

Central Administrative Tribunal Principal Bench

OA No. 1557/2017
MA No. 1703/2017

New Delhi, this the 13th day of October, 2017

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

VP Gupta, Aged 84,
S/o late Sh. KL Gupta,
Joint Controller of Defence Accounts (Rtd.)
Group 'A',
R/o House No. 100-D, Pocket 'A',
Sukhdev Vihar, New Delhi-110025 - Applicant

(By Advocate: Mr. E.J. Verghese)

Versus

1. Union of India through
The Secretary
Ministry of Defence,
Govt. of India, South Block,
New Delhi-110011
2. The CGDA Ulan Batar Road,
Palam, Delhi Cantt-110010
3. The Secretary,
UPSC, Dholpur House,
Shahjahan Road,
New Delhi-110001

- Respondents

(By Advocates: Mr. R.K. Jain and Mr. RV Sinha)

ORDER (ORAL) :

Justice Permod Kohli :

Relief claimed in the present OA is for grant of NFSG/SAG.

The applicant retired as Joint Controller of Defence Accounts on

31.07.1991. Earlier also, the applicant had filed OA No. 200/2015 for the same relief which was dismissed vide judgment dated 22.01.2017 of this Tribunal on account of delay in filing the OA.

The reliefs sought earlier were as under:-

- “(a) Allow the Application of the Applicant under Section 19 of the Administrative Tribunals Act, 1985 with interest;
- (b) Quash and set aside the impugned order dated 26.02.2014 to the extent that it is not traceable.
- (c) Direct the respondents to extend the benefit of Selection Grade Appointment (NFSG) to the applicant which was given to his batch mates and persons junior to the applicant as the applicant has fulfilled all the requisites.
- (d) Grant the cost.

And

- (e) Any other relief, if any, this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case.”

2. The Tribunal, considering the grievance of the applicant, passed the following order:-

“13. In view of the aforesaid facts and the judgments of the Hon'ble Supreme Court referred to above. MA-130/2015 seeking condonation of delay cannot be allowed and is accordingly rejected.

14. In the light of the rejection of aforesaid MA, the present OA is held to be time barred and the OA stands accordingly rejected.”

3. Mr. R.K. Jain, learned counsel for the respondents, submits that the present OA is barred by the principle of constructive *res judicata*.

4. Mr. EJ Varghese, learned counsel for the applicant, submits that the applicant has filed this fresh Application in view of the Office Memorandum dated 14.11.2014 at Annexure A/1.

5. The aforesaid OM was in existence when the earlier OA was filed and came to be dismissed on 22.01.2015. Now the applicant cannot be permitted to file a fresh Application on the same cause of action and for the same relief on the basis of the said OM which was otherwise in existence when the first OA was filed. The parties in both the OAs being common, the earlier order of this Tribunal definitely operates against the applicant as *res judicata*. The OA is accordingly dismissed. MA 1703/2017 also stands rejected.

(K. N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

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