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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

C.P. (Civil) NO.195/2004
M.A. NO.977/2004
in
O.A. NO.1975/2002

This the 20th day of July, 2004

HON'BLE SHRI V.K.MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

COURT ON ITS OWN MOTION

IN

Lalita Prasad,
O.T.Assistant, Northern Railway,
Central Hospital, Basant Lane,
New Delhi.

... Applicant

(By Shri R.K.Sarkar, Advocate)

-versus-

1. General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. Medical Director,
Northern Railway,
Central Hospital,
Basant Lane,
New Delhi.

... Respondents

(By Shri R.L.Dhawan, Advocate)

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, V.C.(A) :

OA No.1975/2002 was decided on 7.11.2002 with the following observations/directions to the respondents :

"3. The applicant did not permit the period referred to above to expire and at this stage, therefore, we direct that respondent No.1 will consider the representation, a copy of which is placed at Annexure A-4, and take a conscious decision within a period of one month from the date of receipt of a certified copy of the present order by passing a speaking order. The same should be conveyed to the applicant. We needless to emphasize that during the course

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of submissions, it was pointed that one post of O.T. Assistant Grade I is still lying vacant."

Thereafter respondents were granted a further time of three months for compliance of Tribunal's directions vide order dated 15.12.2003 in MA No.2049/2003 as follows :

"4. Accordingly, we dispose of the present misc. application, being MA No.2049/2003 with a direction to the respondents to decide the issue for filling up the post of O.T. Assistant Grade I within the period of three months from today in accordance with the extant rules on the subject."

Thereafter, a legal notice had been issued on behalf of the applicant on 24.3.2004 to the respondents for compliance of Tribunal's directions. Through MA No.977/2004 applicant had alleged that respondents had not taken any effective steps for implementation of directions of this Court. On 12.5.2004, MA No.977/2004 was considered and a suo motu cognizance was taken by the Court for issuing contempt notice to the respondents, which was registered as CP (Civil) No.195/2004. Respondents have submitted their reply to the contempt notice.

2. We have heard the learned counsel of applicant Shri R.K.Sarkar and Shri R.L.Dhawan, learned counsel of respondents.

3. Shri Sarkar pointed out that on 9.6.2003 General Manager, Northern Railway had conveyed to the applicant that the issue regarding considering the ECG

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Technicians and OT Assistants etc. for promotion to the newly introduced posts of OT Assistant Grade-I in scale Rs.4500-7000 is presently under active discussion with both the recognised unions of the Railways as per extant rules in regard to designing new Avenue Chart. It has been further stated that a decision in regard to applicant's promotion to the grade Rs.4500-7000 (newly introduced grade in OT Assistant cadre) will be taken soon after a final view on the Avenue Chart of promotion for OT Assistants is taken. The learned counsel stated that respondents did not take a final view in terms of their letter dated 9.6.2003 and applicant was not granted the new grade of Rs.4500-7000.

4. On the other hand, the learned counsel of respondents stated that vide Annexure R-6 dated 20.5.2004 respondents have taken a final view in the matter and conveyed the same to the applicant in response to his legal notice as follows :

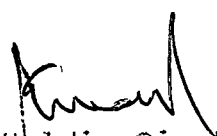
"The case for promotion to the post of OT Asstt Gr-I scale Rs.4500-7000 (RSRP) has been examined in details and it is found that as per the seniority position, S/Shri Kulbhushan, OT Asstt Gr-II scale Rs.4000-6000 (RSRP) who was promoted as ECG Tech in the same scale Rs.4000-6000 (RSRP) and Shri Tulsi Ram, OT Asstt Gr-II scale Rs.4000-6000 (RSRP) senior to you have been promoted as OT Asstt Gr-I scale Rs.4500-7000 (RSRP) against the two newly created posts. No junior to you have been promoted as the newly created post of O.T. Asstt.-I Scale Rs.4500-7000 (RSRP) as such your claim for promotion to the post of O.T.Asstt-I scale Rs.4500-7000 (RSRP) is not tenable at this stage."

The learned counsel maintained that as per Annexure R-7 which is the provisional seniority list of OT Assistants,

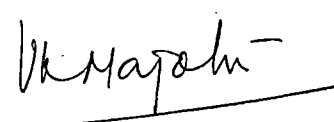
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aforestated Kulbhushan and Tulsi Ram are senior to the applicant Lalita Prasad. Although in Annexure R-5 dated 4.3.2004 which is the Avenue Chart of promotion for the post of OT Assistant Grade-I in pay scale Rs.4500-7000 the post of ECG Technician has not been indicated, decision of the competent authority has been indicated regarding approval for promotion of two ECG Technicians to OT Assistant as a one-time exemption. As granting one-time exemption to two ECG Technicians for promotion to OT Assistant Grade-I on the basis of the combined seniority (Annexure R-7) is not against any rules on the subject, it cannot be held that respondents have disobeyed the directions of this Court in a contumacious manner.

5. In the light of the above discussion, the charge of contempt against the respondents is held not established. The contempt proceedings are dropped. Notices to the respondents are discharged.


(Kuldip Singh)
Member (J)

/as/


(V. K. Majotra)
Vice-Chairman (A)

20.7.04