

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO. 063/741/2017

Chandigarh, this the 30th day of January, 2019

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

...

MES-364378 Shri Nirmal Kumar son of Shri Sukhman Ram, age 62 years, resident of Village Brohal, PO Panchrukhi, Tehsil Palampur, District Kangra (HP), Group-C.

....APPLICANT

(Present: Mr. D.R. Sharma, Advocate)

VERSUS

1. Union of India through its Secretary, Ministry of Defence, South Block, New Delhi.
2. The Engineer in Chief, Military Engineering Services, Engineer-in-Chief's Branch, Integrated Headquarters of MoD (Army), Kashmir House, Rajaji Marg, DHQ, PO, New Delhi-110011.
3. The Commander Works Engineer, Yol Cantt, District Kangra (HP).
4. The Principal Controller, Defence Accounts (P), Draupadi Ghat, Allahabad (UP).

....RESPONDENTS

(Present: Mr. V.K. Arya, Advocate)

ORDER (oral)

SANJEEV KAUSHIK, MEMBER (J)

The present Original Application (O.A.) has been filed by the applicant assailing the order dated 13.7.2016 whereby his claim for grant of 2nd ACP in the pay scale of Rs. 5000-8000 w.e.f. 9.8.1999 and 3rd MACP we.f. 1.9.2008 in the Pay Band of Rs. 9300-34800, GP of Rs. 4600/- has been rejected on the ground that no order

has been passed by the competent authority to extend the same benefit to the similarly situated persons.

2. After exchange of pleadings, the matter came up for hearing today. We have heard the learned counsel for the parties and perused the record.

3. Mr. D.R. Sharma, learned counsel for the applicant vehemently argued that the issue has already been decided by this Tribunal in the decision dated 23.8.2010 rendered in O.A. NO. 300/HP/2008- **Bachittar Singh vs. Union of India & Ors.** and the impugned order suffers from the inherent defect as no independent view has been taken by the competent authority while rejecting the claim of applicant. His claim has been rejected only on the ground that he was not party to the proceedings on which reliance has been placed and the benefit has been made applicable only to the persons who were party to the same as no instructions has been issued by the nodal Ministry in this behalf. He further argued that his claim cannot be summarily rejected by the respondents by forcing the applicant to approach this Court to extend the same benefit which has already been granted by this Court to the similarly placed persons. Therefore, he prayed that the impugned order be quashed and set aside and the matter may be remitted back to the competent authority to reconsider the claim of applicant in the light of relied upon decision in the case of Bachittar Singh (supra) as the impugned order is against the litigation policy of Govt. of India.

4. Learned counsel representing the respondents is not in a position to say anything contrary to the prayer made by the learned counsel for applicant and rebut his argument.

5. In the wake of above, the matter is remitted back to the competent authority with a direction to reconsider the claim of applicant by passing a reasoned and speaking order by taking into consideration the ratio laid down in the relied upon decision in the case of similarly situated persons. If the applicant is found to be similarly situated person, as the applicant in the case of Batchittar Singh (supra), the same benefit be extended to him within a period of 2 months from the date of receipt of certified copy of this order. The O.A. stands disposed of as such with no order as to costs.

(P.GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 30.01.2019

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