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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

C.P.NO.611/2001 IN O.A.NO.850/99

New Delhi, this the 10th day of April, 2003

Hon'ble Shri Govindan S. Tampi, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

Dr. Sahadeva Singh
s/o Shri Shital Singh
R/O 36-Jia Sarai
Haus Khas, New Delhi-16

..Applicant

(By Advocate: Shri Suhail Dutt)

Versus

1. Shri Mohan Kanda
~~Secretary~~
Govt. of India,
Ministry of Agriculture
Krishi Bhawan
New Delhi-1

2. Dr. Mangla Rai
Director General
Indian Council of Agricultural Research
Krishi Bhawan
New Delhi-1

..Respondents

(By Advocate: Shri D.S.Mahendru for R-1 and Shri V.K. Rao for R-2)

O R D E R

Shri Govindan S. Tampi:

Heard Shri Suhail Dutt for the applicant/petitioner and Shri D.S.Mahendru (Union of India) as well as Shri V.K. Rao (ICAR) for the respondents.

2. Facts are not under dispute. Dr. Sahadev Singh, the applicant appointed in National Research Centre for Weed Science, a unit of Indian Council of Agriculture Research (ICAR) as Scientist on 11.5.1989 in the scale of pay of Rs.2200-4000/- was looking forward to elevation on completion of five years to the next grade of Rs.3000-5000/- w.e.f. 11.5.1994 but DPC which met on

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12.11.1995 did not grant him senior scale. In the meanwhile, on 20.5.1995, he came over to the Ministry of Agriculture in the same scale of Rs.2200-4000/- . Following the adoption of 5th Central Pay Commission recommendations, the scale of pay of Rs.300-500/- was replaced Rs.10000-15200/- and the applicant was found fit to be placed in the said scale w.e.f. 11.12.1995. Review DPC which met in pursuance of his representation, found him "fit" to be placed in the high scale w.e.f. 11.12.1994. Respondents not having given effect to the above, the applicant filed OA-850/99, which was disposed of on 3.5.2000, directing the respondents to grant the benefit w.e.f. 11.12.1994, with all consequential benefits. On 18.11.2000, the applicant's employer fell in line and passed the necessary orders. However, the Ministry of Agriculture, his present employer, passed a further order on 4.12.2001, whereunder his pay was fixed at Rs.3000/- w.e.f. 22.5.1995 in the pay scale of Rs.2200-4000/- and at Rs.9100/- in the revised scale of Rs.800-13500/- w.e.f. 1.1.1996. Aggrieved by the above, the applicant filed CP-611/2001 alleging non-compliance of the Tribunal's directions by the Ministry, when the respondents were given on 12.12.2001 as a matter of indulgence, one more month's time to comply with the order. CWP-1668/2002 filed by the respondents was rejected by Hon'ble Delhi High Court on 22.1.2002, whereafter a supplementary affidavit of compliance was filed by the respondents, which was nothing different from the earlier affidavit. Still the Tribunal, by its order dated 28.1.2002, held that no contempt was made out and dismissed the CP. CWP-1668/2001 was filed by the

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petitioner, challenging the fresh order of the Tribunal. Hon'ble High Court after perusing all the papers on 9.8.2002 held that the Tribunal's order dismissing the CP was wrong, as the respondents had not complied with the orders passed by the Tribunal on 3.5.2000 and 12.12.2000, which had enjoined that the applicant be placed in the pre-revised scale of Rs.3000-5000/- w.e.f. 11.12.1994 and thereafter in the scale of Rs.10000-15200/- instead of which the applicant was placed on Rs.3000/- in the scale of Rs.2200-4000/- w.e.f. 22.5.1995 and Rs.9100/- in the scale of Rs.8000-13500/- w.e.f. 1.1.1996. Accordingly, the Hon'ble High Court set aside the Tribunal's order dated 28.1.2002 and revived the CP-611/2001.

3. On the matter being remanded to the Tribunal, the respondents were desired to file a fresh affidavit, which they did on 4.10.2002. They also enclosed the copies of the order No.3-1/97-PP-II dated 30.9.2002 from the Ministry of Agriculture and Order No.138/2002 dated 1.10.2002 in File No.7-17/94-Admn.I from the Directorate of Plant Protection Quarantine & Storage, communicating the fixation of his pay at Rs.3000/- w.e.f. 22.5.1995 in the pay scale of Rs.3000-5000/- and Rs.10000-15200/- w.e.f. 1.1.1996, subject to the decision in SLP No.19230/2002 filed by the Deptt. CP has now become infructuous and should be dismissed, plead the respondents through their learned counsel Shri D.S.Mahendru.

