

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

...

**M.A. No.60/481/2017  
O.A. No.60/339/2017**

**Date of decision: 11.07.2018**

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).  
HON'BLE MRS. P. GOPINATH, MEMBER (A).**

...

Hawa Singh S/o Sh. Soni Ram, aged 59 years, MES No.368831, presently working as Caneman (skilled) Group 'C' in the office of Garrison Engineer, Hissar Cantt. Haryana.

**... APPLICANT**

**VERSUS**

1. Union of India through the Secretary, Ministry of Defence, South Block, New Delhi.
2. Engineer-In-Chief, Army Headquarter, Kashmir House, Rajaji Marg, New Delhi-11.

**... RESPONDENTS**

**PRESENT:** Sh. R.P. Rana, counsel for the applicant.  
Sh. Arvind Moudgil, counsel for the respondents.

**ORDER (Oral)**

...

**SANJEEV KAUSHIK, MEMBER (J):-**

1. Present O.A. has been filed by the applicant seeking following relief:-

"i) A direction be issued to the respondents to consider the claim of the applicant regarding skilled grade from the date of initial appointment in view of judgment dated 17.3.2008 Annexure A-1, A-3 and A-5 of Principal Bench of the Tribunal regarding the skilled grade from the date of initial appointment instead of 1.5.1998 (as such the applicant was given the skilled grade w.e.f. 1.5.1998 in view of judgment dated 26.11.2009 of this Tribunal to the applicant in pursuance of PTO dated 5.4.2002 A-2 vide which skilled grade was given to the Caneman, who were applicants in O.A. No.804/1998 (A-5) along with consequential benefits in the interest of justice, as such judgment dated 17.03.2008 A-1 in O.A. No.1832 of 2007 titled as Bansi Lal vs. Union of India & etc. was implemented by the respondents vide PTO No.29/28 dated 21.7.2008

(Annexure A-2) and also implemented A-5 judgment dated 15.9.2000 of Hon'ble Tribunal from the initial date of appointment and earlier the same was implemented from the date of filing of OA i.e. 1.5.1998 vide PTO dated 5.4.2002 A-2.

- ii) It be declared that the applicant is entitled for the same benefit of the skilled grade from the date of initial appointment along with consequential benefits in view of judgments A-1, A-3 and A-5 being similarly placed employee which has been given to the juniors of the applicant namely Bansi Lal Caneman and other Caneman by the respondents who were applicants in O.A. No.804/1998 A-5. "
2. Along with the O.A., the applicant has also moved M.A. No.60/481/2017 under Rule 21 (3) of C.A.T. (Procedure) Rules, 1987 praying for condonation of delay of 3170 days in filing the accompanying O.A.
  3. This Court at the first instance issued notice in M.A. for condonation of delay to which, respondents have filed reply.
  4. The applicant is before this Court for grant of relief from the due date i.e. the date of his initial appointment as Caneman, as has been allowed by this Tribunal to entire cadre of Caneman. Initially, O.A. No.804 of 1998 titled as **Hari Ram Shukla & Ors. vs. UOI and Ors.** was filed by 20 applicants before this Tribunal, praying for upgrading the cadre of Caneman to Skilled grade of Rs.950-1150. This Court while allowing the O.A. directed the respondents to consider the claim of the applicants therein within a period of two months from the date of receipt of a copy of that order. In furtherance to orders of this Court dated 15.09.2000, respondents have passed order dated 09.10.2001 accepting their contention granting benefit in the skilled grade of Rs.3050-4590 w.e.f. the date of filing of the O.A. The order dated 15.09.2000 became subject

