

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

ORIGINAL APPLICATION NO.060/00253/2018

Chandigarh, this the 13th day of March, 2018

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

...

Pervinder Singh (MES No.372436), aged 55 years, working as FGM (Skilled) in the office of Garrison Engineer (E/M) (Air Force), Adampur (Doaba), District Jalandhar (Punjab) (Group-C).

....APPLICANT

(Present: Mr. K.B. Sharma, Advocate)

VERSUS

1. Union of India through Secretary, Ministry of Defence, South Block, New Delhi.
2. Engineer in Chief, Military Engineer Services, Engineer-in-Chief's Branch, Integrated Hqrs. of MoD (Army), Kashmir House, DHQ, PO, New Delhi.
3. The Chief Engineer, MES, HQ, Western Command, Chandimandir.
4. Garrison Engineer (AF), Military Engineer Services, Adampur.

....RESPONDENTS

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J):-

Applicant has filed the present Original Application (OA), whereby he is seeking direction to the respondents to decide pending legal notice dated 03.09.2017 (Annexure A-4), which has not been decided by the competent authority, by passing a speaking and reasoned order.

2. Learned counsel for the applicant submitted that though the respondents have given no reply to legal notice, yet vide

communication dated 31.10.2017 (Annexure A-5), they have admitted that the applicant is entitled for benefit of 1st ACP after 12 years of service. But with regard to the 2nd financial upgradation, they submitted that he is not entitled for the same, as he remained absent from 01.08.2002 to 11.07.2007, though his period of absence was regularized as EOL. He submitted that since the respondents have not passed order therefore, direction be issued to them to consider his case for grant of benefit in the MACP Scheme.

3. Considering the above, we dispose of the petition in limine with a direction to the competent authority amongst the respondents to decide the legal notice, in the light of the Clause-II of MACP Scheme, wherein it has been specifically mentioned that regular service shall include all periods spent on deputation / foreign service, study leave and all other kind of leave, duly sanctioned by the competent authority. Since the respondents have already regularized the absence period, therefore, they have to consider his case for grant of 2nd financial upgradation.

4. In view of the above, we dispose of the present OA in limine with a direction to the competent authority amongst the respondents to decide the legal notice of the applicant, by passing a reasoned and speaking order, within a period of two months from the date of receipt of a certified copy of this order.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 13.03.2018.

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