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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

C.P. No.149/2000
in
O.A. No.1825/1995

New Delhi, this the 29 th day of May 2001.

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

Smt. Chander Prabha~(expired)
Through LRs -

Shri Dhruv Kumar
Shri Mugdh Kumar
Shri Naval Kumar

...Petitioner

(By Advocate : Shri S.C. Luthra)

Versus

1. Shri S. Malaichamy, Ex Secretary,
Social Welfare to be served through
The Chief Secretary, Govt. of NCT
of Delhi-5.
2. Shri Gopal Dixit,
Secretary,
Social Welfare,
Govt. of NCT of Delhi,
2, Battery Lane, Rajpur Road,
Delhi.

...Respondent.

(By Advocate: Shri Aditya Madan)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).

We have carefully considered the submissions made by Shri S.C. Luthra, learned counsel for the petitioner and Shri Aditya Madan, learned counsel for the respondents in CP 149/2000.

2. Both the learned counsel have relied on the judgement of the Tribunal in V.B. Pandey Vs. Lt. Governor, Delhi & Ors. (OA 760/99) in which the present petitioner, Smt. Chander Prabha (deceased) was Respondent No.7. While CP 149/2000 was pending, she died in November, 2000.

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3. The main contention of the learned counsel for the petitioner is that the respondents in OA 1825/1995 have not done anything for implementation of the order dated 28.10.1999. Learned counsel for the respondents has submitted that in the application filed by the applicant (OA 1825/95), the same seniority list, namely, the list dated 30.2.1995 (sic (13.2.1995)), referred to in the Tribunal's order dated 28.10.1999, had been stayed by interim order dated 7.4.1999 in OA 760/99. Learned counsel for the petitioner has relied on the judgement of the Tribunal dated 25.8.2000 in OA 760/99. He has also contended that perhaps the interim order passed on 7.4.1999 had not been continued till the final disposal of O.A.760/99. We have verified from the records in OA 760/99 that this contention of the learned counsel for the petitioner is incorrect as the interim order has been continued till the final disposal of the O.A. on 25.8.2000.

4. In furtherance to our order dated 17.5.2001, the respondents have submitted the relevant documents.

5. Learned counsel for the petitioner has submitted that in the Tribunal's order dated 28.10.1999, it has been held, with reference to the letter dated 16.7.1998 written by the Joint Director (Admn) to the UPSC/Respondent No.2, that the case of the applicant has now been considered and the review DPC has already been directed to be held to consider the case. He has very vehemently submitted that this has ^{not} been done and hence, the CP. The respondents in their reply have submitted that the Tribunal had been misled by the petitioner. Shri Aditya Madan, learned counsel, has submitted that in the letter dated 16.7.1998 written to the UPSC, what has been

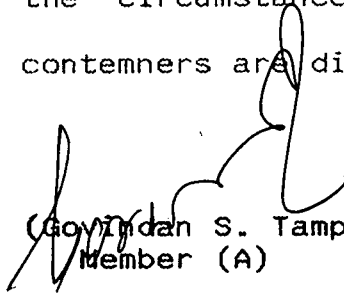
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stated is that "...the case of Smt. Chander Prabha was considered/assessed against the vacancy for the year 1990-91 along with other officers. In view of the position above, you are requested to consider holding a review DPC, if possible, to consider her case along with other officers w.e.f. dates the vacancies actually accrued". He has also submitted that the letters placed at pages 17 and 18 of the reply also show that they have considered the case for implementation of the Tribunal's order and a decision has been taken that the review DPC, as proposed, cannot be held as the same was not in consonance with the guidelines on the subject. This decision had also been conveyed to the concerned officer, as noted in the letter dated 16.6.2000. In the self contained note annexed to the letter, the position has been clarified, in which it has been stated that though the vacancies were pertaining to the previous years, yet the DPC can be convened only on the basis of notified Recruitment Rules. They have also noted that the DPC held on 16.5.1995 considered the vacancies for the years 1990-91 to 1994-95 and prepared year-wise panels. They have also admitted in the "Brief Note" in reply to UPSC's letter dated 14.10.1999, that "this department wrote to UPSC for holding the review DPC to reconsider the case of Smt. Chander Prabha, which was due to improper examination of the case on the part of this department" They have also submitted that the UPSC vide its communication dated 9.12.1999 has also called upon the respondents to clarify the position as to how they have made the aforesaid premature submission to the Tribunal which has led to the order dated 28.10.1999. Learned counsel for the respondents has drawn our attention to the letter dated 1.6.2000 issued to the petitioner with reference to the Tribunal's order dated 28.10.1999, explaining the position as

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to how the case for review DPC does not fall within the ambit of the guidelines of the review DPC. He has, therefore, submitted that in the circumstances of the case, the respondents have complied with the Tribunal's order dated 28.10.1999 by fully considering the case and communicating the letter dated 1.6.2000.//6. In the peculiar facts and circumstances of the case, the relevant facts and orders of the Tribunal, referred to above in OA 760/99, and the letter dated 16.7.1998 which has been referred to and relied on in the Tribunal's order dated 28.10.1999 in OA 1825/95, we do not consider that this is a fit case in which further action should be taken in contempt against respondents 1 and 2. In the circumstances, CP is dismissed. Notices to the alleged contemners are discharged.


(Govindan S. Tampi)
Member (A)
"SRD"


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)