt of a certified copy of this order, under intimation to the applicant.

8. No costs.



(SANJEEV KAUSHIK)
MEMBER (J)



(UDAY KUMAR VARMA)
MEMBER (A)

Place: Chandigarh
Dated: 01.09.2014

HC*