

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

C.P. No. 150/2006

in

OA 1168/1994

New Delhi this the 14th day of May, 2006

Hon'ble Mr. L.K. Joshi, Vice Chairman ( A )  
Hon'ble Mr. Mukesh Kumar Gupta, Member ( J )

1. I.P. Awasthi,  
S/o Late Shri Lekh Raj Awasthi,  
R/o 1099, Sector 17,  
Faridabad - 101 001
2. M.D. Nagpal,  
S/o Late Shri Gulab Rai,  
R/o 1/ 158, NIG,  
Faridabad - 101 001.
3. S. C. Arora,  
S/o Late Janki Ram,  
R/o 1017, Type IV, N.H. 4,  
Faridabad.
4. S.P. Sharma,  
S/o Shri Naval Kishore Sharma,  
1005, Type IV, NH 4,  
Faridabad.
5. M.S. Chauhan,  
S/o Shri B.S. Chauhan,  
R/o 1031, Type IV, NH-4,  
Faridabad. .... Petitioners

( Applicant No. 1 present in person )

VERSUS

1. Shri Hari Narain,  
Secretary,  
Ministry of Water Resources,  
Shram Shakti Bhawan,  
New Delhi.
2. Shri Salim Romani,  
Chairman,  
Central Ground Water Board,  
N.H. 4, Faridabad.

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3. Shri S.S. Saini,  
Under Secretary,  
Ministry of Water Resources,  
Shram Shakti Bhawan,  
New Delhi.

4. Shri S.K. Sinha,  
Director,  
Central Ground Water Board,  
N.H. 4, Faridabad. ... Respondents

( By Advocate Shri Rajinder Nischal )

**O R D E R**

Hon'ble Mr. Muniresh Kumar Gupta, Member (J):

We have re-heard the matter in pursuance to directions issued by Hon'ble High Court of Delhi vide order dated 21.11.2007 whereby respondents were required to explain as to why there was delay of 15 months in taking action on the judgment of Hon'ble Supreme Court.

2. The brief backgrounds of this case are as follows:

The petitioners herein instituted OA No. 1168/1994. The basic grievance had been with the ratio prescribed for different feeder posts. They had also challenged the vires of revised Recruitment Rules for the post of Assistant Executive Engineer, Central Ground Water Board, notified on 23.10.1992. After detailed discussion, the Full Bench of this Tribunal vide order dated 16.2.2000 quashed and set aside the aforesaid Notification so far as it prescribed a ratio of 20 % to the Assistant Engineers and 80 % to the Drillers/ Drillers in-charge for promotion to the

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post of Assistant Executive Engineers being arbitrary, unreasonable and discriminatory against the Assistant Engineers. Liberty was granted to respondents to re-consider the issue of any amendments to the RRs for the said post and prescribe percentage. Since there appeared to be an ambiguity as to which rules shall apply to the vacancies existing prior to the fresh amendment in RRs, further order dated 01.02.2001 was issued clarifying that original RRs would stand restored w.e.f. 23.10.1992 and shall remain effective till the date of fresh amendment in the RRs i.e., 04.08.2000. Consequently the vacancies that arose since 1994 till 4.8.2000 shall be filled up on the basis of integrated seniority RRs and respondents were directed to organize necessary review DPCs within time limit prescribed therein. Writ Petition (Civil) 5460/2001 filed by UCI had been dismissed by Hon'ble Delhi High Court on 5.2.2002, finding no merit. Similarly Civil Appeal No. 8568/2002 filed by the UCI was also dismissed vide order dated 16.2.2006 noticing that "since neither party is aggrieved by the law declared in the impugned judgment". Thereafter, respondents issued order dated 21.2.2006 as well as order dated 5.4.2006 promoting certain officials.

On an earlier occasion this Tribunal dismissed the aforesaid Contempt Petition vide order dated 9.5.2006 holding that there was no willful contumacious and deliberate disobedience on the part of respondents particularly when the respondents had issued aforesaid promotion orders.

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3. Being aggrieved Mr. M.S. Chauhan one of the petitioners herein, namely, petitioner No. 5 approached Hon'ble Delhi High Court challenging the aforesaid order by filing Writ Petition (C) 423/2007. The said Writ Petition has been disposed of vide order dated 21.12.2005, with the following observations:

"16.  
21.11.2007

Present : Mr. Sudershan Rajan, Adv. for the petitioner.

Mr. Rajinder Nischal, Adv. for the respondent.

WP (C) 423/2007.

