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

*Date of decision: 20.11.2025*

+ W.P.(C) 11261/2019 & CM APPL. 46392/2019, CM APPL. 46393/2019

VED PRAKASH GUPTA .....Petitioner

Through: Mr. Akshay Ringe, Ms. Megha Mukherjee, Mr. Suyash Darade and Mr. Ravi Sharma, Advs.

versus

UNION OF INDIA AND ORS. ....Respondents

Through: Mr. T. P. Singh, Sr. Central Government Counsel for UOI.

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**HON'BLE MS. JUSTICE MADHU JAIN**

**NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed, challenging the Order dated 06.02.2018 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No. 4208/2016, titled *Ved Prakash Gupta v. Union of India through Secretary & Ors.*, thereby dismissing the said O.A. filed by the petitioner herein.

2. The petitioner further challenges the Order dated 30.08.2019, whereby the learned Tribunal has dismissed the Review Application filed by the petitioner herein, being RA No. 49/2018.

3. Briefly stated, it is the case of the petitioner that he was appointed as a Section Officer in the State of Punjab on 22.02.1969. He was



thereafter appointed as a Junior Engineer in the Beas Construction Board (BCB) on 28.07.1971.

4. In the year 1984, the petitioner was declared surplus staff and was taken on the rolls of the Central (Surplus Staff) Cell under the Department of Personnel and Training (DoPT) with effect from 01.12.1984 for redeployment in other Government of India Departments in corresponding pay scales. He was later absorbed in the Central Public Works Department (CPWD) as a Junior Engineer (Elec.).

5. As the petitioner was not being granted the appropriate pay scale, he, along with the other similarly placed Junior Engineers (Elec.), filed an O.A., being O.A. No. 1838/1996, titled ***Sh. M.C. Joshi & Ors. v. Ministry of Urban Development & Ors.*** before the learned Tribunal, which was allowed by the learned Tribunal *vide* its Order dated 11.09.1998 as corrected on 11.12.1998.

6. As there was yet another issue regarding the pay scale to which the petitioner was entitled, pursuant to the directions passed by the Supreme Court in the Judgment dated 25.02.2004 in CA No.10883-10892 of 1996, titled ***Union of India & Ors. v. Nek Ram & Ors.***, the learned Tribunal, *vide* its Order dated 28.08.2006 passed in O.A. No. 3009/2004, directed the respondents to consider the issue of determination of the pay scale of the petitioner. The same was decided by the respondents *vide* Order dated 09.01.2007, counting the service rendered by the petitioner with the BCB. The petitioner was also accorded the benefit of the second Assured Career Progression (ACP) in the pay scale of Rs. 10000-325-15200, upon completion of twenty-four years of service.



7. Aggrieved by his pay fixation, the petitioner challenged the Order dated 09.01.2007 passed by the respondents by filing an O.A., being O.A. No. 593/2007, before the learned Tribunal. The learned Tribunal, *vide* its Order dated 21.11.2013, allowed the said O.A., and quashed the Order dated 09.01.2007 passed by the respondents and directed them to fix the pay of the petitioner in the pay scale of 2000-3500 with effect from 01.01.1986, with all subsequent upward revisions in the pay scale on 01.01.1996 and 09.08.1999, along with consequential benefits.

8. The respondents herein challenged the said order before this Court by way of W.P.(C) 8943/2014 titled ***Union of India v. Ved Prakash Gupta***; however, the same was disposed of by this Court *vide* its Order dated 11.11.2016. In the said Order, as far as the grant of the second financial upgradation under the ACP Scheme is concerned, this Court observed as under:

*“The respondent however pleads that he would be entitled to benefit of second financial upgradation under the Assured Career Progression Scheme. As per the petitioner, the respondent was entitled to one financial upgradation under the Assured Career Progression Scheme which has been granted. They dispute grant of second financial upgradation.*

*The aforesaid dispute regarding grant of financial upgradation under the Assured Career Progression Scheme was not the subject matter of the impugned decision and not an issue or claim raised before the tribunal.*

*The respondent states that he would file an O.A. making the claim. In case, the said OA is filed within one month, the same would not be dismissed on the ground of limitation, if it is otherwise within limitation on excluding the*



