

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

C.P. NO. 257/2003 IN O.A. NO. 161/2002

NEW DELHI THIS...17th DAY OF MARCH 2004

HON'BLE SHRI SHANKER RAJU, MEMBER (J)
HON'BLE SHRI S.A. SINGH, MEMBER (A)

Sh. Ganga Lal Sharma S/o Late Shri Narain Prasad,
R/o F-113, Road No. 2,
Andrews Ganj, New Delhi-110049

.....Applicant

(By Shri R N Singh, Advocate)

VERSUS

1. Shri N K Ganguli, Director General,
Indian Council of Medical Research (ICMR)
Ansari Nagar, New Delhi
2. Shri J V R Prasad Rao, Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan, New Delhi

.....Respondents.

(By Shri R.V.K.Rao, Advocate)

O R D E R

BY HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Following directions have been issued in OA 161/2002

by this Tribunal on 17th January 2003:

" Accordingly, the application is allowed and the impugned order dated 24.12.2001 which has been issued on the basis of the panel prepared by the DPC which met on 23.12.2001 is quashed. Respondents are directed to hold review DPC and consider the case of the applicant for promotion to the post of AO in terms of OM dated 30.3.88 and thereafter promote him to the post of AO if found fit from the date his so called juniors were promoted to the said post. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order. No costs."

2. The aforesaid directions have been confirmed by the Hon'ble High Court Delhi in CW 5008/2003 & CM 8790/2003 dated 18.9.2003.

[Signature]

-2-

3. Respondents in compliance appointed the applicant to the post of Administrative Officer on ad hoc basis w.e.f. 24.12.2001 and fixed his pay Rs.10200/-.

4. Learned counsel for the applicant contends that though the challenge was made in OA 161/2002 against the DPC and orders issued in respect of juniors promotions on 24.12.2001, yet the applicant challenged his non promotion from the year 1997 as the juniors had been promoted in that year. Accordingly it is stated that the applicant had sought directions in the OA for the promotion from the date of his juniors which has been acceded to.

5. Having regard to the aforesaid it is stated that the respondents have not complied the directions of the Tribunal in true letter and spirit. Another grievance put forth by the applicant's counsel is that on promotion the pay had not been correctly fixed.

6. On the other hand the respondent's counsel vehemently opposed the contention of Shri Rao, counsel for the respondents and states that the respondents have fully complied with the directions as the reference in the OA is to the order passed on 24.12.2001 and the juniors i.e. respondents impleaded in the OA, the claim of the applicant from the year 1997 was not in reference as persons who had been promoted were not impleaded as parties and the promotion orders of 1997 were not challenged. Accordingly the orders issued pertain to the juniors i.e. respondents 2 to 6 who had been promoted in 2001. Accordingly the applicant had been granted promotion from the aforesaid date.

7. In so far as the pay fixation is concerned, it is stated that the applicant grievance is regarding reduction in the pay scale on ad hoc promotion from 24.12.2001 would be examined.



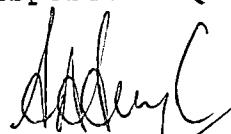
8. We have carefully considered the rival contentions of the parties and perused the material brought on record.

9. In a contempt petition a new cause of action which is contentious one arisen on implementation of the directions issued the parties cannot be dealt with in a contempt for which a separate proceeding is required as is held in the case of J S Parihar Vs R S Duggar JT 1996 (9) SC 608.

10. In our considered view though the applicant had referred to his juniors promotions in the year 1997 but the Tribunal while considering the promotion as referred to the juniors figuring in the impugned order as well as seniority raised i.e. private respondents 2 to 6.

11. The respondents have accorded the promotion to the applicant w.e.f. 24.12.2001. If any grievance as to the date of promotion is concerned the same could not be dealt with being contentious in this contempt petition for which the applicant is at liberty raise it the same in a separate proceedings.

12. In so far as the reduction of pay on ad hoc promotion is concerned the respondents shall examine this matter and if it is found that the pay has been reduced, law shall takes its own course. With the aforesaid observation CP stands disposed of and notices are discharged.


(S.A. Singh)

Member


(Shanker Raju)

Member (J)

Patwal/