

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

ORIGINAL APPLICATION NO. 060/00873/2016

Chandigarh, this the 14th day of March, 2018

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

...

Army No. 7856182 Pardeep Kumar son of Sh. Ramesh Chand,
Painter Grade I, aged 54 years (Group C) C/o 359 Coy, ASC
(supply) Type G, Chandimandir, Distt. Panchkula.

....APPLICANT

(Argued by: Shri Shailendra Sharma, Advocate)

VERSUS

1. Union of India through Secretary, Ministry of Defence, South Block, New Delhi.
2. Director General of Supplies & Transport, Army HQ, New Delhi.
3. Maj. Gen. Army SC HQ WC Chandimandir.
4. Commanding Officer, 359 Coy, ASC (Supply) Type G, Chandimandir, Distt. Panchkula 134107.
5. Principal Controller of Defence Accounts (Western Command), Sector 9, Chandigarh.

....RESPONDENTS

(By Advocate: Shri Sanjay Goyal)

ORDER

SANJEEV KAUSHIK, MEMBER (J)

Applicant in the instant Original Application (O.A.), has assailed orders dated 8.7.2016 (Annexure A-9) and 10.8.2016 (Annexure A-10), and has also sought direction from this Tribunal to direct the respondents to grant benefit of previous service in lieu of combatants by civilian employees with effect from 7.5.1983 to September 1984, for the purpose of grant of 3rd MACP, on account

of completion of his 30 years of service w.e.f. 7.5.2013 and refix his pay and release the arrears with interest @ 12%.

2. After completion of the pleadings, the matter came up for hearing.

3. We have heard the learned counsel for the parties and perused the pleadings on record.

4. Learned counsel for the applicant, vehemently argued that once the respondents have counted his previous service for grant of 2nd financial upgradation under the Assured Career Progression Scheme, then the respondents cannot take a plea that the previous service rendered by the applicant cannot be counted for the purpose of grant of 3rd MACP. Therefore, learned counsel submitted that the stand of the respondents for not counting his previous service, for the purpose of grant of 3rd MACP is illegal. He draw our attention to order dated 8.7.2016 (Annexure A-9), whereby the respondents have rejected his claim for extending the benefit of judgment in the case of applicant only on the ground that similar benefits to all similarly placed individuals, who had not gone to Court, cannot be extended.

5. We have given our thoughtful consideration to the entire matter and have perused the impugned order whereby his claim has been rejected on the ground that the applicant is not party to the decision rendered by the Tribunal, which he has relied upon.

6. It is by now settled that once an issue has been settled by the Court of Law, then if a similarly placed person by placing reliance upon that decision stake his claim, then the respondents have to

consider the ratio laid down therein only. They cannot non-suit the person on the ground that he/she is not a party to that decision. Because it amount to increase litigation for that issue which has already been settled. This is also against the national litigation policy.

7. Accordingly, the impugned order cannot sustain and the same is quashed and set aside. The matter is remitted back to the respondents to look into the matter afresh into the grievance of the applicant, without raising the voice that the applicant was not party in the case relied upon the applicant. If the applicant is found entitled to the relief claimed in the present O.A., then the same be given to him, within a period of two months from the date of receipt of certified copy of this order.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 14.03.2018

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