*time when this writ petition was pending. Of course, the question whether the respondent is entitled to benefit of the second financial upgradation under the Assured Career Progression Scheme, if so, from which date the respondent would be entitled to said benefit, and whether even otherwise the claim would be barred by limitation will be aspects, which the tribunal will have to examine and consider. We do not express any opinion on the said aspects. We have given the concession to the respondent for the reason that the present writ petition has remained pending since 2014 and affidavits and other details on the claim for second financial upgradation have been raised in the pleadings. The respondent appears in person.”*

9. With the aforesaid liberty granted by this Court *vide* its Order dated 11.11.2016, the petitioner filed the present O.A., being O.A. No. 4208/2016, which, as noted hereinabove, had been dismissed by the learned Tribunal by the Orders Impugned herein. The learned Tribunal while passing the Impugned Orders observed that upon redeployment, the petitioner was issued an appointment letter stipulating that his appointment would be effective from the date he joined the post, he would not be entitled to past seniority and he would first be placed on probation and only upon the confirmation of satisfactory completion thereof, he would be entitled to future service benefits of the new job.

10. The learned counsel for the petitioner submits that the learned Tribunal has failed to appreciate the earlier orders passed by the learned Tribunal itself, reference of which has been given hereinabove, wherein the past service and the pay scale earned by the petitioner, including through promotion, had been protected.



11. He further submits that in terms of the DoPT O.M. No. 35034/1/97-Estt(D) dated 09.08.1999, declaring the ACP Scheme for Central Government Civilian Employees, and specifically paragraph 14 thereof, past service on being redeployed as surplus staff is to be counted for the purposes of benefits under the Scheme.

12. He submits that the respondents themselves had granted such benefits to the petitioner vide the Order dated 12.03.2001 and later by the Order dated 09.01.2007.

13. The learned counsel for the petitioner has further placed reliance on the Certificate bearing No. 21 (3) ECD-5-EC-1/2002/1532 dated 20.11.2002, wherein it is certified that the petitioner had completed qualifying service of 33 years 6 months and 9 days as from 22.02.1969 to 31.08.2002. He submits that, therefore, there is no reason why this service should not be counted for consideration of the petitioner's entitlement to the ACP benefit.

14. On the other hand, the learned counsel for the respondents submits that in terms of the appointment letter issued to the petitioner post his redeployment on being declared surplus, the petitioner was not entitled to claim any seniority for his past service. He was also placed on probation and was later absorbed only on successful completion thereof. He further submits that the Order dated 12.03.2001, relied upon by the petitioner, was subsequently withdrawn by Office Order dated 24.03.2004 and, therefore, no benefit can be granted on its basis. He further submits that the petitioner is entitled to count his service only from the date he was appointed with the CPWD, that is, since 1985.



15. The learned counsel for the respondents further submits that the reliance on the certificate dated 20.11.2002 is also misplaced, inasmuch as the said certificate was issued only for the the grant of pension and cannot form the basis for benefits under the ACP Scheme.

16. We have considered the submissions made by the learned counsels for the parties.

17. Paragraph 14 of the OM dated 09.08.1999 reads as under:

*“14. In case of an employee declared surplus in his/her organisation and in case of transfers including unilateral transfer on request, the regular service rendered by him/her in the previous organisation shall be counted along with his/her regular service in his/her new organisation for the purpose of giving financial upgradation under the Scheme ”*

18. It is, therefore, clear that in the case of an employee who is declared as surplus and is later redeployed, his past service has to be counted for the grant of the ACP benefit.

19. In fact, the past service of the petitioner has been counted while giving the benefit of the pay scales to the petitioner vide Order dated 11.09.1998, as corrected on 11.12.1998 passed by the learned Tribunal in O.A. No. 1838/1996 and Order dated 21.11.2013, passed by the learned Tribunal in O.A. No. 593/2007.

20. Merely because the respondents in the appointment letter have stated that the petitioner would not be entitled to claim his seniority from a back date, would not, in any manner, affect the entitlement of the petitioner to the grant of the second ACP in terms of the ACP Scheme announced by the Government; the same being a special

