

**THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.16039 of 2015 (O&M)
Date of Decision:27.02.2017**

Union of India and othersPetitioners
Vs.
The Central Administrative Tribunal and anotherRespondents

**CORAM:- HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present:- Mr. Puneet Gupta, Advocate for the petitioners.
Mr. D.R. Sharma, Advocate for respondent No.2.

SURYA KANT, J.(Oral)

Union of India and Western Command Headquarter Authorities have challenged the order dated 26.3.2015 passed by Central Administrative Tribunal, Chandigarh Bench whereby the claim of respondent No.2 for grant of second ACP w.e.f. 26.12.2004 i.e. on completion of 24 years of regular service, had been accepted. We may notice at the outset that the Tribunal's order does not assign any reason whatsoever for accepting the claim of respondent No.2. The Tribunal has in para 2 reproduced a part of its previous order passed in the first round of litigation and after noticing some relevant facts in para 3 and 5, has concluded in para 6 that the original application deserves to succeed.

The petitioners have placed heavy reliance on the decision of the Supreme Court in **Union of India and others v. Ashok Kumar Sharma, 2011 (13) SCC 27**, to contend that the extra-ordinary leave period during which the second respondent was not paid any salary, is liable to be excluded for the purpose of computing 24 years of service and once such period is excluded, the date of consideration stands postponed from 2004 to 2006.

On the other hand, learned counsel for respondent No.2 relies upon the clarifications contained in the Office Memorandum dated 18.7.2000 (Annexure A.15 before the Tribunal) to contend that the period of extra-ordinary leave without medical grounds normally counts towards regular service for promotion.

Be that as it may, the rival contentions need to be briefly dealt with by the Tribunal for determination of the relevant date/year on which respondent No.2 shall be taken to have completed 24 years of qualifying service and thereafter, to further determine whether she was suitable for the grant of second ACP on such cut-off date.

In the light of the above discussion, we are satisfied that the matter requires afresh consideration before the Tribunal. The writ petition is accordingly allowed. The impugned orders dated 26.3.2015 as well as dated 28.7.2015 are set aside and the case is remitted to the Tribunal for fresh adjudication. The parties are directed to appear before the Tribunal on 20.3.2017.

Needless to say that we have not expressed any opinion on merits.

(SURYA KANT)
JUDGE

(SUDIP AHLUWALIA)
JUDGE

27.02.2017

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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No