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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH : NEW DELHI

O.A. NO. 3311/2001

NEW DELHI THIS..5<sup>th</sup>..DAY OF JULY, 2004

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

R.P.Azad S/o Shri Chandu Lal  
Aged about:47 years  
R/o F.452, Mahipal Pur, New Delhi.  
And employed as Carpet Training Officer (formerly as JFO)  
in the office of the Development Commissioner (Handicraft)  
Ministry of Textiles, Govt. of India, West Block No.7  
Rama Krishna Puram, New Delhi-110066.

.....Applicant

(By Sh. B.B.Raval, advocate)

VERSUS

1. Union of India,  
Through the Secretary, Ministry of Textiles,  
Govt. of India, Udyog Bhawan, New Delhi-110001.
2. The Development Commissioner (H),  
Ministry of Textiles, Block No.7, *LW 44*  
Rama Krishna Puram, Bhawan, New Delhi-110066.
3. Shri S.K.Jana, .  
Deputy Director (Admn. & Estt.),  
C/o Respondent NO.2.
4. Shri V.V.S.Suryanarayana,  
Deputy Director (Legal Cell)  
C/o Respondent NO.2.

.....Respondents

(By advocate: Shri K.R.Sachdeva)

ORDER

BY HON'BLE SHRI S.A. SINGH, MEMBER (A)

MA-2718/2002 The applicant has filed MA-2718/2002  
praying for a direction to initiate Criminal Proceedings  
against the respondents for filing false submissions in  
Judicial Proceedings to mislead this Tribunal. The  
respondents vehemently denied these insinuations and have  
pleaded that the applicant is resorting to misuse of the  
Judicial Proceedings by filing official  
notings/correspondance unauthorisedly.



2. We have gone through the documents on record and we find that they are official notings and correspondence of the respondents. For ensuring free and frank discussion in official decision making, it is essential that confidentiality of notings and other internal correspondence is maintained. We cannot support the practice of placing unauthorisedly obtained notings and other internal documents on record. As such no cognizance will be taken of the document so placed on record.

OA-3311/2003

3. The applicant is seeking quashing of the impugned order on the ground that vide the impugned order, respondents have sent his case for regularisation to UPSC, 20 years after he was deemed to have been regularised in the pay scale of Rs.550-800, just because he was upgraded to Group 'B' non-Gazetted pay scale of Rs. 550-800 w.e.f. 1.3.78. Regularisation in this pay scale needed concurrence of the UPSC.

4. The backdrop of the case can be gauged from the impugned order reproduced below:-

"In compliance of Hon'ble CAT, Principal Bench, New Delhi, interim directions dated 13.3.2001 in Contempt Petition No.143 in OA NO.2921 of 1997, the undersigned has seen the file and gone through the relevant records. The records reveal that Shri R.P.Azad, Carpet Training Officer and other similarly situated officers were deemed to be regular on the post of the CTO in the scale of



Rs.550-20-650-25-800 (Pre-Revised) with effect from 1.3.78 to 15.5.97.

Based on the acceptance of these officers, and by operation of this Office Order No.15/87/93-Admn.II dated 16.5.97, the status of Shri R.P.Azad and other similarly situated officers became adhoc in the scale of Rs.550-25-750-EB-30-900 (Pre-Revised) in Group 'B' Non-Gazetted. This higher scale was sanctioned to these officers purely on personal basis subject to regularization by UPSC as per rules, since their regularisation in the said scale was not within the competence of the appointing authority.

The case of regularization has been referred to UPSC on 16.2.2000 and approval of the said authority is still awaited.

The orders for regularization as requested by the applicants will be issued on receipt of the concurrence/approval of the UPSC."

5. The circumstances which have led to the applicant needing to be regularised in the scale of Rs.500-900 after being regular in the pay scale of Rs.500-800 can be conveniently delineated. In the year 1969, the respondents launched a scheme for training in the Carpet weaving which was expanded to five divisions. The staffing was initially made in the year 1975-77 where about 90 incumbents were appointed as Junior Field Officer (JFO) in two areas. 70 in Carpet Scheme and 20 in Marketing Scheme on adhoc basis. The applicant was JFO in the Carpet Scheme. In 1977, the respondents decided to change over from project scheme to a regular scheme and introduced a cadre of Carpet Training Officer (CTO) in the pay scale of Rs.550-800.

6. The respondents' vide order dated 15.2.78 redesignated the post of JFO in Carpet Scheme to CTO making it clear that after 1.3.78 the post of JFO would not be in existence and the applicant as well as other

similarly placed JFOs were given the option to either accept the redesignated post of CTO in the lower pay scale or resign. Admittedly, the applicant did not resign and accepted the redesignated post of CTO in the pay scale of Rs.550-800.

