

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**CWP No.10565 of 2014
DATE OF DECISION : 18.01.2016**

Union of India and others

...Petitioners

Versus

S.S. Suri and another

...Respondents

CORAM: HON'BLE MR. JUSTICE M.JEYAPPAUL.

HON'BLE MR. JUSTICE RAJ MOHAN SINGH.

Present: Mr. Vivek Singla, Advocate
for the petitioners.

Mr. I.S. Sidhu, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J.

[1]. This petition has been directed against the order dated 18.03.2013 passed by respondent No.2 vide which original application filed by respondent No.1 was allowed and respondent No.1 was held entitled to the pay and allowances on account of ad hoc promotion to the post of ADEO from 31.01.2006 to 30.06.2007 and also for regularization of ad hoc promotion as ADEO for the said period and also for the purposes of determining pension in the said scale with usual benefits for the period in issue. Respondent No.1 was also held entitled to interest @ 9 % per annum from the date of retirement till actual realization of the amount. The direction was issued for actual disbursement of the amount within a period of one month from the date of passing of the order.

[2]. Respondent No.1 filed OA with the background that he was holding a promotional post on ad hoc basis from 31.01.2006 to 30.06.2007. In view of Government instructions, if the incumbent continues with aforesaid status beyond one year, then concurrence from the concerned Ministry has to be obtained for such continuation of the ad hoc promotee. Respondent No.1 continued with aforesaid status beyond 30.06.2007 for which Administrative Department recommended validation of the period spent by respondent No.1 on the post as ad hoc promotee. The recommendations sent by concerned Administrative Department were only entertained to the extent of granting validation for a period of one year. The validation for the period beyond one year was rejected.

[3]. Respondent No.1 challenged the aforesaid rejection before respondent No.2. Vide the impugned order, respondent No.2 came to the rescue of respondent No.1, thereby accepting the original application with the aforesaid relief.

[4]. Petitioners have assailed the impugned order on the ground that respondent No.1 was retired from service on 30.06.2007 and filing of original application in the year 2012 was patently time barred as the Competent Authority had rejected the recommendations on 09.11.2004. It is relevant to see that despite the aforesaid order, respondent No.1 was allowed to continue on the promotional post till he retired from service on 30.06.2007. Concededly order dated 09.11.2004 passed by the competent Authority in Ministry of Defence was never conveyed to respondent No.1. It appears that the Administrative Department of respondent No.1 appreciated higher assignment of respondent No.1 on

the station from where he was retired instead of allowing higher assignment on some new station in the light of para-2 of aforesaid order dated 09.11.2004.

[5]. Since, respondent No.1 was never communicated with the decision dated 09.11.2004, therefore, respondent No.1 could not ascertain as to what had happened about validation and resultant benefits which would accrue to him in the event of such validation having been granted by the Competent authority. It is only by taking recourse to the provisions of Right to Information Act, 2005, respondent No.1 could get the relevant information which was made available to him vide order dated 24.10.2011. For the first time, respondent No.1 could visualize the situation on getting requisite information by means of his right to get information. The adverse order should have been communicated to him forthwith. It appears to us that instead of asking respondent No.1 to proceed on higher assignment on new station, he was kept at the same station with same responsibility till his retirement.

[6]. It was only on 24.10.2011, respondent No.1 who was adversely affected by the order dated 09.11.2004 could approach respondent No.2 with the grievance in question. The learned Tribunal held that the petition filed by respondent No.1 was well within limitation from the date of communication i.e. 24.10.2001. In this way the filing of original application on 2011.2012 was held to be within limitation.

[7]. In our considered view there is no ambiguity in the impugned order passed by the Tribunal, nor any error of jurisdiction could be pointed out by the learned counsel for the petitioners. It is also relevant to note that respondent No.1 was working as ADEO in the

Department of Defence Estates Western Command, Chandigarh since 31.01.2005. Sanction for extension of ad hoc period for six months from 31.07.2005 to 30.01.2006 in the scale of 6500-200-10500/- was granted vide letter dated 26.04.2006 issued by the Director General, Defence Estates, Government of India, Ministry of Defence. Accordingly his pay was fixed in the said scale from 31.01.2005 to 30.01.2006. The period in issue started from 31.01.2006 onwards upto 30.06.2007, date on which respondent No.1 retired.

[8]. Taking note of the entire situation and also from the cited precedent, we are of the view that no indulgence can be granted in this writ petition. The impugned order passed by the Tribunal cannot be the result of misreading of evidence on record or having suffered with any perversity. Resultantly, this petition is found to be totally devoid of merits and the same is dismissed.

(RAJ MOHAN SINGH)
JUDGE

(M. JEYAPPAUL)
JUDGE

January 18, 2016
prince