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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 226/2019 & C.M. APPL.1056-1057/2019**

GOVT OF NCT OF DELHI & ORS Petitioners

Through: Mrs. Avnish Ahlawat, Standing
Counsel with Mr. N. K. Singh and
Ms. Aarushi, Advocates.

versus

MAHENDRA SINGH

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **11.01.2019**

Caveat No.21/2019

Despite service, none appears for the caveator. The caveat stands discharged.

W.P.(C) 226/2019 & C.M. APPL.1056-1057/2019

The petitioner-GNCTD has preferred the present writ petition to assail the order dated 26.09.2018 passed by Central Administrative Tribunal, Principal Bench, New Delhi ('Tribunal') in OA No.2006/2016 preferred by the respondent.

The respondent had preferred the said Original Application being aggrieved by denial of pension and retiral benefits due to him, by the petitioner, on the ground that he was a contractual employee. Having served in the Army Medical Core between 1973 to 1998 and having retired in January, 1998, the respondent was engaged vide office order dated 11.05.2000 by the petitioner on re-employment basis w.e.f. 27.04.2000 in the pay-scale 4000-100-6000 for a period of six months, or till attaining the age of 65 years or till regular incumbents are appointed, whichever is earlier.

It appears that at some stage, an issue arose with regard to the fixation of the respondent's pay. The stand taken by the respondents (petitioners herein) was that since the petitioner (respondent herein) was appointed on contractual basis, he was to be given only the lowest of the pay-scale. The respondent approached the Tribunal in OA No.2183/2005, which was allowed on 15.12.2006. The petitioners were directed to pay to the respondent the pay as per the regular pay-scale with increments.

The next round of litigation initiated by the respondent was when he was described as appointed "on contract basis", by preferring OA No.713/2011. This, too, was decided in favour of the respondent on 15.02.2012 and a direction was issued to the petitioners to carry out the necessary typographical correction and to work-out the arrears to be paid to the respondent, which were denied to him on account of the said order dated 19.12.2011, wherein he had been described as appointed as "on contract basis".

The respondent again approached the Tribunal by preferring OA No.1690/2011, with the grievance that he was entitled to the MACP Scheme. Once again, the petitioners contended that the respondent was not appointed on regular basis and therefore, was not entitled to the benefit under the MACP Scheme. This Original Application, too, was allowed on 25.07.2012. Pertinently, the petitioner accepted all the three orders aforesaid, and did not assail either of them before this Court. The orders were also implemented.

When the respondent was about to attain the age of 62 years on 31.01.2016, he made a representation on 24.08.2015 claiming pensionary benefits. Once again, the petitioners sought to deny the same. This led to the

filing of the aforesaid Original Application, which too has been allowed by the Tribunal. Consequently, the petitioners have approached this Court.

In the impugned order, the Tribunal observed that the respondent had attained the status of a regular employee; as he had served for 16 years with the petitioner on re-employment.

The submission of Ms. Ahlawat is that the respondent could not be considered as a regular employee with that status.

Though there may be substantial merits in the submission of the petitioners, the petitioners are faced with three orders of the Tribunal aforesaid, which have already attained finality and have been accepted and implemented by the petitioners. Though we have serious doubts about the correctness of the said three orders passed by the Tribunal, since they were not assailed and have attained finality, and were implemented, we do not propose to get into their correctness at this stage.

In the light of the aforesaid, while dismissing this petition, we observe that the orders passed in the earlier Original Applications, preferred by the respondent, as well as in the present Original Application i.e. OA No.2006/2016, shall not form precedents for the Tribunal in any other case.

VIPIN SANGHI, J

A. K. CHAWLA, J

JANUARY 11, 2019

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