

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

O. A. No. 60/73/2016

Date of decision: 09.02.2018

(Reserved on: 30.01.2018)

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

Yashpal Singh MES No.507321, Aged 51 years, resident of House No.622, Near Water Supply, Ward No.12, Lamini Tehsil and District Pathankot (Punjab), presently posted as Electrician (SK), office of Garrison Engineer (West) Pathankot-145001, (Punjab).

... APPLICANT

VERSUS

1. Union of India through Secretary, Ministry of Defence, New Delhi-110001.
2. Garrison Engineer G.E. (West), Pathankot 145001.
3. Commander Work Engineer H.Q. Commander Work Engineer, Pathankot.
4. Chief Engineer, H.Q. Chief Engineer Pathankot Zone, Gurdaspur Road, Pathankot.
5. Commander Chief H.Q. Western Command, Chandi Mandir.
6. Engineer-in-Chief Branch, Amy H.Q. Kashmir House DHQPO, New Delhi-110011.

... RESPONDENTS

PRESENT: Sh. Sanjiv Manhas, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

ORDER

MRS. P. GOPINATH, MEMBER (A):-

1. Applicant is a person who is engaged as Electrician Skilled (SK) since 18.11.1983. As the applicant is performing a field job, he is not in position to receive any circular or instructions regarding facilities

available to him. The respondent had called for option from employees for grant of first ACP for placing in higher scale of pay 4000-6000, on completion of 12 years service in grade 3050-4590. Applicant, in view of peculiar situation in which he was placed, could not exercise option within the stipulated one month period as he did not have access to the Circular. Though late, when he became aware, he made a request that he may be allowed to exercise the above option. The request of the applicant was not acceded to as the stipulated period of one month for exercising option had elapsed. Hence the respondents did not fix his pay as per option exercised. Applicant argues that his pay was fixed @ Rs.4200/- w.e.f. 09.8.1999 instead of Rs.4300/- as fixed in respect of his juniors Ramesh Kumar and Bodh Raj who had exercised and received the benefit of option. Thus, the applicant is drawing less salary in comparison to his juniors.

2. In reply to legal notice sent by the applicant, the respondent issued a standard reply that he had failed to exercise the option within stipulated period, a fact which the applicant had been espousing in his various representations. Prayer of the applicant is for the respondent to fix his pay w.e.f. 02.11.1999 and pay all consequential benefits.
3. The respondent admits the fact that the applicant had been denied the benefit as he has failed to exercise the option. It is argued that applicant has not been vigilant of his rights and hence he is not entitled to the relief. The respondent also admits that juniors of the applicant who were similarly placed employees doing similar job and duty, are drawing higher pay because they had exercised the option.

4. The applicant in the rejoinder has also cited the names of some of his colleagues who also did not exercise option but were given the benefit.
5. We are inclined to believe the argument of the applicant that being placed in field job, applicant did not have easy access to the circular for exercising option. There is no doubt that the juniors of the applicant are drawing more pay than him. Hence the applicant is entitled to upgradation of his pay at par with his immediate junior. Impugned A 2 order is quashed. The Apex Court in **U.O.I. vs. Tarsem Singh** C.A.5151-5152 of 2008 had held that arrears be restricted to three years before the date of filing writ petition, read as O.A. in this matter. We direct the respondent to immediately fix the pay of the applicant w.e.f. 02.11.1999 at par with his immediate junior and restrict the arrears of pay so fixed to three years before the date of filing O.A. The arrears so drawn be paid within a period of 45 days.
6. The O.A. is accordingly allowed.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 09.02.2018.
Place: Chandigarh.

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