

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No. 54/2015

New Delhi, this the 22nd day of January, 2018

**HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MS. NITA CHOWDHURY, MEMBER (A)**

Tejvir Singh,
Aged 52 years,
Nursing Attendant,
S/o Late Shri Bhim Sen,
R/o 13/205, Trilokpuri, Delhi. .. Applicant

(By Advocate : Shri Akhilesh Singh)

Versus

1. Union of India
Through Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan, New Delhi.
2. Director General,
Health Services,
Nirman Bhawan, New Delhi.
3. Medical Superintendent,
Dr. Ram Manohar Lohia Hospital,
New Delhi. .. Respondents

(By Advocates : Shri Dharmendra Tyagi for Shri Gyanendra Singh
for R-1 & 2 and Shri V.S.R. Krishna for R-3)

ORDER (ORAL)

By Mr. V. Ajay Kumar, Member (J)

The applicant, while working as Nursing Attendant, was removed from service. Aggrieved by the same, he filed O.A. No. 464/2008, which was partly allowed by order dated 24.12.2004 as under:

“33. In the result, OA is partly allowed impugned orders are set aside. Respondents are directed to consider imposing the

punishment upon appellant as done in the case of Om Prakash and others and on his re-instatement after an order is passed by the respondents he would be entitled to all consequential benefits except back wages. The compliance shall be done within a period of two months the date of receipt of a copy of the order.

No costs.”

2. The WP(C) No.7283-85/2006 filed by the respondents against the aforesaid order was disposed of by the Hon'ble High Court of Delhi by order dated 08.08.2006 as under:

“5. In view of the aforesaid submission, statements of respondents were separately recorded which have been duly signed by their respective counsel statement of Medical Superintendent of Dr. R.M.L. Hospital was also recorded who accepted the above situation and stated that petitioner having considered and reviewed the matter in the light of the statements made in court would pass appropriate orders for compulsory retirement with benefit of pension.

We find that the above position is also the one which is warranted on merits and accordingly let Medical Superintendent, Dr. R M L Hospital pass appropriate orders of compulsory retirement of the respondent Tejveer Singh and Dayanand as stated by him, treating the period from the order of removal from service as the period of suspension and counting the same as qualifying period for grant of pension.

Both petitions stand disposed of in the above terms.”

3. In terms of the aforesaid orders, the respondents vide Annexure A-VI, dated 05.05.2007, passed compliance orders and the same reads as under:

“NOW, THEREFORE, the undersigned hereby orders the compulsory retirement of Shri Tejvir, Ex-Nursing Attendant w.e.f. 8.8.2006 with the stipulation that the period from 1.2.99 to 8.8.2006 should qualify for pension in supersession of earlier order dated 8.11.2002.”

4. The applicant filed the instant O.A. seeking the following relief(s):

- “A. Direct the respondent to grant the promotional benefits, increment, fixation of the pension on the basis of the salary on 08/08/0006, difference of the gratuity and other legal benefits for the suspension period i.e. 01/02/1999 to 08/08/2006 considering the suspension period as qualifying period.
- B. Direct the respondent to pay all legal benefits taking suspension period as qualifying service period as per direction of Hon'ble High Court Delhi at New Delhi given on 08/08/2006 in WPC No. 7283 to 7285/2006.”

5. The respondents through their counter have submitted that the applicant was appointed on 30.01.1980 and not in the year 1974, as claimed by him, and he was under suspension from 09.06.1997 and removed from service on 01.02.1999 and, thereafter, he was compulsory retired w.e.f. 08.08.2006 in pursuance of the orders of the Hon'ble High Court of Delhi and as per the orders of the Hon'ble High Court treating the period from the order of removal from service as the period of suspension and counting the same, they have granted pension to the applicant and, hence, there is no illegality in their action and the applicant is not entitled to the relief claimed by him.

6. Heard Shri Akhilesh Singh, the learned counsel for the applicant and Shri V.S.R. Krishna, the learned counsel appearing

for respondent No.3 and Shri Dharmendra Tyagi proxy for Shri Gyanendra Singh, the learned counsel appearing on behalf of respondents No.1 and 2 and perused the pleadings on record.

7. The learned counsel for the applicant, while admitting that the services of the applicant were confirmed on 30.01.1980 and the respondents have fixed his pension by treating the suspension period as on duty, however, submits that in view of 26 years' long service of the applicant, he was entitled for certain promotions and had the respondents granted the same, he would have retired in higher position and he would have got the pension fixed in a higher scale. However, the contentions of the applicant cannot be accepted as it is not shown to us how the respondents have not followed the orders of the Hon'ble High Court while converting his punishment of removal into the compulsory retirement.

8. In the circumstances, the O.A. is dismissed being devoid of any merit. No costs.

(NITA CHOWDHURY)
Member (A)

(V. AJAY KUMAR)
Member (J)

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