

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

O.A No. 4260/2014

This the 13th day of September, 2018

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Ms. Aradhana Johri, Member (A)

Smt. Lalita Devi
W/o. Late Sh. Panna Lal
R/o. 1516,
Laxmi Bai Nagar,
New Delhi.

...Applicant

(By Advocate : Mr. S. K. Anand)

Versus

1. Union of India
Through Secretary,
Ministry of Science and Technology,
New Mehrauli Road,
New Delhi.
2. The Surveyor General,
Survey of India,
Block-B, Hathi Barkala Estate,
Dehradun – 248 001 (Uttarakhand).
3. The Director Survey (Air) & Delhi,
GEO Spatial Data Centre, Survey of India,
2nd Floor, West Block, No. 4,
R. K. Puram,
New Delhi.

...Respondents

(By Advocate : Mr. Vidya Sagar for Mr. H. K. Gangwani)

ORDER (ORAL)

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

We have heard both sides.

2. The applicant filed O.A seeking the following reliefs:-

“i. direct that impugned order dated 5.4.10 is wrong, unfair and illegal and not proper compliance of OM dated 19.10.94 in respect of the applicant in view of order dated 26.3.04 in OA No. 1777/03 passed by this Hon’ble Tribunal in the interest of justice.

ii. direct the respondents to give pay scale of Draughtsmen Grade I as laid down under OM dated 19.10.94 to the applicant from 1.1.87 and / or with any subsequent date with all the consequential benefits.

iii. further direct the respondents to give two higher financial grades of ACP to the applicant.

iv. any other and further order/direction as this Hon’ble Court deems fit and proper in the present facts and circumstances of the case be passed in favour of the applicant.”

3. Earlier, the applicant filed O.A No. 1777/2003, along with six others, seeking a declaration that the circular No.C-17078/4E21 (C) dated 7.11.2002 issued by the office of the Director, Survey (AIR), Survey of India, regarding trade test, 2002 and the circular order No. 439 (Administrative) dated 1.8.1950 corrected upto 31.3.1983 as null and void. The said O.A was allowed by order dated 26.03.2004. The Writ Petition No. 5173-75/2005 filed by the respondents against the said order was dismissed on 15.04.2009. The C.P. No. 27/2010 filed in O.A No. 1777/2003 was closed granting liberty to the applicant to

approach the Tribunal again with regard to the promotions in the right category and from right dates, by filing a fresh O.A.

4. The applicant, in pursuance of the aforesaid liberty granted by this Tribunal, filed O.A No. 3405/2011 which was dismissed as withdrawn again granting the liberty to the applicant to file a fresh O.A for the same cause of action. Thereafter, the applicant filed O.A No. 2788/2012, which was dismissed along with the O.A No. 3714/2012 by a common order dated 29.01.2014. The applicant filed W.P. (C) No. 4027/2014 against the said order in O.A No. 2788/2012 but, the same was dismissed as withdrawn with a liberty "to approach the Central Administrative Tribunal". Thereafter, the applicant filed the instant O.A seeking the following reliefs:-

"i. direct that impugned order dated 5.4.10 is wrong, unfair and illegal and not proper compliance of OM dated 19.10.94 in respect of the applicant in view of order dated 26.3.04 in OA No. 1777/03 passed by this Hon'ble Tribunal in the interest of justice.

ii. direct the respondents to give pay scale of Draughtsmen Grade I as laid down under OM dated 19.10.94 to the applicant from 1.1.87 and / or with any subsequent date with all the consequential benefits.

iii. further direct the respondents to give two higher financial grades of ACP to the applicant.

iv. any other and further order/direction as this Hon'ble Court deems fit and proper in the present facts and circumstances of the case be passed in favour of the applicant."

5. A careful examination of the above referred facts clearly indicates that the applicant in O.A No. 2788/2012 questioned the very same impugned order dated 05.04.2010 and the said O.A was dismissed by order dated 29.01.2014. The Writ Petition filed by him against the said order was withdrawn with liberty to approach the Central Administrative Tribunal.

6. The submission made by the applicant's counsel that the instant O.A though filed, challenging the very same impugned order dated 05.04.2010 on the second occasion but he is permitted to do so by virtue of the liberty given by the Hon'ble High Court in W.P. (C) No. 4027/2014 dated 04.07.2014 cannot be accepted, as the liberty given to the applicant to approach this Tribunal is to be understood as the liberty, in accordance with law. He cannot question the very same impugned order which was already upheld by this Tribunal on an earlier occasion. It cannot be said that the Hon'ble High Court vide its order dated 04.07.2014 has given liberty to the applicant to question the very same order, which was already upheld by this Tribunal, by filing a fresh O.A for the same cause of action, that too without giving any reasons.

7. In the circumstances, we do not find any merit in the O.A and accordingly, the same is dismissed, as not maintainable. No costs.

(Aradhana Johri)
Member (A)

(V. Ajay Kumar)
Member (J)

/Mbt/