

**Central Administrative Tribunal
Principal Bench**

OA No.2896/2016

New Delhi, this the 26th day of April, 2018

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

Ghanshyam Singh, Age 71 years
Dy. Commissioner (SH&BF) (Retd.)
Ministry of Food Processing Industries
R/o 1286, Pocket 1, Sector-D
Vasant Kunj, New Delhi-110070.Applicant

(By Advocate: Shri Bani Singh)

Versus

Union of India through

1. The Secretary, Govt. of India
Ministry of Food Processing Industries
Panchsheel Bhawan, August Kranti Marg
New Delhi-110049.
2. The Director(Meat Processing)
Ministry of Food Processing Industries
Panchsheel Bhawan, August Kranti Marg
New Delhi-110049.Respondents

(By Advocate: Shri Krishna Kumar for Respondent Nos.1 & 2)

ORDER (ORAL)

Shri K.N. Shrivastava:-

The applicant was appointed Deputy Commissioner (SH and BF) in the pay scale of Rs.12000-350-16500 on 21.08.1987. Thereafter, vide order dated 06.08.1988, he was transferred to the Ministry of Food Processing Industries

(Annexure A-4). It is stated that the post of Deputy Commissioner (SH & BF) was an isolated post and that the applicant had reached to the maximum of his pay scale in November 2001. Seeing no future for him in service, he took VRS, which was granted by the respondents vide order dated 15.01.2013, which is not in dispute.

2. The applicant's grievance is that in terms of the ACP scheme, he was entitled for financial upgradation which the respondents have not granted. He submitted a representation dated 30.06.2015 followed by another representation dated 07.09.2015 to the respondents for grant of ACP. The representations, however, have been rejected by the impugned order dated 29.04.2016. Aggrieved by the said rejection, the applicant has approached this Tribunal in the present OA.

3. In the impugned order, the respondents have stated that as per the extant instructions of the Central Government, ACRs/APARs of a Govt. employee who has retired is retained only for a period of five years and thereafter they are destroyed. Accordingly, the applicant's ACRs/APARs have been destroyed. The order further states that financial upgradation under the ACP scheme cannot be considered in the absence of ACRs/APARs.

4. Pursuant to notices issued, the respondents have filed reply to which rejoinder has also been filed by the applicant.

5. Heard learned counsel for the parties today.

6. The main contention of learned counsel for the applicant was that in terms of the ACP scheme, which was promulgated in the year 1989, the respondents were obliged to grant financial benefits under ACP Scheme on completion of 12 years of service which they did not do. He further contended that the applicant was only seeking his legitimate right, which, for no fault of his, had been denied to him by the respondents.

7. *Per contra*, Shri Krishan Kumar, learned counsel for the respondents argued that the applicant's claim cannot be considered at this belated stage and that he submitted his representations after 12 years of his retirement. He further contended that the ACRs of the applicant have since been destroyed and without the ACRs his claim for ACP benefits cannot be considered.

8. We have given our thoughtful consideration to the arguments of learned counsel for the parties as also perused the records. As noticed hereinabove, the applicant joined service in the year 1989 and thus, became entitled for financial benefits under the ACP Scheme on completion of 12

years of service i.e. in the year 2001. The applicant did not pursue the matter while in service and even after his retirement, for almost 12 years, he kept mum. The respondents as per the extant instructions have destroyed his ACRs. There is also a provision that a Govt. servant can request the Govt. for handing over his ACRs to him at the time of his retirement. Even that liberty, the applicant has failed to exercise. In the absence of ACRs, we do understand that the claim of the applicant for ACP benefits and that too at this later stage, cannot be considered. The applicant has to suffer on account of his own inaction.

9. Learned counsel for the applicant, drawing our attention to the ground pleaded by the applicant in the OA, submitted that the respondents never took any action to consider the applicant for the grant of ACP benefits. He further stated that in terms of the law laid down by the Hon'ble Apex Court in ***Union of India and Ors. Vs. Shantiranjan Sarkar, 2009(2) AISLJ 493***, the applicant is entitled for the relief that he has prayed for.

10. We have perused the judgment of Hon'ble Apex Court in **Shantiranjan Sarkar**(supra). The controversy involved therein was relating to the petitioners therein, belonged to SC category but could not apply under that category as the advertisement did not provide for that. The Hon'ble Apex

Court, however, ruled that the reservation for SC applied to the whole country so mistake of advertiser cannot deprive him of the legitimate claim. We are of the view that this judgment is not applicable to the present case as the facts are entirely different.

11. For the reasons mentioned hereinabove, we do not find any merit in this OA. It is accordingly dismissed. No costs.

(K.N. Shrivastava)
Member(A)

(Justice Dinesh Gupta)
Chairman

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