

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

MA/310/00705/2018 in & OA/310/01727/2018

Dated Monday the 31st day of December Two Thousand Eighteen

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

K.Unnikumaran,
No. 20, Anne Besant Street,
Vijayalakshmipuram, Ambattur,
Chennai 600053.

....Applicant/Applicant

By Advocate M/s. K.M.Ramesh

Vs

1.Union of India,
rep by Director General of Ordnance
Factories, Ordnance Factory Board,
10-A, Shaheed Khudiram Bose Road,
Kolkata 700001.

2.The Addl. Director General of Ordnance
Factories, Ordnance Factory Board,
Armoured Vehicles HQ,
Avadi, Chennai 600054.

3.The General Manager,
Heavy Vehicles Factory,
Avadi, Chennai 600054.

4.The Joint General Manager (Admin),
Heavy Vehicles Factory,
Avadi, Chennai 600054.

....Respondents/Respondents

ORAL ORDER

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

Heard. The applicant has filed this OA seeking the following relief :

"To call for the records relating to the impugned letter issued by the 1st respondent bearing No. 987/OA-224/2013/UK/HVF/A/NG dated 07.03.2017 and the consequential order issued by the 4th respondent bearing No.00071/LEGAL/OA-224/2013 dated 16.03.2017 and set aside both the orders and consequentially direct the respondent to fix the pay of the applicant at Rs. 175-240 for the post of Supervisor 'B' with effect from 27.01.1967 and grant further promotions to the post of Asst. Foreman w.e.f 24.01.1992 and Junior Works Manager w.e.f 24.11.2000 and effect proper pay fixation and allowances and retrial and other monetary benefits like leave salary, provident fund etc and to pass such other orders or directions as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and render justice.

2. The grievance of the applicant is that the applicant had been denied further promotions from appropriate dates with effect from the date on which his alleged junior one K.Narayanaswamy was granted promotion after the grant of notional promotion to the applicant at par with his junior in terms of the order of the Hon'ble Madras High Court in WP No. 14177/2007 dt. 16.07.2009. The applicant filed OA 224/2013 in this regard which was disposed of by this Tribunal by Annexure A17 order dt. 19.12.2016 wherein it was observed that as regards the applicant's further promotion to the post of Asst. Foreman (T) and Jr. Works Manager, it was to be granted by the Ordnance Factory Board. The matter had already been taken up by Heavy Vehicles Factory with the Board whose decision was still awaited. Accordingly, the respondents were directed to expedite the decision of the Board, preferably within a period of three months.
3. The impugned Annexure A18 & A19 orders came to be passed in pursuance of the aforesaid order. However, the orders have been passed without

justifying the reasons for rejection of the applicant's claim and merely stating that the applicant's claim for higher promotion was not adequately justified. Aggrieved by such summary disposal, the applicant is before this Tribunal again.

4. I have considered the matter on the issue of admissibility of this OA. From Annexure A9 order of the Hon'ble Madras High Court in WP No. 14177/2007 dated 16.07.2009, it would appear that the applicant prayed for promotion to the post of Supervisor 'B' (T) in the scale of Rs. 175-6-205-7-240 with effect from 25.01.1967 on which date his alleged junior Shri. N. Narayanaswamy was promoted as Supervisor 'B' (T), with all further promotions, pay fixation and retiral benefits and all arrears of pay and allowances. The Writ Petition was allowed and the order of the Tribunal in OA 880/2005 dt. 23.02.2007 was set aside. The respondents were directed to promote the petitioner from the date on which his junior Shri K. Narayanaswamy was promoted ie, 25.01.1967. It was made clear that the petitioner would not be entitled to any backwages and the consequential benefits would be taken into account only for the purpose of pension.

5. It is clear from the above that the issue of further promotions after the notional promotion sought w.e.f. 25.01.1967 was also a subject matter in OA 880/2005 as also the aforesaid WP before the Hon'ble Madras High Court. As the matter had already been considered and a direction was given by the Hon'ble Madras High Court which had been complied with by the respondents, I am of

the view that filing another OA repeating the relief sought in the previous OA and not specifically granted therein is not permissible as this would be hit by the principle of *res judicata*.

6. On the other hand, if the applicant would contend that the matter of further promotions was also covered by the relief granted to him in the WP and, therefore, the compliance by the respondents was incomplete, he ought to have exercised an appropriate legal remedy within a reasonable time from the date of the order. It cannot be agitated in another OA, 8-9 years after the order.

7. OA is dismissed as not maintainable. The MA for condonation of delay stands disposed of in the light of this order.

(R. Ramanujam)
Member(A)
31.12.2018

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