

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 1269/2003

This the 11th day of February, 2004

HON'BLE SH. KULDIP SINGH, MEMBER (J)
HON'BLE SH. S.A. SINGH, MEMBER (A)

Umesh Chandra Sharma
aged about 62 years
s/o Sh. Banwari Lal Sharma
r/o 21-C OCS Apartments, Plot-19
Chilla Road, Mayur Vihar,
Phase-I, Delhi-110091.

Address for service:

The Engineer-in-Chief,
HQ E-in-C's Branch,
AHQ, DHQ, Kashmir House,
Raja Ji Marg,
New Delhi-110011.

(Applicant in person).

Versus

1. Union of India through Secretary,
Ministry of Defence,
New Delhi.
2. The Engineer-in-Chief,
HQ E-in-C's Branch,
AHQ, DHQ, Kashmir House,
Raja Ji Marg,
New Delhi-110011.
3. The Chief Engineer (MES) Cantt.
HQ Central Command Lucknow.
4. The Commander Works Engineer,
Sarvatra Bhawan,
Station Road,
Bareilly Cantt.
U.P.
5. The Garrison Engineer (West)
11 Sardar Patel Marg, Cantt.
Lucknow (U.P)
6. The Garrison Engineer (MES) (East)
Shahjahan Pur Road,
Bareilly Cantt.

(By Advocate: Sh. M.K.Bhardwaj proxy for
Sh. A.K.Bhardwaj)

O R D E R (ORAL)

By Sh. Kuldip Singh, Member (J)

Applicant has filed this OA seeking following reliefs:-

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a) By an appropriate order or direction, the impugned orders of 10th August, 2001 (Annexure-4A), 8th October, 2001 (Annexure-4C) Conveying the order of 10th August, 2001, 18th July, 2002 (Annexure-16) and 19th September, 2002 (Annexure-17) be quashed.

b) By an appropriate order or direction, the relief granted by order of 27th April, 2001 in oA 168 of 1998 after examining the rules, be granted to this petitioner.

c) By an appropriate order or direction, the relief of annual increments be granted by giving benefit of departmental competitive exam in revised pay-scale, revised grade, ACP Scheme (Assured Career Progression) and pay fixation along with a statement of account of arrears of annual increments.

2. Applicant has assailed an order dated 10.8.2001 Annexure-4A, the persual of which shows that it is a inter-departmental communication and not any order passed. This order could not have been challenged because it merely says that extension of time be sought from the Court. Applicant has also asked for quashing of the order dated 8.10.2001 which only says that annual increment will be granted with effect from the date when it become due after regularisation of leave in obedience of CAT judgment dated 27.4.2001 in OA-168/98 it would not be out of place to mention that applicant has already challenged the same in OA-168/1998 which was decided by this Tribunal on 27.4.2001. In the said judgment the respondents were directed to grant annual

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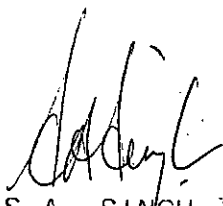
increments to the applicant since 1978 as per rules as directed by Army Headquarters and the Chief Engineer within a period of 3 months from the date of receipt of a copy of this order. Since that order was not complied with applicant filed a CP-125/2001 before Lucknow Bench while deciding the CP the Tribunal came to the conclusion that there was no wilful default as the respondents had taken a decision to grant the increment after treating the period of absence as EOL. Thus there is no non-compliance of the Tribunal's order and there is no rule treating the EOL period as on duty. It is also specifically mentioned that if the applicant is not satisfied with the order passed by the respondents on 8.10.2001 it would be open for the applicant to challenge the same.

3. In pursuance of the order dated 8.10.2001 respondents have issued a show cause notice on 19.9.2002 which deals with the subject of regularisation of absence period of EOL 120 days EL from 11.11.78 to March, 1979 and balance period of 177 days and applicant has been issued a show cause notice and also called upon to explain as to why the above unauthorised period should not be regularised under FR-17A. You are informed that applicant has also made a reply to show cause notice on 4.10.2002 but the respondents have not taken any decision so far on the said reply given by the applicant.

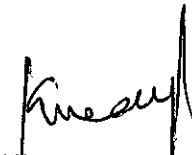
4. So we find that this OA can be disposed of at this stage itself with the direction to the respondents to pass a reasoned and speaking order and decide the show cause notice within a period of 2 months from the date of receipt of a copy of this order. Respondents shall also afford an opportunity of hearing including personal hearing to the applicant before passing a reasoned and speaking order. OA stands disposed of.

(14)

If any grievance survives thereafter applicant would be at liberty to challenge the same. Applicant may given a supplementary reply also.



(S.A. SINGH)
Member (A)



(KULDIP SINGH)
Member (J)

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