

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.3596/2015

Reserved on : 02.04.2019

Pronounced on : 16.04.2019

**HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MR. A.K. BISHNOI, MEMBER (A)**

Momraj Singh
S/o Sh. Rabbu Singh
R/o House No. 308A,
Pocket J&K,
Dilshad Garden
Delhi.

....Applicant

(By Advocate: Dr. Puran Chand, Advocate)

Versus

1. Union of India
Through its Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. The Secretary,
Ministry of Personnel, PG & Pensions,
(Department of Personnel & Training)
Lok Nayak Bhawan, Khan Market,
New Delhi.
3. Joint Secretary (Training) & CAO,
Ministry of Defence,
E-Block, Hutments,
Dalhousie Road,
New Delhi.
4. Director (P.I)
Office of JS (Trg) & CAO
E-Block, Hutments,
Dalhousie Road,
New Delhi.

...Respondents

(By Advocate: Shri C. Bheemanna)

ORDER**By Shri V. Ajay Kumar, Member (J)**

The applicant, a retired Assistant Civilian Staff Officer (previously known as Section Officer), filed the instant OA seeking the following reliefs:-

“(a) Set aside/quash the order dated 02.07.2015 passed by the respondent No.3 & 4 by which the notional promotion of the petitioner in the grade of Dy. Director w.e.f 01.10.1999 has been denied and pass the direction to the respondent No.3 & 4 to release and make payment of all benefits accrued to the petitioner consequent on empanelment of the petitioner in the select list for the year 2000-2001 and his notional promotion to the grade of Dy. Director.

(c) Pass any other or further order(s)/direction(s) as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case in the interest of justice”.

2. Earlier, the applicant filed O.A. No.453/2012 seeking the following reliefs:-

“a) Set aside/quash the order dated 19.09.2011 and 20.10.2011, 15.11.2011, 29.12.2011 and DO part III No.10/DRDO/2011 passed by the respondent no. 3 & 4 by which the promotion of the petitioner in the grade of Dy. Director w.e.f. 01.10.1999 was cancelled.

b) Pass the direction to the respondent no.3 & 4 to release and make payment of all benefits accrued to the petitioner consequent on empanelment of the petitioner in the select list for the year 1996-97 to 2000-01 and his promotion to the grade of Dy. Director vide respondent no.3 letter dated 27.10.2010 for which the petitioner is legally entitled.

c) Pass any other or further order(s)/ direction(s) as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case in the interest of justice”.

3. The said O.A. No.453/2012 was disposed of by this Tribunal, by its order dated 17.12.2012, as under:-

“10. We are satisfied that the applicant did not assume the charge of the promoted post of CSO and, therefore, nothing is

due to him in terms of arrears of salary or revision of pension. All orders wrongly issued have been cancelled by the respondents and nothing remains. As far as overpayment of Rs.11,960/- to the applicant is concerned, we are of the opinion that proper course of action would be for the respondents to issue show cause notice to the applicant explaining the reason why recovery is being made and after giving applicant adequate and reasonable opportunity to explain his case, final orders should be passed. This has not been done by the respondents. We are also conscious of the fact that the overpayment to the applicant is a mistake made by the respondents themselves and is not result of any fraud played by the applicant.

11. We, therefore, dispose of this OA with the direction to the respondents to issue show cause notice to the applicant explaining in totality why recovery is being made from him and after giving adequate opportunity to explain his case, final orders may be passed. This exercise may be done within a period of three months from the date of receipt of a copy of this order. No costs”.

4. In compliance of the aforesaid orders, the respondents have issued Annexure R-10 Show Cause Notice dated 14.01.2013 calling him to explain why the amount of Rs.11,960/- should not be recovered from him which was erroneously paid to him as difference of leave encashment. The applicant submitted his reply to the said Show Cause Notice vide Annexure A-13 dated 12.02.2013. However, the respondents vide Annexure R-12 dated 05.03.2013 passed orders for recovery of the said amount.

5. Thereafter, the applicant made a representation on 06.04.2015 reviving his contentions in respect of the earlier reliefs claimed in earlier O.A. No.453/2012, basing on certain judgments of different courts. The said representation was again rejected by the respondents vide the impugned Annexure A-1 dated 02.07.2015.

Challenging the said proceedings, the applicant filed the instant OA.

6. Heard Shri Puran Chand, the learned counsel for the applicant and Shri C. Bheemanna, the learned counsel for the respondents and perused the pleadings on record.

7. Admittedly, the applicant's earlier OA No.453/2012 in respect of the very same subject matter was heard by this Tribunal and the claim of the applicant was not accepted and this Tribunal disposed of the said OA only to the limited extent of providing opportunity to the applicant in respect of the amount of proposed recovery. The applicant allowed the said order in OA No.453/2012 to attain finality and he as well as the respondents have complied with the said orders of this Tribunal and thus the respondents finally issued Annexure R-12 order dated 05.03.2013 ordering for recovery. The applicant, admittedly, not challenged the said order, even in respect of recovery also, however, filed the instant OA raising the same grounds in respect of the same relief which was already rejected by this Tribunal in O.A. No. 453/2012. The only contention of the learned counsel for the applicant in support of the instant OA is that certain decisions of this Tribunal as well as of other courts supports his contentions, which were negated by this Tribunal in his earlier OA.

8. Once the OA of the applicant seeking notional promotion with effect from 01.01.1999 was already rejected by this Tribunal, his subsequent representation for the same benefit and its consequential rejection by the respondents cannot give any fresh cause of action to the applicant.

9. In the circumstances, we do not find any merit in the OA and accordingly the same is dismissed. No costs.

(A.K. BISHNOI)
Member (A)

(V. AJAY KUMAR)
Member (J)

RKS