

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

CP No. 143/2000

IN

DA No. 2921 of 1997

New Delhi: Dated this the 8th day of MAY, 2001

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Rampat Azad,
S/o Shri Chandu Lal,
R/o F-252, Mahipal Pur,
New Delhi.

Employed as

Junior Field Officer in the
Office of the Devl. Commissioner (H),
Ministry of Textiles,
Govt. of India,
West Block No. 7, R.K. Puram,
New Delhi - 66.

...Applicant.

(By Advocate: Shri B. B. Raval)

Versus

1. Shri Anil Kumar,
Secretary,
Ministry of Textiles,
Govt. of India,
Udyog Bhawan,
New Delhi-1.
2. Smt. Tinoo Joshi,
Development Commissioner (H),
Ministry of Textiles,
West Block No. 7,
R.K. Puram,
New Delhi-66.

.....Respondents.

(By Advocate: Shri S. M. Arif).

ORDER

S. R. Adige, VC(A):

Heard both sides on CP No. 143/2000 alleging
contumacious disobedience of the Tribunal's order
dated 2.12.99 in DA No. 2921/97.

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2. In that OA, applicant had impugned respondents' order dated 16.5.97 and had sought

- i) issuance of seniority list JFO (Rs. 550-900) as on 28.2.78 keeping in view the order dated 16.5.97.
- ii) granting of proforma promotion, seniority and other consequential benefits from the date of promotion of his junior as per seniority as on 28.2.78.
- iii) production of roster of cadre of Asstt. Director maintained w.e.f. 20.7.74 and
- iv) filling backlog in reserved quota by considering applicant and others from retrospective date as per roster.

3. That OA was disposed of by order dated 2.12.99. In that order it was noticed that as the posts of JFO's which applicants were holding on adhoc basis during 1976-78 was redesignated as Carpet Training Officer w.e.f. 1.3.78 by order dated 15.2.78, and applicant upon being given the option to resign or continue on the redesignated post continued on the resigned post and the challenge to the redesignated post had been dismissed by CAT Allahabad Bench by order dated 20.8.92 in TA No. 138/97 and connected case, and the post of JFO no longer being in existence, the question of issuing a seniority list of JFO as on 28.2.78 for the purpose of making promotion on the basis of any such list did not arise.

4. However, as no order regularising applicant and others similarly situated as CTOs was brought to the Bench's notice, and on the basis of the materials available during hearing, it appeared to the Bench that

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(Handwritten initials)

applicant and others similarly situated were continuing as CTOs on adhoc basis for over 23 years (ever since 1978) the Tribunal called upon respondents to take prompt steps to regularise them against regular vacancies of CTOs in accordance with rules and instructions and consider their cases for promotion subject to availability of vacancies in the promotional channel in accordance with rules, instructions and judicial pronouncements. These instructions were directed to be implemented as expeditiously as possible, and preferably within 3 months from the date of receipt of a copy of this order.

5. Respondents in their reply to an MA arising out of CP No.143/2000 which they had filed on 10.10.2000 had stated that applicant was a regular CTO in the cadre of CTO scale and was also declared regular CTO in the pay scale of Rs.550-800 vide order dated 8.3.96 (Annexure-R1 to MA). That order states that applicant was confirmed on the post of CTO w.e.f. 4.12.95.

6. Meanwhile during course of hearing of CP our attention has been invited to Memo below to respondents' order dated 15.2.78 which reads as follows:

"All the posts of JFOs in the existing carpet centres of the Board will be discontinued w.e.f. 1.3.78 and in their place the post of CTOs are sanctioned and the appointments of adhoc JFOs as CTOs will be on regular basis, although those will be purely temporary. As in para 2 above, there will be no reduction in the present emoluments of the JFOs on their redesignation as CTOs."

7. As the date from which applicant and others similarly situated were regularised as CTOs, was not clear, during the course of hearing on 13.3.3001

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respondents' counsel had assured us that respondents will issue an appropriate order specifically furnishing the date from which the applicants and others similarly situated were regularised as CTOs and the position regarding promotion of applicant and others on the higher post will also be clarified.

8. Respondents have now filed an additional affidavit on 19.4.2001 enclosing a copy of their order dated 12/18.4.2001. In the said order it is stated that applicant and others similarly situated were deemed to be regular on the post of CTOs in the pay scale of Rs.550-800 from 1.3.78 to 15.5.97. However, consequent to issue of respondents' order dated 16.5.97 revising the status of applicant and others similarly situated upwards from Rs.550-800 to Rs.550-900 w.e.f. 1.3.78 which brought them into Group 'B' (non-gazetted grade), their regularisation in the said scale required UPSC's approval for which a reference was made to UPSC on 16.2.2000 and the approval of the said authority was awaited. The order for regularisation as CTOs in the scale of Rs.550-900 would be issued on receipt of concurrence from UPSC. In the aforesaid affidavit dated 19.4.2001 it has been stated that the averment made in the earlier affidavit that applicant was regularised from the date of his initial appointment was a bonafide mistake.

9. We have heard both sides.

10. Applicant's counsel Shri Raval has strongly contended that this is a deliberate attempt by respondents to delay applicant and others similarly situated's consideration for promotion to higher post, and by delaying implementing the Tribunal's order dated 2.12.99

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respondents have committed contempt of court. He has also pointed out that applicant can be regularised only once and merely because the pay scale of the applicant and others similarly situated was revised from Rs. 550-800 to Rs. 550-900, cannot require their being regularised.

11. What emerges is that by respondents' order dated 15.2.78 all posts of JFOs stood discontinued w.e.f. 1.3.78 and in their place posts of CTOs had been sanctioned in the scale of Rs. 500-900. The said order further states that appointments of adhoc JFOs as CTOs would be on regular basis, but that order goes on to add that the same will be purely temporary. Again in respondents' order dated 8.3.96 it is stated that applicant stands confirmed as CTO w.e.f. 4.12.95. However, in respondents' order dated 12/18.4.2001 it is stated that applicant and others similarly situated will be deemed to be regular on the post of CTOs in the pay scale Rs. 550-800 w.e.f. 1.3.78 but consequent to respondents' order dated 16.5.97 revising the pay scale of CTOs from Rs. 550-800 to Rs. 500-900, they are required to be regularised again in consultation with UPSC because revision of pay scale brought them into Group 'B' (non-gazetted grade) in respect of whom concurrence of UPSC is required before regularisation. The question arises whether officers who were deemed to be regularised for nearly 20 years (from 1.3.78 to 15.5.97), can suddenly be deregularised, merely because respondents vide order dated 16.2.2000 have upgraded their scale from Rs. 550-800 to Rs. 550-900 w.e.f. 1.3.78, thereby putting them outside the competence of the concerned authority to regularise them, without UPSC's concurrence, which has separately been sought.

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In our view this is not in issue which can be adjudicated in the course of the present contempt proceeding.

12. In any case, respondents' order dated 12/18.4.2001 gives applicant a fresh cause of action which he may challenge separately in accordance with law, if so advised.

13. Giving leave to applicant as aforesaid, CP is dropped. Notices are discharged.

A. Veda Valli
(DR. A. VEDAVALLI)
MEMBER (J)

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN (A)

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