matter before the Hon'ble High Court in CWP No.1054 of 2001 at the hands of Govt. of India, which was dismissed on 15.07.2002. Still aggrieved against that order UOI filed SLP No.5832 of 2004, which was also dismissed on 26.07.2002. The present applicant Hawa Singh along with six other persons approached this Tribunal by filing O.A. No.401/HR/2005 titled as **Bansi Lal and Ors. vs. UOI & Ors.**, praying that they be also granted same benefit as has been allowed in the case of Hari Ram Shukla (supra) by granting skilled grade of Rs.3050-4590. That application was allowed and vide order dated 16.02.2006, respondents were directed to grant the applicants benefit as available to applicants in the relied upon case decided on 15.09.2000. The said order was challenged at the hands of the respondents by filing Civil Writ Petition No.10050-CAT-2007, which was dismissed on 26.03.2014. While accepting decision dated 16.02.2006, applicants were granted benefit from the date of filing of O.A. No.401/HR/2005 subject to outcome of SLP to be filed (Annexure A-12). Subsequent to that applicant again approached the Tribunal by filing O.A. Nos. 57/PB/2008 & 98/HR/2008 titled as **Sat Pal Tomar & Ors. Vs. UOI & Ors.**, challenging the decision of the respondents in not granting benefit from 01.05.1998. The said O.A. was allowed vide order dated 26.11.2009, directing the respondents to grant them skilled grade w.e.f. 01.05.1998, with all consequential benefits, as allowed in O.A. No.804 of 1998. Meanwhile, another petition was filed before Principal Bench by one Bansi Lal i.e. O.A. No.1832 of 2007 praying therein that benefit be granted from the date of initial appointment as Caneman. While allowing O.A. on 17.05.2008, respondents were directed to grant

benefit in favour of the applicant therein from the date of his initial appointment as Caneman. It is the case of the applicant that subsequent to that he submitted representation (Annexure A-15 and A-16), praying therein that since respondents have granted benefit to the cadre of Caneman from the date of initial appointment on the post, therefore, he be also granted from the same date otherwise, it would amount to discrimination. Thus, he seeks condonation of delay in filing the O.A.

5. Respondents have filed reply to M.A. wherein they have taken strong objection with regard to grounds raised in application for condonation of delay submitting that the O.A. is hopelessly time-barred.
6. We have heard learned counsel for the parties.
7. Learned counsel for the applicant submitted that, since respondents have allowed the benefit to other persons except the applicant from their initial date of joining based upon the judicial pronouncement, therefore, they have to allow the same benefit to the applicant also from date of his initial joining as the judgment cannot be said to per incuriam because respondents were directed to grant benefit to entire cadre of Caneman since this Court has allowed benefit without there being any discrimination regarding the date of approaching the Court, by any individual and it is a recurring cause of action.
8. Sh. Arvind Moudgil, appearing on behalf of the respondents is not in position to rebut the argument raised by the applicant that judgment is in rem, and would apply to all including the applicant.

9. We have given our thoughtful consideration to the entire matter and are of the view that once respondents themselves have allowed benefit of upgradation to the post of Caneman in the skilled grade and have implemented the order qua other employees, then they have to allow the similar benefit to entire cadre, without forcing each of them to approach a Court of law, for grant of similar benefit.
10. In the light of aforesaid discussion, the M.A. for condonation of delay is allowed and delay in filing the O.A. is condoned.
11. Since the applicant is asking for benefit from the date of his initial appointment as Caneman and his claim is covered by judicial pronouncements, therefore, we propose to dispose of this O.A. itself without waiting of reply from the respondents, as even otherwise they have no defence at all against the plea taken by the applicant, as undeniably similar benefit has been allowed to persons identically situated like the applicant and the judgment in question is in rem and not in personam.
12. Accordingly, the respondents are directed to consider the claim of the of the applicant for grant of benefit from initial date of appointment as Caneman, in the light of judgments relied upon by him, within a period of two months from the date of receipt of a copy of this order. No costs.

**(P. GOPINATH)**  
**MEMBER (A)**

**(SANJEEV KAUSHIK)**  
**MEMBER (J)**

Date: 11.07.2018.  
Place: Chandigarh.

`KR'