



Central Administrative Tribunal Principal Bench

OA No. 1083/2016

New Delhi this the 20th day of November, 2019

**Hon'ble Mrs. Vijay Lakshmi, Member (J)
Hon'ble Mr. Pradeep Kumar, Member (A)**

Sh. J.S. Walia (Aged about 60 years)
S/o Sh. Gurbachan Singh
R/o 151, Sant Nagar, Delhi-110065 ... Applicant

(By Advocate : None)

Versus

Union of India through its

1. Secretary
Ministry of Urban Development, Nirman Bhawan,
New Delhi.
2. Director General (Works)
Central Public Works Department
Ministry of Urban Development
Nirman Bhawan, New Delhi.
3. Additional Director General (Training)
Central Public Works Department
(Training Institute),
Kamla Nehru Nagar
Hapur Road, Ghaziabad

(By Advocate : Sh. Rajinder Nischal)

ORDER (ORAL)

Hon'ble Mr. Pradeep Kumar, Member (A)

1. There was no representation by the applicant. Sh. Rajinder Nischal, learned counsel represented the respondents.



2. In the instant case, applicant has since retired from service on 31.12.2015. Post retirement, he has preferred the OA seeking grant of ACP benefits w.e.f. 15th April, 2001.

3. The respondents pleaded that this applicant has raised the same grievance in OA No. 142/HP/2006 also before Chandigarh Bench of the Tribunal (circuit at Shimla). This was decided vide orders dated 3.10.2007. The operative part of the said judgment is reproduced below :-

“2. The learned counsel for the applicant has taken us through office order No. 206 of 2004 of 29th October, 2004 placed at Annexure A-I, whereby Assured Career Progression ('ACP' for short) in the scale of Rs. 10,000-15,200 has been granted to 49 Junior Engineers (Civil) and 25 J.E. (Elect.) whose names are shown in Annexures 1 and 11. The applicant has been granted ACP second w.e.f. 15.4.2001 on completion of 24 years of service. The grievance of the applicant is that so far neither his pay has been fixed in the ACP scale, nor any benefit flowing from the said scheme has been granted to him. Hence, he has prayed for a direction to the respondents to fix his pay in the scale of Rs. 10000-15200 w.e.f. 15.4.2001 and to grant him the consequential benefits of difference of arrears etc. with effect from the said date together with interest w.e.f. 29.10.2004 till the date of actual payment.

xxx xxx xxx

5. We have gone through the Assured Career Progression Scheme for the central Government Civilian Employees, copy of which is appended at Annexure R-1. Annexure-1 to the Scheme stipulates conditions for grant of benefit under the Scheme. Condition No.11 thereof provides as under :



"11. In the matter of disciplinary/penalty proceedings, grant of benefit under the ACP Scheme shall be subject to rules governing normal promotion. Such cases shall, therefore, be regulated under the provisions of relevant CCS (CCA) Rules, 1965 and instructions thereunder."

There is no denying of the fact that the disciplinary proceedings were going on against the applicant when he became due for grant of second ACP w.e.f. 15.4.2001. In view of the above mentioned provision for grant of ACP benefit, he is entitled to the benefit of second ACP only w.e.f. the expiry of currency of the penalty period i.e. 25.7.2003, and it is so ordered."

- 3.1 The applicant preferred a review application vide RA No.68/2007, which was dismissed vide orders dated 22.11.2007.
4. Feeling aggrieved with this judgment, the applicant approached the Hon'ble High Court of Himachal Pradesh Shimla by filing a CWP No. 3129 of 2009 which was dismissed vide orders dated 13.10.2015.
5. In view of above, the respondents pleaded that the relief sought in instant OA, was already adjudicated and found not admissible (para 3, 3.1 and 4 supra). The reason recorded was ongoing disciplinary proceedings wherein punishment was imposed on 25.07.2002.

In the instant OA, applicant has pleaded that said disciplinary proceedings were unduly delayed as chargesheet was issued on 18.11.1996. However, applicant has not brought



out anything to clarify as to why finalisation took the time as it took and who was responsible for delays, if any.

The substantive issue was thus already adjudicated in OA No.142/HP/2006. Thus, instant OA is barred by res-judicata.

6. It is also seen that the applicant was not even present to argue his case on earlier hearing of 09.05.19 and 17.09.19. Accordingly, one more opportunity as last opportunity was given. However, even as on date also he was not present to argue his case. It appears that the applicant has lost interest to pursue the instant OA.

7. Accordingly, the OA is dismissed for default on the part of the applicant with liberty to him to approach the Tribunal, if some grievance still subsists.

There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice Vijay Lakshmi)
Member (J)

Sarita