

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

C.P. NO.7/2006
in
O.A. NO.191/2002

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This the 21st day of February, 2006.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)
HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J)

Rajesh Yadav S/OM.S.Yadav,
R/O GF, Block No.302,
Railway Officers Residence,
Chelmsford Road,
New Delhi-110001.

... Applicant

(By Shri S.K. Gupta, Advocate)

versus

1. Shri J. Hari Narayan,
Secretary,
Ministry of Water Resources,
Shram Shakti Bhawan,
New Delhi.
2. Shri P. K. Sinha,
Secretary,
Department of Personnel & Training,
Ministry of Personnel, Public
Grievances and Pension,
North Block, New Delhi-110001.


... Respondents

(By Shri B.S.Jain, Advocate)

ORDER (ORAL)

Hon'ble Shri V.K.Majotra, Vice-Chairman (A):

By virtue of this application applicant has alleged wilful disobedience by respondents of Tribunal's directions contained in orders dated 6.1.2003 in OA No.191/2002 and those in orders dated 6.7.2003 in RA No.203/2003 in OA No.191/2002. In OA No.191/2003 the Tribunal had issued the following interim order on 23.1.2002:

 "In the meanwhile, by way of an interim measure, the respondents are directed to allow the applicant consideration on a

provisional basis by the DPC for grant of Senior Time Scale for Central Water Engineering (Gr. 'A') Service in their next meeting being held in January, 2002 or thereafter."

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OA No.191/2002 was disposed of vide orders dated 6.1.2003 as follows:

"22. As the statutory rules are not in conformity with the OM dated 25.3.1996, cannot be applied to deprive the applicant his legitimate right of consideration to higher scale. Order dated 22.1.2001 is quashed and set-aside. Accordingly, Rule 6 of CWES Service Rules, 1995 issued vide notification dated 2.11.1995 is required to be amended. Respondents are directed to suitably amend the rule in conformity with the OM issued by the DOPT dated 25.3.1996 and thereafter reconsider the claim of the applicant for promotion to Senior Time Scale (STS) and to open the sealed cover as resorted to by an order dt. 23.1.2002 by this Court and be given effect to within six months from the date of receipt of a copy of this order."

RA No.203/2003 in OA No.191/2002 was allowed vide orders dated 6.7.2004 as follows:

"...In this view of the matter, RA is allowed to the extent that the sealed cover be opened in accordance with law with an observation that the disciplinary proceedings shall be expedited and preferably within three months would be taken to pass a final order to facilitate the opening of the sealed cover. No costs."

2. The learned counsel of applicant contended that in pursuance of Tribunal's directions respondents were required to open the sealed cover relating to the DPC for the year 2001-02. Instead respondents opened the sealed cover relating to the DPC for the year 2002-03 and promoted applicant vide order dated 7.12.2005 (Annexure R-3) w.e.f. 25.2.2003 instead of from 2002. Respondents' orders dated 7.12.2005 as such relate to DPC held in 2003 and not the earlier DPC held in January, 2002. If the sealed cover relating to the DPC held in January, 2002 had been opened, applicant would have been promoted with effect from the earlier date in 2002.

3. On the other hand, the learned counsel of respondents stated that respondents had opened the sealed covers relating to vacancies for the year 2001-02 as also for those for the year 2002-03. The sealed covers were opened on

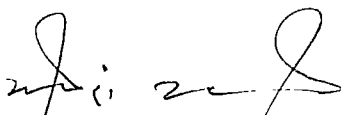
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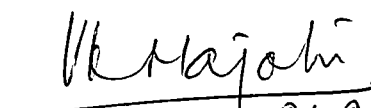
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15.2.2005. Applicant was not found eligible for promotion on the basis of recruitment rules dated 18.11.1995, on the basis of DPC for the year 2001-02. Thus he could not be promoted from 2002. However, on the basis of the next DPC held for the year 2002-03, on opening the sealed cover, applicant was found eligible and promoted vide Annexure R-3 dated 7.12.2005 w.e.f. 25.2.2003, i.e., the date from which his immediate junior Shri Ashish Banerjee assumed charge in the Senior Time Scale. The learned counsel maintained that respondents have complied with the directions of this Court and not committed disobedience of any directions.

4. In view of the explanation rendered on behalf of respondents to the effect that applicant had not been found eligible for promotion on the basis of the earlier DPC held for the year 2001-02, we are of the considered view that respondents have not committed any contempt of Tribunal's directions.

5. In result, these proceedings are dropped and notices to respondents are discharged, however, with liberty to applicant to challenge respondents' orders dated 7.12.2005 (Annexure R-3) as per law, in case he is aggrieved.


(Mukesh Kumar Gupta)
Member (J)


(V. K. Majotra)
Vice-Chairman (A) 21.2.06

/as/