

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

OA No. 060/01117/2016

Date of decision-25.01.2018

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MRS. P. GOPINATH, MEMBER (A)**

...

Surinder Mohan Verma,

Aged 53 years S/o Late Sh. Alakh Ram Verma,

TGT (Tabla Instructor), Government Model Senior Secondary School,
Sector 47, Chandigarh.

...APPLICANT

BY ADVOCATE : Mr. R.K. Sharma, Advocate.

VERSUS

1. Union of India,

Through Secretary to the Government of India, Ministry of
Human Resource Development, Department of School
Education and Literacy, Shashtri Bhawan, New Delhi.

2. Union Territory,

Chandigarh through its Administrator,
U.T, Secretariat, Sector 9, Chandigarh.

3. Education Secretary,

Union Territory, U.T Secretariat,
Sector 9, Chandigarh.

4. Director School Education,

Union Territory, Chandigarh Administration,
Additional Deluxe Building,
Sector 9, Chandigarh.

...RESPONDENTS

BY ADVOCATE: Mr. Arvind Moudgil, counsel for respondents no. 2 to
4.

ORDER (ORAL)

...
SANJEEV KAUSHIK, MEMBER(J):-

Heard learned counsel for the parties.

2. The applicant has challenged the defensibility of order dated 25.11.2016 (Annexure A-1) whereby his representation for extending the benefit of decision rendered in O.A No. 178/CH/2003 titled **Surinder Kumar Vs. Union of India & Ors.**, and O.A No. 496/PB/2006 **titled Harinder Pal Singh Vs. U.O.I & Ors.** upheld by the Hon'ble jurisdictional High Court by dismissing the writ petition and thereafter, by the Hon'ble Supreme Court at the hands of the respondents, has been rejected on the ground that he was not party to the proceedings.

3. Facts are not in dispute. Learned counsel for the applicant submitted that impugned order is non-speaking and has been passed without considering the ratio laid down in the decisions as relied upon by the applicant where the school cadre to which the applicant belongs has been held entitled for Senior Scale of Rs. 1640-2900 on completion of 12 years of service and selection grade of Rs. 2000-3500 on completion of 24 years of service in terms of policy decision dated 08.02.1989 on central pattern. He, therefore, submitted that view taken by the respondents rejecting the claim of the applicant is totally contrary. He also placed reliance upon the decision passed by this Court in case of **Pardeep Kumar & Ors. Vs. U.T, Chandigarh** (O.A No. 1063/CH/2002 decided on 07.12.2007).

4. The respondents has raised a plea of delay and have submitted that this petition was filed in the year 2016, therefore, this petition deserves to be dismissed on the ground of delay whereas Mr. R.K. Sharma, learned counsel for the applicant submitted that since

the respondents have implemented the order on 11.05.2016 qua others, therefore, there is no delay. Moreover, once the judgment has been passed in rem, they have to apply the same to the entire cadre without forcing them to knock the door of the Court for redressal of their grievance. He also placed reliance upon the judgment passed in case of **State Of U.P. & Ors vs Arvind Kumar Srivastava & Ors** where the Lordship held that if judgment in rem, authority is liable to implement the order without taking the plea of delay.

5. We have given our thoughtful consideration to the entire matter and are in agreement with the submission made at the hands of the applicant that the impugned order cannot be allowed to sustain for the simple reason that in O.A No. 1063/CH/2002 decided on 07.12.2007, this Court categorically recorded the finding in para 25 that category of the applicants in whole is entitled for the relief. Para 25 of the order reads as under:-

"25. In view of the above discussion, it is held that the category of the applicants is entitled to the pay scale of Rs. 1400-2600 as entry scale, Rs. 1640-29000 as Senior Scale on completion of 12 years of service and scale of Rs. 2000-3500 after 24 years of service, in terms of the decision dated 08.02.1989 or other scales on Central pattern as claimed in these O.As, on the basis of which earlier decision was rendered by this Tribunal and was upheld even by the Hon'ble Supreme Court of India. There is no relevancy of qualification for being entitled to such scales, as such exemption is available to the category of the applicants in terms of conscious decision in para 2 of letter dated 08.02.1989 that higher qualifications are to be applied to fresh incumbents only. If any recovery has been made from any of the applicants, the same shall be refunded to them. Necessary orders be passed within a period of three months from the date of receipt of copy of this order. No costs."

6. Since the applicant also belongs to same category i.e. of Tabla Instructor, therefore, the respondents are bound to grant him same benefit which they have allowed to the applicants of that case as

the judgment is in rem. Therefore, the present O.A is allowed and impugned order is quashed. The matter is remitted back to the respondents to grant the benefit to the applicant in terms of the decision rendered in case of Pardeep Kumar (supra) as noticed above. Let the above exercise be carried out within a period of two months from the date of receipt of certified copy of the order.

6. No costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 25.01.2018.

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