

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
Date of decision- 24.01.2018

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

(I) O.A No. 061/00024/2016

Mansa Ram (MES No. 503120) aged 60 years S/o Sh. Ganga Ram (Group C) resident of Village and PO-Gandala, Tehsil and District-Udhampur (J&K)

**...APPLICANT
VERSUS**

1. Union of India through Secretary, Ministry of Defence, South Block, New Delhi-110011.
2. Engineer in Chief, Army Headquarters, DHQ, PO Kashmir House, New Delhi-110011.
3. Chief Engineer, Headquarters, Northern Command C/o 56 APO.
4. Commander Works Engineer, Udhampur (J&K)-900386.
5. Garrison Engineer (Army) Dhar Road, Udhampur (J&K).

...RESPONDENTS

(II) O.A No. 060/00483/2016

Parbhat Chand (MES No. 503121) aged 59 years S/o Sh. Phinu Ram (Group C), R/o Village & PO-Gandala, Tehsil and District-Udhampur (J&K) presently working at G.E (South) Udhampur.

**...APPLICANT
VERSUS**

1. Union of India through Secretary, Ministry of Defence, South Block, New Delhi-110011.
2. Engineer in Chief, Army Headquarters, DHQ, PO Kashmir House, New Delhi-110011.
3. Chief Engineer, Headquarters, Northern Command C/o 56 APO.
4. Commander Works Engineer, Udhampur (J&K)-900386.
5. Garrison Engineer (South), Udhampur (J&K).

...RESPONDENTS

Present- Mr. Jagdeep Jaswal, counsel for the applicants.
Mr. Sanjay Goyal, counsel for the respondents.

ORDER (ORAL)

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

This order will dispose of above captioned two Original Applications as facts and relief claimed therein are identical and likewise requested by learned counsel for the respective parties. For convenience, facts are taken from O.A No. 061/00024/2016 **(Mansa Ram Vs. U.O.I & Ors.)**.

2. Present O.A has been filed where the applicant has challenged the defensibility of order dated 04.04.2016 vide which the respondents have rejected his claim for grant of benefit of skilled grade of Rs. 260-400 which has been granted to similarly situated persons.

3. Facts are not in dispute. The applicant along with others were before this Court for declaration and direction to treat them in skilled category instead of un-skilled category in O.A No. 309/JK/2005 which was disposed of vide order dated 07.04.2005 with a direction to the respondents to consider and decide their claim in terms of rules, regulations, instructions and decisions on the subject. Subsequent to that, the applicants along with similarly situated persons approached this Court by filing bunch of O.As. one of that O.A No. 414/JK/2012 which were also disposed of vide order dated 27.07.2012 wherein the respondents were directed to consider the claim of the applicants, therein, for grant of pay scale of Rs. 260-400 by treating them in Skilled category. The respondents also sought review of that order, but the same was also dismissed vide order dated 12.01.2016 holding that directions were issued only to consider the case of the applicants in the light of the judicial pronouncements on the subject on which the applicants relied upon. It is in furtherance thereto, the respondents have passed the impugned order.

4. Mr. Jagdeep Jaswal, learned counsel for the applicants vehemently argued that the respondents have rejected their claim without considering the fact that similarly situated persons who were working as Caneman have already been granted the pay scale of Rs. 260-400 as attached to skilled category. He, therefore, submitted that impugned order be quashed and set aside being non speaking. He also apprised that recently this Court has decided the similar issue in case of ***Harbans Kaur Vs. U.O.I & Ors.*** (O.A No. 060/00525/2016) based upon various judicial pronouncements. One of the order was passed by the Principal Bench of the Tribunal in O.A No. 804/1998 which was decided vide order dated 15.09.2000 as upheld by the Hon'ble Delhi High Court by dismissing the writ petition at the hands of the respondents holding that petitioner therein who was working as Caneman be considered in skilled category and be given the higher pay scale. He submitted that based upon the judgment passed by the Hon'ble Delhi High Court, case of Harbans Kaur (supra) was also allowed by this Tribunal vide order dated 27.07.2017. He, therefore, prayed that both the O.As may be disposed of in same terms.

5. Mr. Sanjay Goyal, learned counsel for the respondents did not dispute the disposal of O.As in terms of decision given in case of Harbans kaur (supra).

6. We have given our thoughtful consideration to the entire matter and are of the view that the above captioned two O.As deserve to be allowed in terms of the decision passed in case of Harbans kaur (supra). Relevant para of the order dated 27.07.2017 reads as under:-

"10. The solitary question that arises for consideration is as to whether the applicant who was working as Caneman is entitled to skilled grade w.e.f. 16.10.1981 as per various judicial pronouncements wherein it has been held that category of Caneman is to be treated in skilled grade.

11. In the earlier round of litigation, this Tribunal while disposing of O.A. had directed the respondents to consider the case of the applicants therein in the light of various judicial pronouncements where this issue has already been settled, but the respondents without considering the ratio laid down in the judgments relied upon by the applicants therein, have rejected their claim by passing non-speaking order and have not come with a plea that category of Caneman does not fall under skilled category. Therefore, view taken by the respondents cannot be approved. Even subsequently, this Tribunal vide order dated 17.9.03.2015 in O.A. No.060/00024/2014 titled as **Usha Rani vs. UOI & Ors.**, has considered the similar issue and allowed the O.A. in the light of various judicial pronouncements holding that the Caneman fall under the skilled category and thus entitled to grant of pay scale attached to skilled category. Similar cases have also been decided in favour of the similarly placed employees by the jurisdictional High Court vide judgment dated 14.03.2012 passed in the case of **Union of India & Anr. Vs. Sat Pal Tomar & others** (CWP No.4597/2012) and 26.03.2014 in the case of **Union of India and others vs. Bansilal and others** (CWP No.10050-CAT-2007). Even while dismissing the writ petition in the case of Bansilal and others (supra), the jurisdictional High Court has shown displeasure against Govt. of India for not extending the benefit to those who are similarly situated. The relevant observation made by the Hon'ble High Court reads as under:-

"Before parting with the matter, we must note that the Government of India has repeatedly been emphasizing that a litigation policy is sought to be implemented whereby unnecessary litigation does not take place and there is no wastage of court time. However, the implementation of this professed litigation policy leaves something to be desired. At least the present case is example of the same. The facts set out aforesaid would show that it is a fit case where instructions could have been given to the counsel to withdraw the petition in view of the circular dated 7.3.2007 and the judgment of the Division Bench of this Court in Union of India and another vs. Sat Pal Tomar and others case (supra). This has not happened as none has cared to analyze the case with the result that valuable time of the court is spent in penning down orders which are really covered against the Government and that too in matters such as benefit at the lowest rung to Canemen, a large number of whom were suffering from disability. Thus, we are of the view that costs must be imposed on the petitioners, to begin with at least notionally to sent right signal.

The petition is, thus, dismissed with costs of 6,000/- payable to six surviving effected private respondents in equal share of 1,000/- each."

12. In the light of above judicial pronouncements, it can be safely concluded that those who are working as Caneman are to be treated as skilled category and pay scale attached to that post. Hence, the impugned order is quashed and set aside and the respondents are directed to grant the applicant pay scale of skilled grade Caneman from the date when the applicant filed earlier O.A. Let the above exercise be carried out within a period of three months from the date of receipt of a certified copy of this order."

7. Accordingly, both the O.As are allowed in above terms. The respondents are directed to grant notional fixation from due date and the actual benefit be released to the applicants from the date of filing of O.As. Let the above exercise be carried out within a period of two months from the date of receipt of certified copy of the order. No costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 24.01.2018
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