

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

CP 59/2002
in
OA 1411/2001

(4)

New Delhi, this the 3rd day of May, 2002

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

K.K.Chakraborty
S/o Late D.C.Chakraborty
R/o 78, Evershine Apartments
D-Block, Vikaspuri
New Delhi - 110 018.

...Applicant

(By Advocate Shri S.K.Sawhney)

V E R S U S

UNION OF INDIA : THROUGH

1. Shri Prabir Sengupta
Secretary
Department of Supplies
Ministry of Commerce
Nirman Bhawan
New Delhi - 110 001.

2. Ms. Neena Ranjan
Director General (DGS&I)
Jeevan Tara Building
5, Parliament Street
New Delhi - 110 001.

...Respondents

(By Advocate Shri N.S.Mehta)

O R D E R (ORAL)

BY SMT. LAKSHMI SWAMINATHAN, VC (J)

We have heard Shri S.K.Sawhney, learned counsel for the applicant and Shri N.S.Mehta, learned Sr. counsel for the respondents.

2. Shri S.K.Sawhney, learned counsel has very vehemently submitted that while issuing the Office Memorandum dated 11-4-2002, the respondents have deliberately and contumaciously disobeyed the Tribunal's order dated 23-8-2001 in OA 1411/2001.

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- 2 -

3. On the other hand, Shri N.S.Mehta, learned Senior counsel has submitted that this is not the position because in accordance with the directions given by the Tribunal and in particular para 4 of the order, the respondents have taken necessary action for reviewing their actions and promotion orders. In paragraph 6 of the OM dated 11-4-2002, they have stated that in accordance with Rules and Instructions on the subject, the petitioner has been deemed to have been promoted to the post of Director w.e.f. 11-2-2000 ahead of his immediately junior Shri G.V.Rajan who has been promoted from 1-7-2001. Further, they have clarified that Officers who are seniors to Shri Chakraborty/Petitioner, and earlier superseded by Shri G.V.Rajan on application of reservation order, have been considered for promotion and given the slots which became available on 11-2-2000 or before that. Shri S.K.Sawhney, learned counsel does not dispute the fact that the petitioner is junior to one Shri S.R.Chandrasekharan who the respondents also state is undisputedly senior to the petitioner by seven slots i.e. the position against which Shri G.V.Rajan was promoted earlier, which action has since been reviewed as per the directions of the Tribunal.

4. Shri S.K.Sawhney, learned counsel has relied on the observations of the Hon'ble Supreme Court in T.R.Dhananjaya Vs. J.Vasudevan (JT 1995 (6) SC 234). In this case, the Hon'ble Supreme Court has held that when the claim, inter se, had been adjudicated and the claim of the petitioner had become final, it is no longer open to the Govt. to go behind

19/

the orders and truncate the effect of the orders passed by the Court and, hence, the respondent ^{was held} 6 guilty of committing contempt and sentenced to undergo simple imprisonment for one month. We have read and re-read the directions of the Tribunal in the order dated 23-8-2001 very carefully together with the averments of the respondents, in the manner they have implemented the order, as also seen in OM dated 11-4-2002. Shri N.S.Mehta, learned Sr. counsel has submitted that in compliance with the directions of the Tribunal in the case of I.S.Garg Vs. UOI & Ors. (OA 1631/96), not OA 1639/96 as mentioned in para 4 of the aforesaid order, the respondents have reviewed the case, in accordance with the Rules and Instructions and the earlier promotion wrongly granted to Shri G.V.Rajan, based on reservation which has since been reviewed and corrected. This position is not disputed by Shri S.K.Sawhney, learned counsel, who, however, insists that the promotion earlier accorded to Shri G.V.Rajan w.e.f. 6-7-95 is the operative date for considering the promotion of the applicant to the post of Director.

5. Taking into account the facts and circumstances of the case, we are unable to agree with the contentions of Shri S.K.Sawhney that there has been any contumacious or wilful disobedience of the Tribunal's aforesaid order dated 23-8-2001, as the same has to be implemented by the respondents in accordance with relevant provisions of Law, Rules and Instructions, which they have done.

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6. In this view of the matter, we do not find any justification to continue with CP 59/2002. However, Shri S.K.Sawhney, learned counsel presses that actual pensionary benefits due to the petitioner may be ordered to be given to the petitioner. In the circumstances of the case, CP 59/2002 is dismissed. Notices to the alleged contemnors are discharged. File to be consigned to the Record Room.

7. However, in view of what has been submitted by the learned counsel for the petitioner, if the pensionary benefits which are due to the petitioner have not been paid so far by the respondents, they shall take necessary action to pay the same to the petitioner within two weeks from the date of receipt of a copy of this order.

(GOVINDAN S.TAMPI)
MEMBER (A)

/vksn/

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