4. On the other hand, in his reply to the affidavit, the applicant/petitioner states that the fresh affidavit also does not satisfy him. According to him, the respondents had not remitted the arrears of pay and allowances to the applicant from 22.5.1995 to 11.12.1998, as they were expected to do in terms of the Tribunal's order dated 3.5.2001 and 12.12.2001. As the applicant had retained his lien in the respondents' Organisation (ICAR) till his permanent absorption, i.e., 5.10.1999, he was entitled to have promotion in the next higher scale w.e.f. 11.12.1998 in his parent Organization, but this had not been granted to him. He had fulfilled all the conditions for promotions to the grade of Rs.12000-18300/- . Therefore, the respondents cannot take the plea that they had complied ^{wjk} with the directions given by the respondents. They were in fact expected to release to him arrears of pay and allowances, keeping in mind his entitlement for promotion in the next higher scale w.e.f. 11.12.1998.

5. Respondents (Ministry of Agriculture) contest the above. They point out that the applicant, who joined the Govt. of India as a direct recruit Assistant Director on 22.5.1995, completed his probation on 21.5.1996 vide order dated 30.6.1997 and was given substantive appointment w.e.f. 22.5.1996, vide order dated 5.10.1999. Therefore, his lien in ICAR, his parent Organisation stood automatically terminated from that date, which was clarified by ICAR on 22.4.2002, stating that the applicant did not have any lien with them after 17.5.1995. In terms of the directions of the Hon'ble High Court dated 9.8.2002, the applicant had been given

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fixation of pay in the higher scale w.e.f. 22.5.1995 and been paid Rs.1,01,778/- being arrears of pay and allowances from 22.5.1995 to 31.10.2002. Reliefs prayed by him in OA-850/99 having been fully granted and his having been given not only the higher scale and arrears in the said scale, nothing further remained to be done. The applicant's plea that he was entitled to further promotion w.e.f. 11.12.1998, in terms of ICAR's Career Advancement Scheme dated 19.7.2000 and 11.12.1998 was incorrect, as long before the said scheme became operative, he had been permanently absorbed in Ministry of Agriculture. His further promotion and pay will be governed by the rules in the present Organisation. None junior to him as Assistant Director in the Ministry has been given any promotion above him. He has, therefore, no case, according to the respondents.

6. The above view is adopted by the ICAR, the applicant's earlier employer. They have pointed out that once the lien of the applicant in ICAR is cut with effect from 1996, he cannot seek any benefit from them thereafter. The applicant having become an employee of the Ministry of Agriculture w.e.f. in 1996 cannot be treated as the employee of ICAR and granted benefits attached to the posts in ICAR.

7. The applicant/petitioner on the other hand had stated that as he continued his lien in ICAR till 1999, when he was substantively appointed by the Ministry, he was entitled to the benefits of the Scheme and the respondents could not have denied it. Till such benefits are fully granted, the contempt subsists and the

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respondents have to make good the omission, Shri Dutt. He also pointed out that the applicant after his joined the Ministry did not get certain benefits attached to the post in the Ministry, like foreign deputation, etc., his lien was still with ICAR, and, therefore, it was only just and fair that he was granted the full benefits in the parent Organisation, including promotion to the higher grade in his parent Organisation till the formal order of regularisation was issued. Any decision contrary to the above was unacceptable, according to the applicant/petitioner. He also relied upon certain judicial pronouncements to further his plea that lien of a person in any Organisation can be cut off only with the consent of the concerned individual and not otherwise.

8. We have carefully considered the matter. By their order dated 3.5.2000 the Tribunal had disposed of OA-850/99 filed by the applicant with directions to the respondents "to promote the applicant w.e.f. 11.12.1994, giving higher scale, with all consequential benefits". While the applicant's previous employer - National Research Centre for Weed Science, Jabalpur, a unit under ICAR, placed him in the higher scale of Rs.3000-5000/- (corresponding to pre-revised scale of Rs.10000-15200/-) w.e.f. 11.12.1994, but the Ministry of Agriculture (Dept. of Agriculture & Cooperation) refixed his pay at Rs.3000/- in the scale of Rs.2200-4000/- w.e.f. 22.5.1995 and at Rs.9100/- in the scale of Rs.8000-13500/- w.e.f. 1.1.1996. Contempt Petition filed by the applicant was dismissed by the Tribunal by their order dated 28.1.2002, holding that no contumacious or wilful disobedience of the Tribunal had taken place.

