

**Central Administrative Tribunal
Principal Bench**

CP No.737/2011

in

OA No.461/1995

New Delhi, this the ²⁷ day of September, 2011

**Hon'ble Mr. G. George Paracken, Member (J)
Hon'ble Dr. Ramesh Chandra Panda, Member (A)**

Amit Shankar
S/o Late Vidya Shankar,
R/o H.No.86, Moti Bagh-II,
New Delhi.

... Applicant

(Applicant in person.)

Versus

1. Shri Shashi Kant Sharma,
Defence Secretary,
No.101, South Block,
New Delhi-110011.
2. Shri Upamanyu Chatterjee,
Joint Secretary (Trg.) & CAO,
No.155, 'E' Block,
DHQ PO,
New Delhi-110011.

... Respondents

: O R D E R :

Dr. Ramesh Chandra Panda, Member (A) :

This Contempt Petition has been filed by the applicant for non compliance of the orders passed by this Tribunal on 01.10.1999 in OA No.461/1995 and upheld by the Hon'ble High Court in Writ Petition(C) No.850/2000 decided on 14.7.2011. The order of this Tribunal reads as follows :-

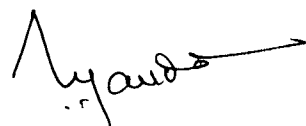
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"6. In the circumstances, we direct the respondents to consider the case of the applicant for promotion to the post of Senior Translator w.e.f. 20.12.94 with all consequential benefits. This exercise shall be completed within a period of four months. The O.A. is accordingly allowed. No cost."

2. Challenging the above order of the Tribunal, the Union of India moved WP (C) No.850/2000 in the Hon'ble High Court of Delhi which was decided on 14.7.2011 in following terms :-

"8. The aforesaid arguments as a proposition of law appears to be attractive, but has no legs to stand when viewed in the light of the facts of this case. It is to be borne in mind that the post of Senior Translator is not a selection post and the DPC is not required to compare the merits of the candidates. The promotion to the said post is to be made on the basis of seniority and only a candidate who is treated as 'unfit' is to be discarded. It is matter of record that for undertaking this exercise, the DPC looked into the ACR alone. No doubt in the ACR for the year 1991-92, there were certain remarks to the effect that the respondent No.1 had been coming to the office late. However, the fact remains that he improved immediately thereafter shaking off this habit and became punctual in coming to the office. It was specifically recorded in his service book. We are in agreement with the view taken by the Tribunal that this could no longer be held against him. For this reason, therefore, he could not be treated as 'unfit'. However, even otherwise, if one goes by the ACRs which are recorded for five years including the year 1991-1992, he has been given the gradation 'good' for two years and 'average' for three years and on this ground also, the respondent No.1 could not be treated as 'unfit'.

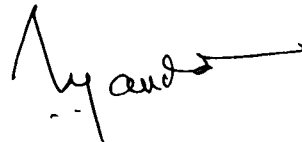
9. We, thus, find no merit in this writ petition, which is accordingly dismissed.



10. The directions given by the Tribunal to consider the case of the petitioner for promotion to the post of Senior Translator with effect from 20.12.1994, the said direction shall be carried out by the petitioners. With the dismissal of the writ petition, necessary directions be made and orders be passed within four weeks from today in this behalf."

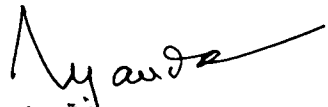
3. Pursuant to the above directions, the applicant submitted a letter to the Defence Secretary in his letter dated 25.07.2011 (page-18). Inspite of the said representation, it is alleged in this CP that the respondents have not complied with the directions of this Tribunal confirmed by the Hon'ble High Court of Delhi.

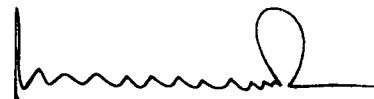
4. When the case came up on 23.9.2011 during admission stage, we heard the applicant in person. We find from him that the time prescribed by the Hon'ble High Court in the above order is for a period of four weeks from the date of issue of the judgment i.e. w.e.f. 14.7.2011. The said period has already been exhausted on 10.8.2011. In the interest of justice, the respondents are to be granted some more time to implement the above directions. Thus, without issuing any notice on the CP to contemnors and protecting the right of the applicant, we directed the respondents to comply with the orders of this Tribunal dated 01.10.1999 upheld by the Hon'ble High Court of Delhi on 14.7.2011 as



expeditiously as possible and preferably within a period of four weeks from the date of receipt of a copy of this order.

5. In terms of our above directions, the CP is disposed of with the liberty granted to the applicant to revive the same if the occasion may so arise. No costs.


(Dr. Ramesh Chandra Panda)
Member (A)


(G. George Parackal)
Member (J)

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