

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
Order reserved on: 14.05.2015

**ORIGINAL APPLICATION NO. 060/00641/2014
Chandigarh, this the 19th day of May, 2015**

...
**CORAM: HON'BLE MS. RAJWANT SANDHU, MEMBER (A)
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J)**

Adesh Kumar son of Shri Nam Chand, Token NO. 1125/655 MCM
(Machinist) C.A. Section, Indian Ordnance Factory, Chandigarh,
resident of House No. 436-A, Sector 29-A, Chandigarh.

...APPLICANT

BY ADVOCATE: SHRI ROHIT SHARMA

VERSUS

1. Union of India through the Secretary to the Government of India, Ministry of Defence, D (Fy-II) New Delhi.
2. The DGOF/Chairman, Ordnance Factory Board, 10/A, Shaheed K. Bose Road, Calcutta.
3. The General Manager, Ordnance Factory, Chandigarh.

...RESPONDENTS

BY ADVOCATE: SHRI DEEPAK AGNIHOTRI

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ORDER**HON'BLE DR. BRAHM A. AGRAWAL, MEMBER(J):-**

This is the second round of litigation by the applicant. In his first O.A., i.e., O.A. No. 1566/CH/2013, the applicant had sought a simple direction to the respondents to consider his pending representation requesting his promotion to the post of MCM. This Tribunal, without expressing any opinion on the merits of the case, directed the respondent no. 2 to take a view on the issue of the applicant's promotion, vide the Order dated 29.11.2013 (Annexure A-11).

2. The "DPC" was held on 31.03.2014 and the applicant was promoted from HS-I to MCM w.e.f. 01.04.2014 (Annexure A-1), not w.e.f. 01.04.2013, as claimed. He was absent from duty on 07.09.2010, 28.02.2012, 20.02.2013 and 21.02.2013 during all-India strike by Trade Unions and thereby fell short of the requisite residential period by two days. The said period was regularized on 13.03.2014 (Annexure A-3). "Review DPC" was held on 25.02.2015 and the applicant was granted notional promotion to the post of MCM w.e.f. 01.04.2013; however, his salary was held payable only

w.e.f. 01.04.2014, i.e., the date of taking over as MCM (Annexure R-2).

3. Through the instant O.A., the applicant prays that he should be treated as promoted as MCM w.e.f. 01.04.2013 with all consequential benefits.

4. We have heard the learned counsel for the parties, perused the pleadings and given our thoughtful consideration to the matter.

5. The applicant before filing the present O.A. sent to the respondents nos. 2 and 3, a legal notice dated 11.05.2014 (Annexure A-12), which has evoked no response. The respondents are required to examine in accordance with the applicable law, as to whether the applicant could be given his promotion w.e.f. 01.04.2013 with all consequential benefits, had he not been absent on account of strike, and if yes, why regularisation of the absence should not have the same effect, especially, in view of the fact that the regularisation had been done on 13.03.2014 prior to the date of the "DPC", i.e., 31.03.2014

6. In this light of the matter, we are of the view that the respondents should be directed to conscientiously reconsider the claim of the applicant and we hereby do so. The exercise shall be completed within two months from the date of receipt of a copy of this Order.

7. The O.A. is disposed of with the above direction. No order as to costs.

B. A. AgSawal
(DR. BRAHM A. AGRAWAL)
MEMBER(J)

R. S. S.
(RAJWANT SANDHU)
MEMBER(A)

Dated: 19 .05.2015
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