

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.063/00717/2019
Chandigarh, this the 16th day of July, 2019

...
CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MR. A.K. BISHNOI, MEMBER (A)

...

Himanshu Mishra, aged 57 years, S/o Shri Radhay Shiam Misra presently working as Inspector General of Police, Armed Police and Training (AP&T), C/o HP Police HQ, Shimla – 171002 (Group A)

....Applicant

(Present: Mr. Aseem Rai, Advocate)

Versus

1. Union of India, Ministry of Home Affairs, North Block, New Delhi – 110001 through its Secretary.
2. Union of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, North Block, New Delhi – 110001 through its Secretary.
3. State of Himachal Pradesh through its Chief Secretary, H.P. Secretariat, Shimla, Himachal Pradesh – 171001.
4. Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi – 110069 through its Secretary.

..... Respondents

(Present: Mr. Sanjay Goyal, Advocate for Rspndnts No. 1& 2

Mr. B.B. Sharma, Advocate for Rspndts. No. 3 & 4)

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J)

1. Heard.
2. Learned counsel submitted that the applicant has been denied the benefit of judgment of the Hon'ble High Court of Punjab and Haryana in the case titled **Parveen Kumar Vs. UPSC and Others** (CWP No. 15798 of 2010) dated 01.02.2010, holding that the vacancy position has to be determined as on 31st December of a given year instead of 1st January of subsequent year, which was further upheld by the Hon'ble Apex Court. He contends that though the benefit of this judgment has been granted to his juniors

namely Arvind Kumar Sharda and Kewal Krishan Indoria, but the applicant has been discriminated against by the respondents. He argues that it is a settled law that benefit of a judgment passed in rem cannot be restricted to the petitioners only and the similarly situated persons should be granted similar benefits without approaching the court of law.

3. Learned counsel submitted that the applicant submitted a representation dated 01.10.2018 (Annexure A-7) seeking benefit of judgment rendered in the case of Parveen Kumar (supra) but the same has not been responded to till date. He suffered a statement at the bar that the applicant would be satisfied if a direction is issued to the respondents to consider and decide his representation in view of the relied upon case within a time frame.

4. Issue notice to the respondents.

5. At this stage, Mr. Sanjay Goyal, Sr. CGSC, appears and accepts notice on behalf of Respondents No. 1 and 2. Mr. B.B. Sharma, Advocate, appears and accepts notice on behalf of Respondents No. 3 and 4. They do not object to the disposal of the O.A. in the above manner.

6. In the wake of above, the O.A. is disposed of, in limine, with a direction to the respondents to consider and decide the indicated representation (Annexure A-7) of the applicant in the light of judicial pronouncement relied upon by him. If the applicant is found to be similarly situated like the applicant in the relied upon case, the relevant benefit be granted to him, otherwise a reasoned

and speaking order be passed within a period of two months from the date of receipt of a copy of this order.

7. Needless to mention that the disposal of the O.A. shall not be construed as an expression of any opinion on the merit of the case.

No costs.

(A.K. BISHNOI)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)
Dated: 16.07.2019

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