

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

C.P.NO.22/2003 IN O.A.NO.446/2001

Wednesday, this the 21st May, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri Govindan S. Tampi, Member (A)

1. Shri Basudev Anil
Vice Principal
Govt. Co-Educational Sec. School
Neb Sarai, New Delhi
2. Shri Nand Kishore
Vice Principal
Govt. Boys Senior Sec. School
D Block Janakpuri, New Delhi
3. Shri Tej Singh Chauhan
Principal, Govt. Boys Senior Sec. School No.1
Punjabi Bagh, New Delhi

Applicants

(By Advocate: Dr. M.P.Raju)

Versus

1. Shri S.C.Tripathi
Secretary, M/o Human Resource
Development, Deptt. of Education
Shastri Bhawan, New Delhi
2. Ms. Geeta Sagar
Principal Secretary (Education)
Govt. of NCT of Delhi
Old Secretariat, Delhi
3. Shri Rajendra Kumar
Director of Education
Govt. of NCT of Delhi
Old Secretariat, Delhi

..Respondents
(By Advocate: Shri Mohit Madan for Smt. Avnish Ahlawat)

O R D E R (ORAL)

Shri Govindan S. Tampi:

CP-22/2003 has been filed by the applicants in OA-446/2001 alleging non-implementation of the Tribunal's directions of 10.1.2002 issued while disposing of the OA. The applicants have also filed MA-1039/2003 under Rule 24 of the C.A.T. (Procedure) Rules, 1987 to prevent what they describe as the abuse of the process and to secure ends of justice.

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2. Heard Dr. M.P.Raju, learned counsel for the applicants/petitioners and Shri Mohit Madan, learned proxy counsel for the respondents.

3. Shri Basudeo Anil and two others, working as Vice-Principals in Secondary School under Govt. of NCT of Delhi, had approached this Tribunal in OA-446/2001, seeking the modification in the seniority list published on 22.1.2001 for the period October, 1977 to July, 1995 which came in the way of their promotion from December, 1983. The same was disposed of by the Tribunal vide its order dated 10.1.2002 with the following directions:-

"4. Heard the learned counsel for the rival contesting parties and perused the record. It is admitted by the respondents that Shri M.P.S.Dangi who also belonged to the SC and was also appointed along with applicant No.1 was given ad hoc promotion to the post of Vice Principal in accordance with OM dated 30.4.1983. It was because of OM dated 30.9.1983 issued by the Ministry of Home Affairs, Department of Personnel and A.D., the applicants were denied ad hoc promotion to the posts of Vice Principal. Since the OM dated 30.9.1983 has been set aside by the Hon'ble Supreme Court, it becomes non est and the instructions issued by the Department of Personnel in OM dated 30.4.1983 will hold the field. It could, therefore, be proper and in the interest of justice if respondents are directed to consider the claim of the applicant for ad hoc promotion to the posts of Vice Principal in accordance with the provisions of OM dated 30.4.1983. Accordingly the respondents directed to consider the claim of the applicants for promotion to the posts of Vice Principal on ad hoc basis with effect from 21.12.1983 in accordance with the provisions of OM dated 30.4.1983 and also further consider them for regular promotion in accordance with the rules, instructions and law laid down by the Hon'ble Supreme Court in this regard within a period of six months from the date of receipt of a copy of this order.

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5. The OA is disposed of in the aforesated terms with no order as to costs."

4. RA-205/2002 filed by the respondents in the OA was dismissed by the Tribunal on 4.12.2002 whereafter on 20.12.2002, the original applicants came up in this contempt petition, alleging that the respondents had done nothing to comply with the Tribunal's order. In their detailed counter affidavit filed, the respondents have indicated that they had duly complied with the directions. They also filed the copy of the order No.F.31 (53)/2001/Edn.Part.I/684-686 dated 18.3.2003 issued by the General Administration Department (Education Department), indicating that "the names of the applicants have been considered by the competent authority for ad hoc promotion to the post of Vice Principal w.e.f. 21.12.1983 in accordance with OM dated 30.7.1983 and rejected".

5. By their MA-1039/2003 filed on 5.5.2003 and their rejoinder filed on 7.5.2003, the applicants/ petitioners seek to assail the action of the respondents as they feel that the respondents have not complied with the orders of the Tribunal but have tried to circumvent the order. This plea was forcefully propounded by Dr. Raju and opposed with equal vehemence by Shri Mohit Madan.

6. On consideration of the issue, we find that the respondents have, though with some delay, taken action in pursuance of the Tribunal's order dated 10.1.2002. The Tribunal's order was only to "consider the claim of the applicant for ad hoc promotion to the posts of Vice Principal in accordance with the provisions of OM dated

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30.4.1983". We find that the same has been done. But in such consideration they had found the applicants not fit for promotion and accordingly rejected their pleas. Obviously, the applicants are not happy with the decision and would, therefore, like the Tribunal to examine the order and modify it to their request. We cannot agree. It has been clearly laid down by the Hon'ble Supreme Court in the cases of Shri Sudhakar Prasad vs. Govt. of Andhra Pradesh (JT 2001 (1) SC 204), Shri S.C. Poddar vs. Dhani Ram & Ors (SCALE 2001 (8) 452) and J.S. Parihar vs. Ganpat Duggar & Ors. (JT 1996 (9) SC 608) that in a contempt matter the Courts/Tribunal cannot widen the scope of the issue and should confine themselves to the order, disobedience of which is alleged. Seen in that backdrop, we are convinced that the respondents have not committed any wilful or contumacious disobedience of the Tribunal's order, so as to invite contempt proceedings against them in terms of Section 17 of Administrative Tribunals Act, 1985 read with the provisions of the Contempt of Courts Act. The applicants, if they are aggrieved with the order, can, if so advised and permitted in law, initiate proceedings on the original side.

7. With the above observations, CP & MA are disposed of. Notices are discharged.

(Govindan S. Tampi)
Member (A)

Surinder

VS Ag
(V.S. Aggarwal)
Chairman