

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O. A. No.60/1025/2018

Date of decision: 27.11.2018

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

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MES 507509, Ex.JE E/M, Raj Kumar Gupta, age about 72 years, S/o Late Shanti Parshad, Permanent R/o H. No.3075, Lambi Gali Kharar, Distt. Ropar, Punjab 140001. (Group-D).

... APPLICANT

VERSUS

1. Union of India through its Secretary, Ministry of Defence, South Block, New Delhi-110011.
2. Engineer-in-Chief, Army Headquarters, Kashmir House, Rajaji Marg, DHQ, PO, New Delhi. Pin-110011.
3. Director General (Pers.) Army Headquarters, Kashmir House, Rajaji Marg, DHQ, PO, New Delhi. PIN-110011.
4. Chief Engineer, Western Command, Chandimandir, Panchkula, Haryana, Pin-134107.
5. PCDA, Western Command, Sector-9, Chandigarh. PIN-160009.

... RESPONDENTS

PRESENT: Sh. Randhir Singh Kalkal, counsel for the applicant.
Sh. A.K. Sharma, counsel for the respondents.

ORDER (Oral)

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SANJEEV KAUSHIK, MEMBER (J):-

1. Present O.A. has been filed by the applicant impugning the order dated 15.06.2018 (Annexure A-1), whereby he has been denied benefit arising out of judgment dated 30.05.2018 in O.A. No.431/CH/2006 titled **Karnail Singh Jandu & Ors. vs. UOI & Ors.**, on the ground that he was not a party in the said case.

2. Today, when matter came up for consideration, learned counsel for the applicant submitted that the respondents have denying benefit to the applicant only on the ground that he was not party to the proceedings without considering the ratio laid down by Court of law, thus, their action is arbitrary, illegal and liable to be quashed. He submitted that once an issue has been settled in rem then the benefit should be granted across the cadre without forcing similarly situated person to approach the Court of law. He further submitted that subsequently also similar matters came up for consideration where impugned order passed in similar fashion have been quashed and respondents were directed to reconsider the claim of the applicants therein in the light of ratio relied upon by them. He referred to one such petition bearing CWP No.3223 of 2008 decided on 07.09.2015 dismissing the writ petition at the hands of the respondents. Thus, he submitted that view taken by the respondents cannot sustain and the same may be invalidated and direction be issued to them to consider the case of the applicant in the light of relied upon case and if he is similarly placed then the benefit be extended to him otherwise a reasoned and speaking order be passed.
3. Sh. Ashwani Kumar Sharma, appearing on behalf of the respondents is not in position to support the impugned order, which to our mind has been passed by the respondents without application of mind.
4. Considering the fact that issue involved in this O.A. has already been settled by the Court of law and affirmed up to Hon'ble High Court, then there is no occasion for the respondents to deny the benefit by taking ground that there is no order by Court of law in his favour.

5. It is settled proposition of law that once an issue has been settled by Court of law, then respondents cannot be allowed to reject the claim of similarly placed persons for grant of similar relief on the ground that they were not party to proceedings. Once the question in principle has been settled, it has to be applied across the cadre. Since the issue has already been settled by this Court and has also been complied with despite that the claim raised by the applicant has been rejected without considering the ratio relied upon by him forcing him to knock door of Court, which cannot be approved by a Court of law.
6. Considering that the impugned order, as noticed in preceding paragraph is illegal, thus the same cannot be allowed to sustain. Accordingly, the same is hereby quashed and set aside. Matter is remitted back to the respondents to reconsider the claim of the applicant in the light of the ratio relied upon by him. If he is found to be similarly situated person, then the benefit be extended in his favour, otherwise a reasoned and speaking order be passed in the matter, and the same be duly communicated to him.
7. The O.A. stands disposed of in the above terms.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 27.12.2018.
Place: Chandigarh.

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