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CWP-1668/2002 filed by the applicant/petitioner has been allowed by the Hon'ble Delhi High Court, who held that the Tribunal's finding that the respondents had not committed the contempt was wrong and, therefore, set it aside and revived the Contempt Petition. Following the above, Ministry of Agriculture has decided the re-fixation of the applicant's pay on 1.10.2002 and thereafter on 6.11.2002. They had also paid him arrears amounting to Rs. 1,01,778/- Respondents, therefore, claim that they had fully complied with the directions of the Tribunal. However, the applicant states that this was not sufficient and the expression 'consequential benefits' would include his further promotion to the next higher scale of Rs.12000-18300/- w.e.f. 12.12.1998, as his final absorption in the Ministry took place only on 5.10.1999.

9. Perusal of the order dated 9.8.2002 passed by the Hon'ble Delhi High Court makes it clear that the Hon'ble High Court ~~applicant~~ has accepted that ICAR had fully complied with the directions of the Tribunal, but Govt. of India, Ministry of Agriculture had not complied with the order of the Tribunal. Hon'ble High Court's order setting aside the order of the Tribunal dated 28.1.2002, dismissing the CP, was on that basis. What, therefore, remained to be done by the respondents - Ministry of Agriculture - was to pass the necessary orders, which they had done by order No.30-1/97-PP-II dated 20.9.2002 and No.7-17/94-E.U.(Vol.I) dated 6.11.2002. The applicant had also been given the arrears of pay and allowances, worked out accordingly. Nothing further, in our view, remains to be done by the respondents.

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10. Power of contempt had been conferred on the Tribunals and Courts to ensure that the orders passed by them, which have attained finality, are fully implemented and thus the majesty of law is upheld. It is a matter between the Court/Tribunal and the party who has to give effect to the order. Hon'ble Supreme Court has held in the case of Shri Sudhakar Prasad vs. Govt. of Andhra Pradesh (JT 2001 (1) SC 204) and Shri S.C. Poddar vs. Dhani Ram & Ors (SCALE 2001 (8) 452) that the Courts/Tribunal should always tread carefully on matters of contempt. Similarly, the Hon'ble Apex Court has also directed in the case of S. Parikh vs. Ganpat Dugar and Ors. (JT 1996 (9) SC 608) that contempt proceedings shall not be permitted to be utilised for extending the scope of reliefs to be claimed. That is exactly what the applicant is seeking to do. Hon'ble Delhi High Court has held ^{that} the contempt in this CP subsisted as long as the applicant's pay was not fixed in the scales of Rs.3000-5000/- and in Rs.10000-15200/-. Once the same has been done first by the ICAR and thereafter by the Ministry of Agriculture, nothing survives. Request by the applicant that he should have been granted next higher scale on 11.12.1999 in ICAR, keeping in mind the fact that he was finally absorbed in the Ministry only in 1999 (though w.e.f. 22.5.1996) is a totally new plea and the same cannot be entertained while considering this CP. The applicant cannot expect the Tribunal to extend the scope of the contempt action to give him any further relief, than what has already been granted by the Tribunal earlier, the non-compliance of which he seeks to

assail. If at all he feels that he has a case and that some more relief was called for, he should take action on the original side, in accordance with law, if so advised.

11. The applicant has referred to a number of judgments, but in view of the fact that what the applicant is seeking to extend the scope of contempt petition which is specifically prohibited by the Hon'ble Apex Court's decision in J.S. Parihar's case (supra), the decisions relied upon by him are of no assistance.

12. We are thus fully convinced that the respondents - both ICAR and the Ministry of Agriculture - have fully given effect to the directions of the Tribunal of 3.5.2000 in OA-850/99, though after the decision of the Hon'ble Delhi High Court dated 9.8.2002. No case, therefore, exists for any action on contempt. CP is, therefore, dismissed. Notices to the alleged contemnors are discharged and the file is directed to be consigned to the records.

S. Raju
(Shanker Raju)
Member (J)

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(Govindan S. Tampli)
Member (A)