OA No. 4340/2013

This the 9th day of December, 2015

Hon'ble Shri Sudhir Kumar, Member (A)
Hon'ble Shri Raj Vir Sharma, Member(J)

Mahendra Kumar Khanna
S/o Sh.Late Sh. DR Khanna
R/o 10B Pocket-A, Mayur Vihar,
Phase-II, New Delhi-91.   ...Applicant.

(By Advocate: Shri U.Srivastava)

                                    Versus

Union of India through

1.   The Secretary,
       M/o Human Resource Development
       Department of Secondary & Higher Education,
       Govt. of India, New Delhi.

2.   The Secretary
       M/o Personnel, Public Grievances & Pension
       DOP&T, IInd Floor, Lok Nayak Bhawan,
       Khan Market, New Delhi.

3.   The Secretary
       M/o Women and Child Development
       Govt. of India New Delhi.   ...Respondents.

 (By Advocate: Shri Tanvir Ahmed)

ORDER (ORAL)

Per Sudhir Kumar, Member (A):

Heard both the counsel. The applicant has sought shelter behind the OM dated 08.12.2010 (Annexure A-6), through which, he was also eligible for notional fixation of pay, consequent on his deemed inclusion in

the Select List 2003 of Section Officers. Even though he had represented through Annexure A-9 dated 08.03.2013, and his case was considered by the respondents, but through Annexure A-7 letter dated March 2011, it was indicated that no additional monetary benefit would be available to him, even with effect from 1st July, 2003. He had submitted a further representation through Annexure A-9, which was received by the respondents on 08.03.2013, but no action was taken by the respondents on that, even after more than six months. Therefore, the applicant approached this Tribunal by filing the present OA on 11.12.2013.

2. The respondents have in para 4.7 of the of their counter reply admitted that the applicant's case was left out, and he had submitted a representation, which was forwarded to the DoP&T for consideration, but, thereafter, the DoP&T asked for the matter to be placed before the D.P.C., and then provide him the benefits of notional fixation of pay, as envisaged in their OM dated 09.07.2010, if found fit, subject to conditions stipulated in DoP&T OM dated 12.08.2008. The respondents thereafter submitted that the case of the applicant was again considered for notional fixation of his pay, but since the applicant was holding the post of S.O. on adhoc basis with effect from 25.03.2004, it was concluded that he would not be benefitted by the fact of his inclusion in the Select List 2003 of Section Officers with effect from 01.07.2013.

3. However, the applicant has stated in his rejoinder that the respondents have not correctly appreciated the facts of his case, and the

DPC failed to appreciate that his pay ought to have been fixed at Rs.8325/-, instead of Rs. 8300/-, and after adding in higher scale, that will come to be Rs.8525/-, and his salary ought to be fixed at Rs.8700/-, and after retirement benefit, it would come to Rs.8900/-, which aspect has not been properly considered by the respondents.

4.   It is seen that the above computation, as has been given by the applicant in his rejoinder, was not even included properly in the representation given made by the applicant on 08.03.2013.

5.   Since the respondents have nowhere denied their willingness to apply DoP&T's direction to the case of the applicant, it would be appropriate that the applicant may submit a detailed representation to the respondents, giving his version of the computation of his salary, as per his understanding of DoP&T's OMs, and, thereafter, the respondents should take a view thereupon, as there is no element of *lis* in between the case of the applicant, and the willingness of the respondents to comply with the directions issued by the DoP&T through its OMs.

6.   In view of the above, the O.A is disposed off, granting liberty to the applicant to file a detailed representation, to make out his claim, giving computation of salary as expected by him, within one month. The respondents shall dispose of such representation within a period of three months from the date of receipt of a copy of that representation.   No costs.

(Raj Vir Sharma)
Member (J)

(Sudhir Kumar)
Member (A)

/kdr/