CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

...

CP No. 209/98
OA No. 2054/97

(14)

New Delhi, this the 8th day of March, 1999

HON'BLE SHRI T.N. BHAT, MEMBER (J)
HON'BLE SHRI S.P.BISWAS, MEMBER (A)

In the matter of:

1. Sh. A.S.Bisht

2. Sh. Devraj Sharma

3. Sh. Naresh Kumar

all the above employed
as UDC, O/O Commissioner
of Income Tax, CR Building,
I.P.Estate,
New Delhi-110002.
(By Advocate: Sh. D.R.Gupta)

Vs.

1. Sh. O.P.Srivastava
Chief Commissioner of Income Tax (Admn.)
C.R.Building, I.P.Estate,
New Delhi.

2. Sh. Daya Shankar
Deputy Commissioner of Income Tax (Hqrs.)
(Admn.) C.R.Building, I.P.Estate,
New Delhi. .... Respondents
(By Advocate: Sh. V.P.Uppal)

ORDER

delivered by Hon'ble Shri T.N.Bhat, Member (J)

Aggrieved by the orders dated 24.5.95 passed by the respondents promoting some persons junior to the applicants as Tax Assistants, the applicants filed OA-2054 in the year 1997 which was disposed of by the judgment dated 10.3.98 with the following directions:-

"We dispose of this OA with a direction to respondents to consider applicants' claim for promotion as Tax Assistants after reviewing the ad hoc appointment

8.3.99.

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already made in terms of DOP&T's OM dated 30.3.88 and the availability of vacancies within three months from the date of receipt of a copy of this order. No costs."

2. The applicant have now filed this contempt petition alleging deliberate disobedience of the Tribunal's directions by the respondents.

3. In their reply the respondents have taken the plea that a selection for appointment on regular basis was held by the respondents in which the applicants - petitioners in the CP - were also considered but they could n ot be selected/promoted, considering the number of vacancies and the availability of eligible officials in the relevant categories. However, it is admitted that the three oficials who had been promoted on ad hoc basis in 1995 still continue to work on ad hoc basis. But at the same time it is contended that a review of their cases did take place and only thereafter their ad hoc promotion was continued.

4 In their rejoinder the petitioners have averred that the continuance of the ad hoc promotions itself constitutes disobedience of the Tribunal's directions and, accoredingly, the respondents should be held guilty of committing contempt.

5. We have heard the learned counsel for the parties and have also considered their written submissions.

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6. On going through the judgment dated 10.3.98 in the OA. We find that the respondents had taken the plea that the applicants had failed in the departmental examination held on 30.12.94 while those who were late promoted on ad hoc basis, and who still continue on the higher posts on ad hoc basis, had cleared the examination the applicants re-appeared in 1996 and were declared to have passed vide the result announced on 24.12.96. The eligibility list circulated on 19.3.97 showed the petitioners at serial Nos. 82, 85 and 87. In persuance to the recommendations of the DPC held on 28.4.97 the applciants were placed at serial Nos. 90, 95 and 96 in the gradation chart. But since only 81 officials were placed on the panel the applicants could not find a place in it

7. The above facts were noticed by the Tribunal. However, since according to DOPT's Office Memo dated 30 3.88 ad hoc appointments/promotions could not continue for more than one year without being reviewed the Tribunal directed the respondents to consider applicants' claims after reviewing the ad hoc appointments already made .

8. Since the respondents have review the ad hoc promotions granted earlier and have decided to continue three ad hoc promotees we are of the view that there has been substantial compliance of the judgment. This is so particularly in view of the fact that the applicants were also considered for regular promotion but for want of sufficient number of vacancies they could not be promoted.

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9. At any rate, the question as to whether the respondents had acted correctly and in accordance with the relevant rules while implementing the judgment of the Tribunal can more appropriately be adjudicated upon in fresh proceedings if filed by the petitioners. We find ourselves in agreement on this point with the learned counsel for the respondents.

10. In view of the above, we are convinced that there are no grounds to proceed against the respondents in contempt. This CP is accordingly dismissed and the notices issued to the respondents are discharged.

(S.P. BISWAS)
Member (A)

8.3.99.
(T.N. BHAT)
Member (J)

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