

MA 2449/2003  
CP 394/2003 A  
MT 1158/2002.

2/12/2003

CP & MA both are disposed of  
by an oral order dictating in  
the open court by a Bench  
of Hon'ble Jt L. Swaminathan, VC(J)  
and Hon'ble Sh S.K. Nayak, M(A)

Bv

CO<sup>ms</sup> ED

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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

M.A.No.2449/2003 & C.P.No.394/2003  
IN  
O.A.No.1158/2002

Tuesday, this the 2nd day of December, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)  
Hon'ble Shri S. K. Naik, Member (A)

Shr Purushottam Dass  
s/o Shri Adil Ram  
r/o G-4, Type-V, New Police Lines  
Kingsway Camp, Delhi-9

..Petitioner

(By Advocate: Shri A.K.Behera)

Versus

Shri N.Gopala Swamy  
Home Secretary  
Ministry of Home Affairs  
North Block, New Delhi

..Respondent

(By Advocate: Shri N.S.Mehta)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, VC(J):-

We have heard both the learned counsel in MA-449/203 in OA-115/200. This MA has been filed by the original respondents in OA on 13.11.2003. It is relevant to mention that on that very date, the applicant in OA has filed CP-394/2003 for non-implementation of Tribunal's order dated 5.5.2003 by the respondents.

2. We have heard Shri N.S.Mehta, learned senior counsel for original respondents/applicants in MA. We have also heard Shri A.K.Behera, learned counsel who has vehemently contended that there is no hindrance whatsoever for the respondents to implement Tribunal's order dated 5.5.2003, as it is quite distinct from the earlier orders passed by the Tribunal dated 26.2.2003 in OA-141/2002 which deals with persons at Sl.No.308 of the seniority list and below. He has submitted that the

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applicant is at Sl.No.216 and, therefore, the earlier decision does not come in the way of the applicant, i.e., the respondents implementing the order to hold regular DPC meeting to fill up the vacant post of JAG for the year 2001-02. During the hearing, he has submitted that there are as many as three vacant posts for that period and, therefore, the respondents have clearly committed a contempt of the Tribunal's orders.

3. The above contentions of the learned counsel for petitioner has been controverted by the learned senior counsel for original respondents. He has submitted that due to the specific reasons explained in paragraph 3 (ii) of the MA, it would be necessary to finally settle the seniority position of the concerned persons, so that a regular DPC meeting in respect of the applicant could also be held. For this purpose, the original respondents/ applicants in MA have requested for further six months which, during the hearing learned senior counsel has submitted, may be modified to three months.

4. We have carefully considered the submissions of the learned counsel for parties in both MA-2449/2003 and CP-349/2003.

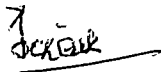
5. Taking into consideration the relevant facts and submissions of the learned counsel, as well as the pleadings, we consider it appropriate to allow MA-2449/2003, granting the original respondents/ applicants in MA further three months, from the date of receipt of a copy of this order, to fully implement the

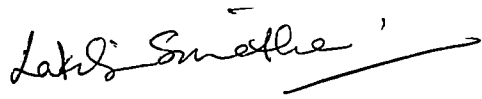
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Tribunal's order dated 5.5.2003. In this view of the matter, we are unable to come to the conclusion that the original respondents are wilfully disobeying the Tribunal's orders to warrant taking action against them under Section 17 of Administrative Tribunals Act, 1985 read with the provisions of Contempt of Courts Act, 1971.

6. Accordingly, CP-394/2003 is disposed of with liberty.

  
( S. K. Naik )  
Member (A)

  
( Lakshmi Swaminathan )  
Vice Chairman (J)

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