

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

C.P.No.288/2002

in

O.A.No.2295/2001

Dated 01.10.2002

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman(J)  
Hon'ble Shri Govindan S. Tampi, Member(A)

Sh. R.P.Aggarwal  
s/o Late Sh. C.L.Aggarwal  
aged about 56 years  
r/o F-127, Prashant Vihar  
Rohini  
Delhi. .. Petitioner

(By Advocate: Sh. Rajeev Sharma)

Vs.

1. Mrs. Shailja Chandra  
Chief Secretary to the  
Govt. of NCT of Delhi  
Players Building, I.T.O.  
New Delhi.
2. Mrs. Sindhu Shree Khullar  
Commissioner  
Transport Department  
5/9, Underhill Road  
Rajpur Road  
Delhi. .. Respondents

(By Advocate: Sh. Ajesh Luthra)

O R D E R (Oral)

Hon'ble Smt. Lakshmi Swaminathan, VC(J):

Heard both the learned counsel for  
the parties in CP 288/2002.

2. The above Contempt Petition has been  
filed by the petitioner, in which he has, inter  
alia, submitted that there is a wilful breach  
of the undertaking or assurance given in <sup>the reply</sup> reply  
filed by the respondents, on the basis of which

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the Tribunal had issued the order dated 19.3.2002 in OA 2295/2001. It has been further submitted that the respondents are wilfully, deliberately and intentionally disobeying the directions of the Tribunal so that six months period lapses to bring some other candidate within the zone of consideration and they can also ask for fresh vigilance report with regard to the petitioner. Hence, the Contempt Petition, in which it has been prayed that further action should be taken against the alleged contemnors under Section 12 of the Contempt of Courts Act, 1971 for non-implementation of the aforesaid order of the Tribunal.

3. We have seen the reply filed by the respondents and heard Sh. Ajesh Luthra, learned counsel for the respondents. Admittedly, the vigilance report referred to in the aforesaid order of the Tribunal has been submitted on 7.3.2002 and received in the Department on 18.3.2002, which was prior to Tribunal's order, stating therein that a complaint case is pending against the officer.

4. Learned counsel for respondents has drawn our attention further to the averments made in Paragraphs 6 and 7 of their reply affidavit. He has submitted that the ACRs of the petitioners for the concerned period, i.e., 1996-2000 have been completed by 18.6.2002. He has, however,

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submitted that as a result of the recommendations of the Fifth Central Pay Commission, which has been accepted by the Government and the merger of the scales of pay of Rs.3000-5000 and Rs.3000-4500, certain administrative difficulties had been faced by them, vis-a-vis, recruitment rules and constitution of the relevant DPC. After consultations with the concerned departments, i.e., Services Department, they have been advised to amend the recruitment rules, so that they will be in a position to implement the aforesaid order of the Tribunal dated 19.3.2002.

5. Learned counsel for respondents, however, <sup>has</sup> stated that respondents are trying to find a solution to implement the Tribunal's order, including consideration as to whether the applicant could be promoted on ad hoc basis, in the meantime, till a regular DPC is held after amendment of the relevant recruitment rules.

6. At this stage, Shri Rajeev Sharma, <sup>has</sup> submitted that all the above exercise of the respondents is merely an eye-wash. He has relied on Government of India's instructions issued by the DOPT vide OM dated 17.11.1986, which he says, are fully applicable to the facts and circumstances of the present case. He <sup>has</sup> further submitted that there is no reason for the respondents not to comply with these directions, instead of <sup>just</sup> ~~long~~ drag on the matter. He has also

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submitted that amendment of the recruitment rules is merely to delay the promotion of the applicant. Copy of the OM dated 17.11.1986 has also been given to the learned counsel for respondents and a copy of the same is placed on record.

7. After considering the facts and circumstances of the case, and the action taken by the respondents with regard to the manner in which they have tried to implement the Tribunal's order dated 19.3.2002 we are unable to agree with the contentions of the learned counsel for the petitioner that there is any contumacious or wilful disobedience or even trying to flout the Tribunal's order.

8. In the circumstances, we dismiss the CP 288/2002, hoping that the respondents will further implement the Tribunal's order as expeditiously as possible in the light of what has been submitted by the learned counsel for the respondents himself. In any case, after taking a proper decision in the matter, they should implement the Tribunal's order 19.3.2002 within two months from the date of receipt of a copy of this order.

9. C.P. 288/2002 is dismissed with the above observations. Notices issued to the alleged contemnors are discharged.

(GOVINDAN S. TAMPI)  
MEMBER (A)

/rao/

(SMT. LAKSHMI SWAMINATHAN)  
VICE-CHAIRMAN (J)