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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

CP NO. 671/2001 IN
OA NO. 2387/95

This the 7th day of May, 2002

HON'BLE SH. V.K. MAJOTRA, MEMBER (A)
HON'BLE SH. KULDIP SINGH, MEMBER (J)

1. Jagmohan Singh
S/o S. Tirath Singh,
R/o C-51, Fateh Nagar, P.O. Tilak Nagar,
New Delhi-110018.
2. Ms. Urmila Devi D/o Shri
Kunj Behari Lal Working as
OS-II General Branch, N. Rly. Baroda House,
New Delhi.
(By Advocate: Sh. H.P. Chakravarty with
Sh. T.S. Pandey)

Versus

Shri R.K. Singh
General Manager,
Northern Railway,
Baroda House,
New Delhi.
(By Advocate: Sh. E.X. Joseph alongwith
Sh. R.L. Dhawan)


O R D E R

By Sh. Kuldip Singh, Member (J)

By this order we will decide a CP filed by the petitioners as they have alleged that the respondents are in wilful disobedience in the directions given by this court in OA-2387/95 and 2345/95. The facts in brief as alleged by the applicant are that two OAs mentioned above were decided by a common order dated 25.10.99. The following directions were given:-

"In the result the OA is allowed. The respondents are directed to consider the applicants for promotion to the post of Office Superintendent Grade-I on the basis of their revised seniority in terms of Ajit Singh Vs. The State of Punjab and Ors. (Supra) with all consequential benefits.

The applicants herein were initially appointed as Goods Clerk in the scale of Rs.975-1540 were successively promoted on selection basis as



Senior Goods Clerk scale Rs.1200-2040, Head Goods Clerk scale Rs.1400-2660 which is a selection post.

The case of the applicants is that the prescribed reservation has already been achieved in the cadre of Goods Supervisor and therefore the reservation yardstick is no longer applicable. Their second contention is that their inter-se seniority vis-a-vis such of the reserved category Chief Goods Clerk will obtain accelerated promotion with this rank regularised in terms of the judgment of the Supreme Court in Virpal Singh Chahan (Supra). In other words the claim of the applicant is that they should be allowed to regain their inter-se seniority vis-a-vis reserved category employees as determined at the time of their recruitment to the initial appointment as Goods Clerk and that they have therefore a prior claim for consideration to the post of Goods Supervisor.

For the reasons advanced above, while dealing with OA No.2387/95, the relief sought for by the applicants in this OA can also be granted. Accordingly, this OA is also allowed. There will be no order as to costs."

2. The facts as alleged in the OAs were that the applicants belong to General category and are working in the post of Office Superintendent Grade-II where they had been promoted w.e.f. 11.3.95. Resp.2,3 & 4 who were junior to the applicants in the feeder cadre had obtained accelerated promotion before the applicants were promoted to Grade-II. Resp.2,3 & 4 were promoted to Office Superintendent Grade-II w.e.f. 28.10.87, 2.5.88 and 19.8.85 respectively.

3. Applicants claim that in view of the terms of the judgment given by Hon'ble Supreme Court in case of R.K.Sabharwal vs. State of Punjab and Vir Pal Singh Chauhan vs. Union of India and Ajit Singh Juneja and others vs. State of Punjab. They were entitled to regain seniority and Resp.2,3 & 4 cannot claim promotion to a General category vacancy in Grade-I on the strength of accelerated promotion to Grade-II. These OAs were allowed as stated above in para 1. The applicant's claim that these judgments have not been implemented. So the respondents pleaded that the judgment given by this court had

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been stayed by Hon'ble Delhi High Court in CWP No.6923/99 and while admitting the petition the Hon'ble Delhi High Court has held that till the next date of hearing status quo as on today shall be maintained. However, this order was subsequently modified by another order dated 22.9.2000 which is as follows:

"Interim order will continue. However, it will not debar the respondents to proceed in accordance with law in terms of the judgment of the Supreme Court reported as Ajit Singh and ors. vs. The State of Punjab and ors. JT 1999 (7) SC 153.