7. The issue was agitated by the applicant before the Allahabad Bench of this Tribunal. The pay scale of 45 CTOs who were recruited as JFO in Carpet Scheme prior to 1.3.78 in the scale of Rs.550-900 was restored, however, the designation of CTO was retained. In compliance of this order, the respondents passed an order dated 16.5.97 restoring the pay scale purely on personal basis as follows:

"In partial modification of this office order No.20/16(10)/7B-AD.II dated 12.5.78, sanction of President is hereby accorded to the restoration of the scale of pay of Rs.550-900 in Group 'B' w.e.f. 1.3.78, purely on personal basis, to those officers only who were holding the posts of JFOs in Carpet Scheme prior to 1.3.1978 and whose posts were redesignated as C.T.O. in the scale of pay Rs.550-800 vide order No.20/16(10)/78-AD.II dated 15.2.1978. All other conditions mentioned in the order No.20/19(10)/78-AD.II dated 15.2.78 will remain unchanged. The status of these C.T.Os will be adhoc and subject to regularisation by UPSC as per rules."

8. The applicant filed CP No.143/2000 in OA 2921/97 for disobedience of the Tribunal's order dated 8.5.2001 by not treating them as regular. During the hearing of the contempt petition, learned counsel for the respondents placed on record a copy of the respondents order dated 12/18.04.2001 stating that though the

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applicant and others similarly situated persons were deemed to be regular on the post of CTOs in the pay scale of Rs.550-800 w.e.f. 1.3.78 to 16.5.97, they, consequent to the respondents' order dated 16.5.97 revising pay scale from Rs.550-900 w.e.f. 01.3.78 were placed them into Group 'B' (non-Gazetted) status. Hence, their regularisation in the said scale had to be cleared by the UPSC's for which the respondents made a reference to UPSC on 16.2.2000 and the approval of the said authority was awaited. This issue of regularisation by the UPSC was taken up in the contempt petition and it was argued by the applicant that merely because the pay scale of the applicant was raised does not imply that regularisation was necessary once again. The Tribunal held that this issue could not be adjudicated in the contempt petition as it was a fresh cause of action and could be challenged separately. It is on this basis the applicant has filed the present OA.

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9. The respondents have basically repeated the argument that the applicant, who was holding regular post of CTO in the pay scale of Rs.550-800 in compliance of the judgement of the Tribunal's order upgraded to the scale of Rs.550-900. This is a pay scale in the category of Group 'B' Non-Gazetted and for regularisation in the scale concurrence of UPSC is necessary. This concurrence has been now received. A copy of the letter dated 3.6.2002 of the UPSC which was placed on record by the respondents through MA-2718/2002. However, the name of the applicant has been kept in the sealed cover as the applicant was not cleared from the vigilance angle. The

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sealed cover will be opened after completion of the disciplinary proceedings.

10. After hearing both parties and going through the documents placed on record we find that the short question before this Tribunal is whether it is necessary to seek regularisation of the applicant afresh because of his placement in the higher scale of Rs.550-900 in compliance with the Tribunal's directions. We find that the Tribunal's directions are contained in OA 2921/97. The relevant portion of the order is as under:-

"4. However, what is disquieting is the fact applicant as well as others similarly situated are holding their posts on adhoc basis for over 23 years. Respondents should take prompt steps to consider regularising applicant and other similarly situated against available regular vacancies of CTOs in accordance with rules and instructions and consider their cases for promotion subject to availability of vacancies in the promotional channel in accordance with rules and instructions as well as judicial pronouncements. These directions should be implemented as expeditiously as possible and preferably within three months from the date of receipt of a copy of this order."

10. The direction clearly shows that the regularisation has to be made in accordance with the rules and instructions. The applicant has placed strong reliance on the case of Shushil Kumar Sehgal & Ors. Vs. UOI & Ors. in OA 1258/PB/95 wherein petitioners have been regularised without seeking the approval of the UPSC and thereafter were promoted to the post of AD(H) and DD(H). The applicant pleads that he, therefore, be regularised without seeking approval of the UPSC. The respondents have contested the claim of the applicant stating that he cannot be treated at par with Shri Sushil

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U Kumar Sehgal and Ors. as they were recruited in the marketing scheme and this cadre was redesignated as HPO and their regularisation was subsequent to Tribunal's order. Promotions were in compliance of judgement delivered in the S.K.Sehgal (supra) by the Supreme Court in their order dated 13.9.94. The promotional channel of the applicant differs from that of Shri S.K.Sehgal and Others as they belong to different cadres and hence the case of the applicant is distinguishable. They have also pleaded that this case is barred by principle of res judicata, as the same issue in earlier OAs has been adjudicated upon.

U 12. The record clearly shows that the applicant was recruited in the Carpet Scheme as JFO and subsequently he has been regularised as CTO in pay scale of Rs.550-800. His case for regularisation in higher scale of Rs. 550-900 has also been considered in terms of the directions contained in Tribunal's order in OA 2921/1997. The order of the Tribunal directed that the regularisation was to be done as per rules and instructions. As the applicant was placed in the (non-Gatetted) Group 'B' pay scale of Rs.550-900 reference to UPSC for regularisation was necessary, as per rules. It is unfortunate that the regularisation of the applicant has been placed in a sealed cover because of a vigilance case. In the circumstances, we find no merit in the OA and the same is dismissed. However, we would like to add that the respondents should take action to complete the disciplinary proceedings in six months as it

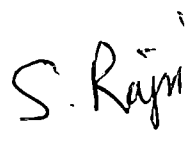
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has been pending since 1996-97. This is subject to the condition that the applicant cooperates in early finalisation of the proceedings.

  
(S.A. Singh)  
Member(A)

  
(Shanker Raju)  
Member (J)

/kdr/