

**Central Administrative Tribunal
Principal Bench**

**RA No.149/2016
In
OA No.2885/2013**

New Delhi, this the 8th day of September, 2016

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. V.N. Gaur, Member (A)**

Shri Pankaj Sanghi,
S/o Shri M.C. Sanghi,
R/o J-214, Agrasen Awas,
Plot No.66, I.P. Extension,
Patparganj,
Delhi-110092.

...applicant

(By Advocate : Shri L.K. Singh)

Versus

1. The Hon'ble Lt. Governor,
Govt. of NCT of Delhi,
Raj Niwas,
Delhi.
2. Government of NCT of Delhi,
Through its Joint Secretary (Home),
(Home-Police II) Department,
5th Level, C Wing,
Delhi Secretariat,
I.P. Estate,
New Delhi.
3. Government of NCT of Delhi,
Through Director of Prosecution,
Room No.159, 1st Floor,
Tis Hazari Courts,
Delhi-110054.

...respondents

ORDER (ORAL)**Mr. Justice Permod Kohli, Chairman :-**

Review jurisdiction of this Tribunal is invoked in the present RA in respect to the judgment dated 11.02.2016 passed in OA No.2885/2013. Against the said judgment, the applicant filed WP(C) No.4077/2016. The said Writ Petition was withdrawn by the applicant with liberty to file review on account of observations made by the Hon'ble Delhi High Court.

2. The order of the Hon'ble High Court is reproduced as under :-

“During the course of hearing, learned counsel for the petitioner submits that the petitioner in alternative had argued that he was entitled to be promoted as Chief Public Prosecutor with effect from 2nd May, 2010 as by then he fulfilled the requirement of five years of continuous service, but he was promoted as Chief Public Prosecutor on 16th November, 2011. He also submits that in case the first prayer is allowed, the petitioner may be entitled to back wages for the said period. Learned counsel states that he would move a review application and also plead that prayer No. (c) has not been adjudicated. Without expressing any opinion on the maintainability of the review application and merits of the contentions raised, we dismiss the present writ petition as withdrawn with liberty as prayed for.”

3. The contention of the applicant in present Review Application is that he was entitled to retrospective promotion from the date he became eligible on completion of five years of service as Additional Public Prosecutor. According to the learned counsel, the applicant was promoted as Additional Public Prosecutor on 02.05.2005 on

regular basis. For further promotion to the post of Chief Public Prosecutor, five years regular service as Additional Public Prosecutor is the qualifying service, which he completed on 01.05.2010. However, he was actually promoted on 16.11.2011. His contention is that considering his regular promotion on 16.11.2011, he was at least entitled to the remuneration w.e.f. 01.05.2010, till his regular promotion and retrospective promotion from the said date. It was under these circumstances that he pleaded before the Hon'ble High Court for liberty to seek review of the judgment, subject matter of the review in the present OA.

4. In the judgment under review, this Tribunal has reproduced the prayer made by the applicant in the OA which reads as under :-

“(a) Quash and set aside the impugned office order dated 22.10.2012.

(b) Declare that the regular promotion as Chief Prosecutor granted to the applicant vide office order dated 16.11.2011 ought to be reckoned to be effective w.e.f. 01.11.2007 and not from 16.11.2011 for the purpose of seniority and counting of period of service in the cadre of Chief Prosecutor.

(c) Declare that the office order dated 01.11.2007 asking the applicant to officiate as Chief Prosecutor without any extra remuneration was non-est and null & void and consequently direct the respondents to release to the applicant the extra remuneration and other monetary benefits attached to the post of Chief Prosecutor for the period w.e.f. 01.11.2007 till 16.11.2011.

(d) Declare that the denial of benefit of the MACP Scheme to the applicant was illegal and arbitrary and as a consequence direct the respondents to grant and release in favour of the applicant, the benefit under the MACP Scheme of the scale and benefit attached to the post of Chief Prosecutor w.e.f. 14.04.2006.”

5. Through the prayer at '(b)' the applicant is seeking regular promotion as Chief Prosecutor to be reckoned w.e.f. 01.11.2007 to 16.11.2011, the date when he was given charge of the post of Chief Prosecutor and the date he was actually promoted to the post. The prayer at '(c)' relates to the remuneration attached to the post with effect from the date he was asked to perform the duties as Chief Prosecutor till the date of his actual promotion. Admittedly, the first prayer for reckoning his service as Chief Prosecutor w.e.f. 01.11.2007 has been declined by the Tribunal. The prayer at '(c)' flows from the grant of prayer at '(b)'. Since the applicant has been denied the benefit of status as Chief Prosecutor from 01.11.2007 to 16.11.2011, the period during which he was acting as Chief Prosecutor, the prayer for remuneration on that account could not be granted. In any case, there is no error apparent on the face of record warranting interference in exercise of the review jurisdiction.

6. This review is, accordingly, rejected.

(V.N. Gaur)
Member (A)

(Justice Permod Kohli)
Chairman

'rk'