...Dasti."

4. Applicants claim that despite the stay order having been modified by the Hon'ble Delhi High Court which specifically stated that the interim order will not debar the respondents to proceed in terms of the judgment of the Hon'ble Supreme Court still no action had been taken by the respondents towards the compliance of the judgment and as such the respondents are in contempt of this Court.

5. Opposing the same, learned counsel for the respondents submitted that since there is a stay order issued by the Hon'ble Delhi High Court the respondents have to maintain status quo and they cannot proceed further and as such there is no contempt of court. Respondents submitted that they are awaiting the final outcome of the writ petition and they shall proceed. Respondents also plead that after the judgment dated 16.9.99 was passed by the Hon'ble Supreme Court in case of Ajit Singh-II no promotion order as Office Superintendent-I of the staff belonging to SC/ST was made in General branch in which the petitioners were working. Respondents further plead that they have understood by the interim order dated 22.9.2000

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that there is no bar in proceeding with law for making promotion as Office Superintendent-I on the principle of seniority laid down in case of Ajit Singh-II in case vacancies are available for making such promotions. But it is submitted that no vacancy in OS-I has occurred after 25.10.99. so no promotions were made. It is further submitted that in case vacancies are available for making promotion then they would be made strictly in accordance with principles of seniority as laid down in case of Ajit Singh-II. Rejoinder to this reply was filed and the applicants pleaded that in view of the modified order passed by the Hon'ble Delhi High Court on 22.9.2000 the respondents were under obligation to have restructured the seniority of SC/ST vis-a-vis General category candidates and would have issued the promotion order in accordance with the roster issued by the Government of India dated 2.7.97 in terms of R.K.Sabharwal's case as well as V.P.S.Chauhan's case.

6. We have heard the learned counsel for the parties and have gone through the record. We have also gone through the copy of the writ petition filed before Delhi High Court challenging an order passed by this Tribunal, the disobedience of which is being claimed by the petitioners in the contempt petition. On the basis of this writ petition the stay order dated 22.11.99 was passed which was later on modified vide order dated 22.9.2000.

7. From these orders of the Hon'ble Delhi High Court and the stay order passed by the High Court it is quite clear that the respondents are required to maintain status quo with respect to the service conditions of the petitioners in CWP No.6923/99 though the later order dated 22.9.2000 states that it will not debar the respondents to proceed in accordance with law in

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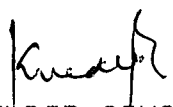
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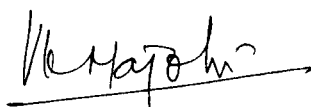
terms of the judgment of the Supreme Court. But this order also says that the interim order will continue that is the order which was passed on 22.11.99. According to these orders the petitioners in the CWP No.6923/99 have been given protection and status quo in respect of their position has to be maintained though the order does not debar the respondents to proceed in accordance with law in terms of the judgment of the Supreme Court but that does not permit at all the respondents to disturb the position of the applicants.

8. Thus, we are of the considered opinion that since the respondents are under legal obligation to maintain status quo as directed by the Hon'ble Delhi High Court and without disturbing their position and allowed the respondents to proceed in accordance with law in terms of the judgment of the Hon'ble Supreme Court. In the circumstances of these orders, we find that contempt petition is not maintainable because no wilful disobedience can be attributed to respondents for not complying with the directions given by this Tribunal as modified by the interim order passed by the Hon'ble Delhi High Court. Contempt proceedings have to be dropped.

9. Accordingly, we drop the contempt proceedings and direct the respondents that they shall proceed in terms of the orders passed by the Hon'ble Delhi High Court on 22.9.2000.


(KULDIP SINGH)
Member (J)

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(V.K. MAJOTRA)
Member (A)