Learned counsel for the respondent submits that review DPC held its meeting on 20.11.2007 and on the basis of recommendations of the said DPC further action would be taken without delay. Learned counsel for the petitioner, however, submits that the judgment of the Tribunal is dated 1.2.2001 and the Supreme Court also dismissed the appeal of the UOI vide orders dated 16.2.2006. His submission is that though the respondents have now purged the contempt by ensuring that DPC is held, the delay which has occurred was intentional and contemptuous and, therefore, the impugned order passed by the Tribunal in the contempt petition needs to be set aside. From the reply affidavit filed by the respondents it is clear that the request was sent to UPSC for convening of review DPC only on 9.5.2007 whereas the order of the Supreme Court as mentioned above, is dated 16.2.2006. Therefore, the respondent shall have to explain as to why there was a delay of 15 months in taking action on the judgment of the Supreme Court. The Tribunal in its impugned judgment has not addressed this aspect at all while coming to the conclusion that there was no contemptuous, willful disobedience. We accordingly set aside the impugned order dated 9.5.2006 passed by the Tribunal in CP No. 150/2006 and remit the case back to the Tribunal for fresh consideration with focus on the aforesaid aspect, after seeking explanation from the respondent.

Parties shall appear before Tribunal on 3.1.2008".

( emphasis supplied )

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In the compliance of the aforesaid order and directions, respondents have filed their affidavit and tendered unconditional apology for delay in implementing the directions of this Tribunal stating that delay, if any, was inadvertent & due to the involvement/multiplicity of authorities in the decision making process. Vide para 8 of the said affidavit, respondents provided details and events as well as steps taken by them w.e.f. 16.2.2006 to 09.05.2007, when ultimately the proposal was sent to UPSC for holding review DPC, namely, which reads as under:

16.2.2006 The Hon'ble Supreme Court dismissed the Special Leave Petition (Civil) No. 8568/2002.

April 2006 The petitioner filed the Contempt Petition before this Hon'ble Tribunal for implementing their Order dated 16.02.2000.

9.5.2006 This Hon'ble Tribunal dismissed the Contempt Petition.

October, 2006 The petitioner filed Writ Petition (Civil) No. 423/2007 before the Hon'ble High Court of Delhi, against the dismissal of their Contempt petition.

11.1.2007 A review draft proposal was sent by the Nodal Ministry to the higher authorities for holding a Review DPC.

02.04.2007 The Ministry of Water Resources again examined the matter and after having consultation with the DOP&T reiterated their advice that the review DPC proposals for each year be prepared by the Board on the basis of guidelines given in para 6 above.

26.4.2007 The Board prepared the draft proposal for convening the review DPC and sent the same to the respondent's Ministry.

09.05.2007 The respondent's Ministry sent the complete proposal to the Union Public Service Commission for holding the Review DPC.

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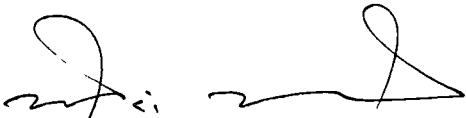
4. Shri Rajinder Nischal, learned counsel for respondents contended that there had been no willful delay or defiance in convening the review DPC as they had to search out the old records of about 14 years from 1992 to 2006 for collecting requisite informations to complete all required formalities, which took some time. Almost all the supervisory officers/ dealing hands who dealt with establishment cases of the Engineering staff/ Officers in CGWB were retired on superannuation or transferred to other places. Therefore, it became very difficult to trace out the old records and work out all the requisite information. They had tried their best to implement the directions and delay was caused due to involvement of multiplicity of authorities in the decision making process.

5. Applicant J.P. Awasthi who appeared in person contended that respondents though have issued orders dated 12.12.2007 promoting various officers from earlier years, but vide Para 2 of the said order denied them arrears of pay and allowances as their pay has been fixed notionally.

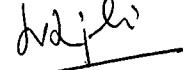
We heard applicant and learned counsel for respondents & perused the material placed on record. As noticed hereinabove, it is not disputed that at present the Tribunal's directions issued on 16.2.2000, clarified vide order dated 1.02.2001, upheld by Hon'ble Delhi High Court and Supreme Court on 5.2.2002 and 16.2.2006 respectively have been fully implemented. The applicants basic grievance urged before us is that they have been denied the arrears of pay and allowances despite their promotion on retrospective

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basis. In terms of the aforesaid directions of the Hon'ble Delhi High Court, we are required to examine the case from a limited angle only i.e. the reasons for the delay in convening the review DPC. On examination of the facts as noticed hereinabove, we are of the view that it is no doubt true that there had been almost 15 months delay in forwarding the complete proposal to UPSC for holding review DPCs but the fact remains that there is some justification in the respondents stand since they had to locate the old records of 14 years before the proposal could be sent for convening review DPCs & the matter was finalized in consultation with DOP&ST, some time was consumed in this process. As the respondents have now promoted the officials vide order dated 12.12.2007, and also tendered unconditional apology in the delay, we find some justification for the delay. We hope & trust that in future respondents would be more vigilant in taking prompt action. Accordingly, Contempt Petition is closed and notices are discharged.



( Mukesh Kumar Gupta )  
Member (J)



( L.K. Joshi )  
Vice Chairman (A)

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