IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No.13318 of 2019
Date of decision : August 27, 2019

O.P. Sud ...Petitioner

Versus

Central Administrative Tribunal (CAT) and others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Karnail Singh, Advocate
for the petitioner.

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HARINDER SINGH SIDHU, J.

This Writ Petition has been filed impugning the order dated 26.10.2018 (Annexure P-1) passed by the Central Administrative Tribunal, Chandigarh Bench, whereby, OA No. 060/00294/2016 filed by the petitioner has been dismissed.

2. The petitioner had filed the OA for the grant of senior scale of Rs.10,000-15,200 w.e.f. 01.01.2005 i.e the date when such scale was given to his junior along with arrears of pay and pensionary benefits. The petitioner was promoted as Assistant Commissioner of Income Tax in the scale of Rs.8,000-13,500 on 07.11.2001. He superannuated on 30.11.2005. He claimed that he was entitled for up-gradation in the scale of Rs.10,000-15,200 on completion of four years service that is w.e.f. 07.01.2005. He relied on a judgment of the Central Administrative Tribunal dated 30.06.2009 whereby, similarly situated person was allowed the benefit. The judgment had attained finality in as much as the writ petition and Special

Leave Petition filed in that case had been dismissed. He also placed reliance on Note-1 to the Rules wherein it is stated that:

> *"where junior who have completed their qualifying service are being considered for promotion, their seniors would also be considered provided they are not short of the requisite qualifying service by more than half of the qualifying service or two years, which is less, and have successfully completed their probation period for such promotion to the next higher grade along with their juniors who have already completed such qualifying service."*

3. The respondents on the other hand contended that the claim of the petitioner was time barred. He had filed the original application in March 2016 i.e. more than 10 years after his retirement on 30.11.2005. It was further their case that the petitioner had been promoted as Assistant Commissioner, Income Tax on 07.11.2001. After completion of four years regular service he was eligible for grant of Senior Scale only w.e.f 01.01.2006. As per the DOPT guidelines, an officer may be granted senior scale w.e.f. 1st January of the subsequent year during which he has completed four years regular service in the junior scale. As the petitioner retired before the said date he could not be granted that scale. Regarding Note-1, the case of the respondents was that no promotion in senior scale had been made by them in the normal course by-passing the guidelines of the DOPT and that Note-1 was not being invoked by them.

4. The learned Tribunal dismissed the OA holding the same to be time barred as it has been filed more than ten years after his retirement in 2005. It was noted that even on merits as per DOPT guidelines he could be

placed in the senior scale w.e.f. 1st January of the subsequent year during which, an employee has completed four years of regular service in the junior scale. The relevant date in his case would be 01.01.2006. As he stood retired before the said date he could not be granted such benefit. The Tribunal also noted that the judgment relied on, where the benefit has been granted to his junior S.K. Shukla, was not of general application but confined to that case only. Moreover, in view of the delay of almost a decade since his retirement and even five years after the decision in the case of S.K. Shukla he could not claim parity with him(S.K.Shukla). Thus, the Original Application was dismissed both on the ground of being time barred and on merits.

5. There is no illegality or infirmity in the judgment of the Tribunal .

6. Accordingly, there is no merit in the petition and the same is dismissed.

(RAJIV SHARMA) **(HARINDER SINGH SIDHU)**
JUDGE **JUDGE**

August 27, 2019
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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No