

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI**

**MA No.343/2016
in OA No.25/2011
&
MA No.850/2015,
RA No.3/2016**

Dated this Thursday the 27th day of September, 2018

**Coram: Hon'ble Dr. Bhagwan Sahai, Member (A).
Hon'ble Shri R. N. Singh, Member (J).**

1. Satishkumar B. Mishra
22, Indrayani Co-Op Hsg. Society,
Lawrence Road,
DEOLALI-422 401.

...Applicant.

(In person) .

Versus

1. Engineer-in-Chiefs Br.
Army Headquarters,
DHQ P.O.New Delhi-110 011.
2. Commandant,
College of Military Engineers,
P.O.CME, Pune-411 031.
3. Principal Controller of Defence Accounts
Southern Command,
Pune-411 001.

... Respondents.

(By Advocate Shri R. R. Shetty)

O R D E R (O R A L)

Per : R. N. Singh, Member (Judicial)

Present.

1. None for the applicant.
2. Shri R. R. Shetty, learned counsel for the respondents.
3. On 21.03.2017 the matter was adjourned to 12.06.2017 and the matter was re-notified twice.

Again the matter was taken up on 17.11.2017, however none was present on behalf of the applicant and the matter was adjourned to 12.02.2018. Again on 12.02.2018 none was present on behalf of the applicant and the matter was posted to 02.04.2018. Thereafter the matter was re-notified on 28.06.2018, 03.08.2018 and again when the matter was taken up today none appeared on behalf of the applicant.

4. The learned counsel for the respondents has brought to our notice the letter dated 07.08.2017 of the applicant which is addressed to the Registrar of this Tribunal and is on record. The same reads as under:-

*"To,
Principal,
Central Administrative Tribunal,
Gulestan Building, 3rd floor,
Prescot Road, Fort,
MUMBAI-400 001.*

*Registrar,
Central Administrative Tribunal,
Gulestan Building, 3rd floor,
Prescot Road, Fort,
MUMBAI-400 001.*

ORIGINAL APPLICATION NO.25 OF 2011

Sir,

1. Find herewith 2 copies of Rejoinder No.1 to Applicant Written Statements in Misc. Application no.343/2016 in OA No.25/2011. Copies of same have been sent to Respondents advocate.

2. The applicant due to his age being 73 years, sickness and having filed Misc.

Application seeking exemption from personal appearance would not be able to appear before the tribunal. The matter be decided based on written pleadings and other documents filed therein.

The next date of hearing is 22 Sept-2017.

Thanking you,

Yours faithfully,

(S.B.MISHRA) "

5. Keeping in view the letter dated 07.08.2017 of the applicant, the matter is being heard in his absence.

6. MA No.850/2015

By this MA the respondents in the OA have prayed for extension of time for four months, w.e.f.02.10.2015 to 01.02.2016 to progress the case further.

7. The learned counsel for the respondents in such MA further submits that the respondents have fully complied with the directions of this Tribunal given in the order judgment dated 24.11.2014 in the aforesaid OA and to this effect the respondents have also filed Compliance Affidavit dated 05.04.2016 and Additional Affidavit on 23.09.2016.

8. In view of above the MA No.850/2015 has become infructuous and same is disposed as having become infructuous.

9. MA No.343/2016

By this MA the applicant prayed for following reliefs:-

"a) The Review DPC conducted for which they have filed be declared as NULL & VOID since the original DPC continued in 2008 itself is against the Law.

b) The Review DPC conducted in 2000-01 in which next junior to applicant was promoted and applicant be promoted from retrospective date.

c) The applicants pension and pensionery benefits be calculated and paid to the applicant.

d) The applicant be granted benefits of ACP scheme by granting higher pay scale after 12 years completion of service in AEE/M post.

e) The appropriate interest for delayed payment be awarded to the applicant, if the Hon'ble Tribunal is satisfied with the fact that the cause of delay is solely attributed to Respondents and NOT to the applicant.

f) Any other relief which Hon'ble Tribunal consider it to be fit and just appropriate."

10. On perusal of the prayer made by the applicant in the aforesaid MA, it appears that the applicant is not satisfied with the DPC conducted by the respondents in pursuance to the directions given by this Tribunal in the aforesaid OA.

11. The learned counsel for the respondents submits that once the respondents have complied with the directions of the Tribunal given in the judgment

order dated 24.11.2014 in the aforesaid OA, the present MA is not maintainable in as much as by way of this MA the review proceedings or consequential order can not be challenged.

12. The applicant though prayed this Tribunal to appoint an advocate to plead his case on his behalf. However, we do not find any justifiable reasons therefor. However, we have considered the pleadings filed by the applicant and contentions made therein by the applicant carefully. It is correct that if the applicant is not satisfied with the action / order of the Respondents taken / passed in compliance of directions of this Tribunal in the above OA, remedies may be there in original proceeding and not by way of MA.

13. In the facts and circumstances, the MA No.343/201 is dismissed. No order as to costs.

14. RA No.3/2016

By this RA the applicant has prayed for following reliefs:-

"a) Financial effect of the promotion should be given from the date of promotion since the promotion has been delayed not due to applicants fault, but imposition of disproportionate punishment by Resp. No.1.

b) The orders on payment of Training allowance be issued by Hon'ble Tribunal since orders of Resp. is not only false, but misleading and suppression of facts.

c) *Payment of interest on GPF from the date/month to which it relates since the delay in recovery of the GPF is solely due to delay attributed to Respondent and interest due to such delay is admissible in accordance with GPF Rules and govt. orders quoted by Resp. No.3.*

d) *The Respondent no.2 directed to issue Form 16 to enable to get the Refund of Income Tax from I.T. Authorities.*

e) *The applicant may not be granted any interest for delayed payment but at least should be paid money on the date of payment to the value of money in terms of the period to which it relates. This can be done by computing Whole Sale Price Index of the money to which it relates and the WPI of the date of payment. It can be compared with dearness allowance of the year paid to Govt. servants.*

f) *Central Government be directed to initiate the Disciplinary proceedings against Respondent's officials as per Para 6 of G.I.M.H.A. O.M. No.F/-29/59-Estt.(A), dated the 27th May, 1961 and the 30th May, 1962, under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules."*

15. We have heard the learned counsel for the respondents and have also gone through the assertions made by the applicant in RA carefully. It is found that the applicant has not been able to indicate any error apparent on face of the judgment. He has also failed to show any document which was required to be considered by this Tribunal but could not be considered while passing the impugned order / judgment. Rather he has only tried to argue the matter afresh and he has also made prayers in the RA

which are directly or indirectly prayers in the OA.

16. Keeping in view the provisions of order 47 Rule(1)&(2) of C.P.C. and Section 22(F) of the Administrative Tribunal's Act and law laid down by the Hon'ble Apex Court including in the case of **Ajit Kumar Vs. State of Orrisa & Ors, 1999(g) SCC 596,** We do not find merit in the aforesaid RA. Accordingly, the same is dismissed. However, no order as to costs.

(R. N. Singh)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

V.