

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/00534/2018

Dated Tuesday the 24th day of April Two Thousand Eighteen

PRESENT

HON'BLE MR. R. RAMANUJAM, Member (A)

S. Samynatarajan,
Son of P.Subramanian,
Lift Operator,
Indira Gandhi Government General Hospital,
Puducherry.Applicant

By Advocate M/s. V. Raghavachari

Vs

- 1.Union of India,
rep by its Under Secretary,
Govt. of Puducherry,
Health and Family Welfare Department,
Puducherry.
- 2.The Director,
Directorate of Health and Family Welfare Service,
Puducherry.
- 3.The Officer on Special Duty,
Directorate of Health & Family Welfare Service,
Puducherry.
- 4.The Medical Superintendent,
Government General Hospital,
Puducherry.Respondents

By Advocate Mr. R. Syed Mustafa

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member(A))

Heard. The applicant has filed this OA under section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

- “a. The applicant therefore prays that this Hon'ble Tribunal be pleased to call for records in Memorandum no. 8939/DHFWS/Estt/B8/2016-17/41, dated 21.04.2017, on the file of the 3rd respondent and to quash the same as illegal, incompetent, and wholly without jurisdiction.
- b. To regularize the service of the applicant as lift operator from 2006 and declare his eligibility for selection grade with effect from 2014 together with all service benefits and thereby render justice.
- c. To pass such further other orders that this Hon'ble Court deem fit and proper under the circumstances and thus render justice.”

2. Learned counsel for the applicant submits that the applicant is aggrieved by Annexure A18 memorandum dt. 21.04.2017 of the first respondent, allegedly in compliance of the order of this Tribunal in OA 896/2009. The applicant's representation for regularisation of his services as Lift Operator from 2006 had been rejected on the ground that the applicant had not submitted any proof of his willingness to be posted as ward attendant at the time when his juniors had submitted their willingness. The applicant was not at all in the feeder cadre of ward attendant when promotion was offered to his juniors as lift operator. Further, the applicant had neither preferred a representation to the competent authority nor

objected to the promotion offered to his juniors at the relevant time. He preferred a representation only after his promotion to the post of lift operator, taking into consideration the date of his transfer to the feeder cadre of ward attendant, for retrospective promotion and counting of his past service on par with his juniors in the grade of sanitary assistant.

3. It is submitted that the matter had been gone into in OA 896/2009 which was allowed by this Tribunal by an order dt. 16.06.2011. In the said order, the respondents had been directed to consider the applicant's request for promotion to the post of lift operator in the next DPC. His seniority was directed to be counted from the date of his regular appointment to the post of sanitary assistant along with a direction that he should be appointed as lift operator if he was otherwise eligible. If he was so selected for appointment for the post of lift operator, he should be given promotion notionally from the date of promotion of his immediate junior as sanitary assistant. He would be entitled to salary from the date of actual promotion only. The date of notional promotion should be taken into account for pensionary benefits.

4. Learned counsel for applicant would submit that the applicant had been granted promotion as lift operator w.e.f., 08.04.2013. However, the order was silent w.r.t. promotion being given notionally with effect from the date on which his immediate junior was promoted and thus the

direction of the Tribunal had not been complied with. Aggrieved by the violation of the directions contained in this order of this Tribunal, the applicant is before the Tribunal again.

5. I have perused the documents submitted. It is the applicant's contention that Annexure A18 disposal of his representation dt. 23.12.2004 was violative of the order of this Tribunal dt. 16.06.2011. In the order of the Tribunal dt. 16.06.2011, a direction was given to the respondents to consider the applicant's request for promotion to the post of lift operator in the next DPC. It was also directed that his seniority should be counted from the date of regular appointment to the post of sanitary assistant. While his appointment as lift operator itself took some two years from the date of the order of this Tribunal though it was to be considered in the next DPC, it is not clear what action was initiated by the applicant to press his claim in terms of the aforesaid order. If the order of the Tribunal was not complied with, the applicant had the option of either filing a contempt petition or seeking execution thereof. He chose to do neither but nearly 7 years after the order, he has come up with this OA expressing the same grievance, now against Annexure A18 order which had been passed nearly 6 years after the order passed by this Tribunal.

6. In the aforesaid circumstances, I am of the view that since the grievance of the applicant had already been settled in OA 896/2009 which

was disposed of on 16.11.2011, the Tribunal cannot go into the same matter in the instant OA as it is barred by the principles of res judicata. It is for the applicant to adopt an appropriate legal remedy, duly explaining the reasons for the inexplicable lethargy on his part in pressing his claim after being seemingly successful in the previous OA.

7. Accordingly, the present OA is dismissed.

(R. Ramanujam)
Member(A)
24.04.2018

SKSI