

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

C.P. No.422 OF 2003
IN
O.A. No.714 OF 2002

New Delhi, this the 10th day of February, 2004

HON'BLE SHRI V.K. MAJOTRA, VICE CHAIRMAN (A)
HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Shri Anil Kumar Sharma,
S/o Shri Ram Prasad Sharma,
Head Booking Clerk, N.Rly., Bhiwani.

(By Advocate : Shri B.S. Maine)Applicant

Versus

1. Shri R.R. Jaruhar,
General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. Shri L.C. Majumbdar,
Divisional Railway Manager,
North Western Railway,
Bikaner.

. Respondents

(By Advocate : Shri R.K. Dhawan)

ORDER (ORAL)

SHRI V.K. MAJOTRA, VICE CHAIRMAN (A) :

Learned counsel heard.

2. OA 714/2002 was disposed of vide order dated 23.1.2003 with the following observations/directions to the respondents:-

"9. As against this, the learned counsel for the respondents referred to a judgment in case of Haryana and others vs. O.P. Gupta and others, 1996 7 SCC 533 where the Court applied the principle of 'no pay for no work' where the Supreme Court itself had directed the department to prepare fresh seniority list strictly in accordance with rules. But it appears that judgment of State of Andhra Pradesh vs. K.V.L. Narsimha Rao and others which is of a later time than that of State of Haryana and others (supra) which has allowed the arrears of pay to an officer who has been

denied promotion earlier. The same has been followed by Hon'ble High Court of Delhi in Union of India vs. C.N.Sahai and others, the facts of which are all on force with the present facts of the case. So following the judgment of Hon'ble High Court of Delhi in CWP No.5952/2002, we are also of the considered opinion that applicant whose seniority had been erroneously fixed and had been refixed only under the directions of this Tribunal when given promotion as a consequence of refixation of the seniority under the direction by this Tribunal. So the applicant would be entitled to difference of salary also.

10. Accordingly, we allow the OA and direct the respondents to pay the difference of wages within a period of 3 months."

3. On 19.1.2004, Shri B.S. Maine, learned counsel of the applicant had stated before us that the High Court of Delhi has refused to grant stay against Tribunal's order dated 23.1.2003. On the other hand, Shri R.L. Dhawan, learned counsel of the respondents stated that the stay had not been refused. Shri Dhawan was directed to produce a copy of High Court's order passed on 9.1.2004 in this regard.

4. Respondents have filed a copy of High Court's order dated January 9, 2004, which reads as follows:-

"W.P.(C) 84/2004

Notice accepted by Ms.Meenu Maine, Advocate for respondents. Copy of the petition be furnished to other side. Counter within four weeks. Rejoinder within two weeks.

List on 24.3.2004."

5. The High Court's orders do not reveal anything regarding the prayer for stay against the Tribunal's

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order nor that any notice or date has been fixed for consideration of such prayer. Thus, no stay has been granted against the Tribunal's order.

6. Admittedly, while Tribunal had passed orders on 23.1.2003 requiring the respondents to implement the directions of this Court within a period of three months, the respondents have not complied with the directions of this Court within the stipulated period and filed a Writ Petition before the High Court after long lapse of the stipulated period in the Tribunal's orders, i.e., 7.1.2004.

7. While we are of the considered view that the respondents should have complied with the directions of this Court within the stipulated period but have caused inordinate delay as they have not complied with the directions of the Court even till today. By way of indulgence, we ^{are} ~~allowing~~ ^{are} ~~allowing~~ a month's time from the date of receipt of a copy of this order to the respondents to comply with the directions of this Court contained in order dated 23.1.2003 subject to the outcome of the Writ Petition pending before the High Court. Although we dispose of this Contempt Petition with the above directions, if the respondents fail in this, applicant ^{- all} ~~she~~ ^{he} have right to revive the Contempt Petition.

S. Raju

(SHANKER RAJU)
MEMBER (J)

/ravi/

V.K. Majotra

(V.K. MAJOTRA)
VICE CHAIRMAN (A)

10.2.04