

Central Administrative Tribunal
Principal Bench

RA No. 175/2016
in
OA No. 2393/2013

New Delhi, this the 29th day of August, 2016

**Hon'ble Dr. B. K. Sinha, Member (A)
Hon'ble Dr. B. A. Agrawal, Member (J)**

1. Union of India through Secretary, Ministry of Defence, South Block, New Delhi-1.
2. The Joint Secretary (T) & CAO, Ministry of Defence, E-Block, Hutments, New Delhi – 110 011.
3. Controller General of Defence Accounts, Ulan Batar Road, Palam, Delhi Cantt, New Delhi. ...Review applicants/ Respondents in OA

Versus

Anand Parkash Sharma
S/o late Sh. Jyoti Prasad Sharma,
R/o 37-B, K-1 Extension,
Street No.3, Gurudwara Road,
Mohan Garden, Uttar Nagar,
New Delhi – 110 059.

...Respondent/
Applicant in OA

ORDER (In circulation)

By Hon'ble Dr. B.K. Sinha, Member (A):

The review applicants (respondents in OA) have filed the instant Review Application under Order 47 Rules 1 & 2 of Code of Civil Procedure, 1908 read with Rule 17 of CAT (Procedure) Rules, 1987 seeking review of the Tribunal's order dated 26.04.2016 passed in OA No.2393/2013 on the sole ground that

despite having produced the original service records pertaining to the applicant on five different occasions, the Tribunal has erred in disposing of the OA mentioning that no original service record of the applicant had been produced.

2. The submission of the review applicants is that the original records pertaining to the applicant had been produced on five different occasions i.e. 07.04.2015, 27.05.2015, 18.09.2015, 15/16.11.2015 and 29.02.2015. For the sake of clarity, we feel it expedient to reproduce all the five orders, which read as under:-

“07.04.2015”

We have heard learned counsel for applicant as well as respondents for some time.

It is admitted by both sides that the applicant was entitled and granted the pay scale of Rs.1640-2900 w.e.f. 01.01.1986. The applicant's cse is that he was entitled to the pay scale of Rs.5500-9000 w.e.f. 01.01.1996 and by virtue thereof the first ACP was due in the pay scale of Rs.6500-9000 and second ACP in the pay scale of Rs.7450-11500 w.e.f. 09.08.1989.

Learned counsel for applicant has also argued that the applicant did not receive any promotion as well as the two financial upgradations.

On the other hand, learned counsel for the respondents referred to para-5 of the additional affidavit, according to which, as per entry in the service book the applicant was promoted to the grade of Sub Divisional Clerk with financial benefit of Rs.20/- w.e.f. 26.11.1974 while serving in DCB. This is, however, controverted by the applicant's counsel stating that this was not a promotion but only the special pay was granted.

Respondents' counsel will produce original service book containing such entry, which was referred to in para-5 of the additional affidavit, before the matter is finally argued. Let it be done within a period of two weeks.

List this case on 27.05.2015.

*(Raj Vir Sharma)
Member (J)*

*(Ashok Kumar)
Member (A)*

27.05.2015

Learned counsel for the applicant wishes to inspect the official records which have been perused. Let him do so in the presence of respondents counsel.

List on 12.08.2015.

*(Raj Vir Sharma)
Member (J)*

*(Ashok Kumar)
Member (A)*

18.09.2015

Adjourned to 16.11.2015, as prayed for, by learned counsel for the parties.

*(K.N. Shrivastava)
Member (A)*

*(Justice B.N. Katakey)
Member (J)*

16.11.2015

None for the applicant. List the case on 02.02.2016.

*(Uday Kumar Verma)
Member (A)*

*(V.Ajay Kumar)
Member (J)*

29.02.2015

Arguments heard. Order is reserved.

*(Dr. Brahm Avtar Agrawal) (Dr. Birendra Kumar Sinha)
Member (J) Member (A)"*

3. We find from the Tribunal's order dated 07.04.2015, reproduced above, that the respondents had been directed to produce the original record pertaining to the applicant and the matter was directed to be listed on 27.05.2015. It is amply clear from the Tribunal's order dated 27.05.2015, reproduced above, that the concerned record must have been produced by the respondents and on request of the learned counsel for the applicant the same had been directed to be inspected by him in presence of the respondents' counsel. Besides this, the record does not seem to have been produced on any other date. All this happened before the Bench, other than the Bench which has

decided the present matter, and the said Bench even did not order to retain the original record pertaining to the applicant. It is also seen that even this very Bench while hearing the OA had also not directed the respondents to produce the record in question. Hence, the respondents/review applicants cannot be faulted for non-production of the record in question which indeed was produced on 27.05.2015 as recorded by the Tribunal in its order of even date.

4. In view of the above position, we are of the considered opinion that an error has crept in while deciding the Original Application. Hence, we allow the instant Review Application and restore the OA to its original number to be listed before the appropriate Bench 16.09.2016 with a direction to the review applicants/respondents to produce the original service record pertaining to the applicant on the date fixed.

(Dr. B.A. Agrawal)
Member (J)

(Dr. B.K. Sinha)
Member (A)