

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

CP No.334/2003 in
OA No.1254/2002

8

New Delhi this the 17th day of February, 2004.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)
HON'BLE MR. S.A. SINGH, MEMBER (ADMNV)

Mrs. Pushpa Pathak,
working as District Officer (C),
G.L.N.S. Complex, Delhi Gate,
New Delhi, Deptt of Social Welfare,
Govt. of N.C.T. of Delhi. -Applicant

(By Advocate Shri V.S.R. Krishna)

-Versus-

1. Mrs. Shailaja Chandra,
Chief Secretary,
Govt. of NCT of Delhi,
Indraprastha Sachivalaya,
New Delhi-110002.
2. Miss Neeru Nanda,
Secretary, Deptt. of Social Welfare,
Govt. of NCT of Delhi,
Indraprastha Sachivalaya,
I.P. Estate, New Delhi-110002. -Respondents

(By Advocate Mrs. Sumedha Sharma)

O R D E R (ORAL)

By Mr. Shanker Raju, Member (J):

At the outset, a contentious matter and a new cause of action cannot be gone into in a contempt petition as held by the Apex Court in J.S. Parihar v. Ganpat Duggar, JT 1996 (9) SC 608. Moreover, in view of K.G. Derasari & Anr. v. Union of India & Ors., 2002 (L&S) 756 in a contempt matter order cannot be reviewed and consequential relief not claimed cannot be granted.

2. Keeping in view the above ratio in mind this contempt is directed against an order passed by the respondents on 5.12.2003, wherein applicant has been accorded regular appointment to the post of Superintendent/CDPO w.e.f. 27.2.96 from 23.6.96.

3. Applicant had earlier approached this Court in OA-2346/2001, wherein, by an order dated 6.9.2001 directions have been issued to respondents to implement the recommendations of review DPC convened on 5.9.2000 for promotion to the grade of Superintendent/CDPO.

4. As the review DPC could not be held due to the fact that one of the members refused to take part in the proceedings, OA-1254/2002 filed by applicant, inter alia, prayed for implementation of recommendation of review DPC convened on 15.9.2000 with promotion and consequential benefits.

5. By an order dated 26.2.2003 on the consent of the parties to hold the DPC to consider the case of applicant in accordance with law OA was disposed of.

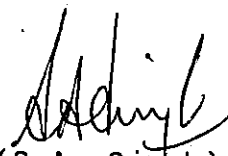
6. The review DPC held on 14.10.2003 applicant was promoted from the date of actual promotion w.e.f. 26.3.96.

7. Learned counsel for applicant Sh. V.S.R. Krishna contends that in the earlier DPC applicant was recommended for promotion from 1.8.89, as such the review DPC which has not been held in accordance with law as year-wise panel and vacancies have not been adhered to, the order passed by the respondents runs in the face of the order passed by the respondents.

8. On the other hand, respondents contend after producing the record that by issuance of the order the directions have been complied with and while referring to

the DPC as held on 15.9.2000 it is stated that it was only a proposal and in view of the Service Department consideration of ad hoc service for promotion is against the rules. As such, from the date of actual promotion the review DPC has recommended the promotion which does not suffer from any infirmity. It is stated that the directions have been complied with in its true letter and spirit.

9. On careful consideration of the rival contentions of the parties, without expressing any opinion on merits, as the directions were to hold review DPC in accordance with rules, if it is contentious, as to the factum DPC held on 15.9.2000 the matter emanates a 'fresh cause of action, which cannot be gone into in a contempt. Accordingly, reserving liberty to applicant to assail the orders in accordance with law, CP is dismissed. Notices are discharged.


(S.A. Singh)
Member (A)


(Shanker Raju)
Member (J)