
(2018) 12 CAT CK 0076
In the Central Administrative Tribunal
Case No : Original Application No. 754 Of 2016

Ram Kishan

APPELLANT

Vs

Secretary To Govt. Of India And Ors

RESPONDENT

Date of Decision : 07-12-2018

Acts Referred:

Citation : (2018) 12 CAT CK 0076

Hon'ble Judges : Aradhana Johri, Member (A)

Bench : Single Bench

Advocate : B.L. Wanchoo, Dr. CH Shamsuddin Khan

Final Decision : Allowed

Judgement

1. The applicant, Shri Ram Kishan was appointed as Labour on 26.02.1979, after which, several promotions were awarded as Master Craftsman (MCM) to the applicant in the grade of Rs. 4200/- with effect from 08.05.2009. This post was subsequently converted into a promotional post with effect from same day. Since as per letter dated 14.06.2010 of Ministry of Defence, certain ratios were fixed under which the Artisan staff were divided into four grades structuring i.e., Skilled, Highly Skilled (H.S) Grade II, Highly Skilled Grade I and Master Craftsman (MCM). The applicant was placed in HS-II from 01.01.2006 and HS-I with the same date with financial benefits. Subsequently, he was promoted as MCM with effect from 08.05.2009 but, promotion to the post of HS Grade-I in the Pay Grade of 2011 with effect from 01.01.2006 was cancelled vide DO letter No. Pt.II No. 80/13 dated 06.11.2013. This has led to the present O.A.

2. It is the contention of the applicant that his reversion to H.S Grade II with effect from 01.01.2006 is wrongly done, since his juniors Sh. Omprakash and Sh. Jagdish were given HS Grade-I with effect from 01.01.2006. Therefore, he should be given benefit of H.S Grade-I with effect from 01.01.2006 till 08.05.2009 i.e., his date of promotion to MCM. The specific reliefs claimed are as follows :-

"(i) To quash and set aside impugned order dated 1302.2016 under which recovery of Rs. 01,07,036/- has been ordered.

(ii) To direct the Respondents to produce relevant official records/files regarding Pay Fixation/Re Pay Fixation and seniority of the applicant.

(iii) To direct the Respondent No. 3 to restore the Basic Pay as well as Grade Pay of the applicant with all consequential allowances as it was before the reduction of Pay.

(iv) To direct the Respondent No. 3 i.e. commandant CVD Delhi Cantt Not to affect any recovery from the Pay and allowances of the applicant and refund the recovery made from the pay and allowances of the applicant.

(v) To direct the Respondent No. 3 i.e., commandant CVD Delhi Cantt. to restore the seniority of the applicant as AFV/Mech vis a vis two juniors AFV/Mech to the applicant with all consequential benefits.

(vi) To pass any other/Directions as deemed fit and proper in the circumstances of the case to meet the ends of justice."

3. The respondents have contended that as per Government of India, Ministry of Defence letter dated 14.06.2010, certain ratios have been fixed under which Artisan staff were divided into four categories. Accordingly, the applicant was placed in H.S Grade-II category on the basis of his seniority. MCM being a promotional post, the applicant had to be first promoted from H.S Grade II to H.S Grade I and then to MCM. Accordingly, he was promoted to MCM on 08.05.2009. As per MoD instructions of 07.05.2013, the ratio for promotion to MCM was not disputed. Therefore, he was continued as MCM. As per seniority, the applicant was falling in the category of H.S Grade-II from 01.01.2006 and was therefore correctly placed in that grade.

4. I have heard Mr. B. L. Wanchoo, learned counsel for applicant and Dr. CH. Shamsuddin Khan, learned counsel for respondents.

5. The point of dispute seems to be the period from 01.01.2006, when the applicant was reverted to H.S Grade-II and 08.05.2009, when he was promoted to Master Craftsman (MCM). The applicant has submitted a seniority list in which he is clearly placed above Sh. Omprakash and Sh. Jagdish. Since promotion to H.S Grade-I was on the basis of seniority and Sh. Omprakash and Sh. Jagdish were given H.S Grade-I with effect from 01.01.2006, therefore, the applicant Shri. Ram Kishan should also be granted H.S Grade-I and the financial benefits from 01.01.2006 till 08.05.2009, when he became MCM. Accordingly, the financial benefits may be given to him. Further, as per the case of State of Punjab & Ors. V. Rafiq Masih (White Washer), (2014) 8 SCC 883, recovery from employees belonging to Group 'C' and 'D' services would not be done in certain circumstances. The circumstances mentioned in this judgment apply to the case of the applicant, Shri. Ram Kishan as well. Therefore, no recovery shall be affected from him.

6. The O.A is allowed. There shall be no order as to costs.