

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

CP 19/2001 in OA 246/1996

with

CP 24/2001 in OA 1948/1995

New Delhi this the 23rd day of July, 2003

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

CP 19/2001

In the matter of:

Dr. R.L. Sharma,
S/o late Shri B.D. Sharma,
R/o RM-5, North City Extension,
Bareilly (UP). . . . Petitioner.

(By Advocate Shri S.S. Tiwari)

Versus

1. Dr. R.S. Paroda,
Director General,
Indian Council of Agricultural Research,
Krishi Bhawan,
New Delhi-110001.
2. Shri Sodhi Singh,
Director (Personnel),
Indian Council of Agricultural Research,
Krishi Bhawan,
New Delhi-110001. . . . Respondents.

(By Advocate Shri V.K. Rao)

CP 24/2001

In the matter of:

Dr. Gajraj Singh & Ors.
And
Dr. R.L. Sharma,
S/o late Shri B.D. Sharma,
R/o RM-5, North City Extension,
Bareilly (UP). . . . Petitioner.

(By Advocate Shri S.S. Tiwari)

Versus

1. Dr. R.S. Paroda,
Director General,
Indian Council of Agricultural Research,
Krishi Bhawan,
New Delhi-110001. . . . Respondent.

(By Advocate Shri V.K. Rao)

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

Both the learned counsel have submitted that the aforesaid two contempt petitions (CP 19/2001 and CP 24/2001) are similar and can, therefore, be taken up together. Accordingly, these contempt petitions have been heard together.

2. Shri S.S. Tiwari, learned counsel has pointed out that the Tribunal by order dated 31.7.2001 had disposed of the aforesaid two contempt petitions with certain directions. In this order, it has been observed that the order of the Tribunal dated 29.11.1999 in OA 246/1996 which has been followed in OA 1948/1995 has become final and the respondents would perforce have to give effect to the same with reference to the particular individuals, namely, Dr. J.R. Rao, Dr. M.N. Malhotra, Dr. V.K. Srivastava and Dr. Ravi Chandra. It was held in that order that "Compliance report is called for to show that these two applicants (petitioners in contempt petitions) have been granted the benefits, in terms of the Tribunal's order. The same should be completed within two months from now". With these observations, CP 19/2001 and CP 24/2001 in the above referred two O.As. were disposed of and notices to the alleged contemners were discharged. However, it is noticed that these two contempt petitions have been continued to be shown as pending in view of further time having been granted to the respondents by the order dated 31.7.2001.

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3. Subsequently, in Tribunal's order dated 6.3.2002, an observation has been made that in the circumstances of the case, it cannot be held that the respondents have contumaciously disobeyed the Tribunal's order and Shri V.K. Rao, learned counsel had prayed that the respondents may be granted some more time to reconsider the issues and make further submissions and if necessary, after reconsideration of the issues, including re-assessment of the applicants in accordance with the directions of the Tribunal. Shri S.S. Tiwari, learned counsel has relied on the judgement of the Tribunal in **Dr. Mahendra Pal Yadav Vs. Secretary, ICAR and Ors.** (OA 2831/1999), decided on 24.1.2000 (copy placed on record). He has very vehemently submitted that the recommendation/decision of the ASRB is final and has to be accepted by the appointing authority and in no circumstances that authority can differ from the recommendations as done in the present case. He has also relied on the judgement of the Hon'ble Supreme Court in **T.R. Dhananjaya Vs. J. Vasudevan** (1995 (5) SCC 619). He has very vehemently contended that the respondents have in the present case as in **Dhananjaya's** case (supra) deliberately disobeyed the Tribunal's order to deny the petitioners the benefits and, therefore, they are guilty of Contempt of Court. At the same time, he has submitted that the main claim of the petitioners is not that the respondents should be punished under the contempt jurisdiction but they should get the benefits as ordered by the Tribunal in its order dated 29.11.1999 which has become final as the writ petition filed by the respondents was dismissed by the High Court of Delhi by its order dated 21.3.2000.

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4. In furtherance of the aforesaid directions contained in Tribunal's order dated 31.7.2001, Shri V.K. Rao, learned counsel for respondents has submitted that the respondents have reconsidered the claims of the petitioners and he has submitted that they have not disobeyed the orders or committed any contempt. In the additional affidavit filed by the respondents dated 22.1.2002, they have annexed the order issued by them dated 10.1.2002 on the subject of implementation of the aforesaid order of the Tribunal dated 29.11.1999. They have stated in that order that in pursuance of the Tribunal's order, cases of the applicants were forwarded to the ASRB which had considered their cases and submitted their recommendations to the Council. The recommendations of the Board were placed before the competent authority, i.e. Hon'ble Minister of Agriculture in his capacity as President, ICAR for consideration and orders. The competent authority, after considering the records of the case and the recommendation of the ASRB has concluded that the applicants are not fit for promotion from Grade S-I to Grade S-2 from the dates claimed by them which the learned counsel has stated is so, having regard to the relevant recruitment rules.

5. Another additional affidavit has been filed by the respondents dated 11.7.2002 annexing the order dated 2.7.2002. In this affidavit, the respondents have, inter alia, referred to the Tribunal's order and observations dated 6.3.2002 for having the matter reconsidered by the competent authority, i.e. the Hon'ble Minister for necessary orders. They have stated that in pursuance of

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this order, the competent authority had reconsidered the matter and on the basis of the records of the case and recommendations made by the ASRB had come to the conclusion that the applicants are not fit for promotion from Grade S-1 to Grade S-2 from the dates claimed by them as the recommendations were at variance with the Recruitment Rules. Shri V.K. Rao, learned counsel has submitted the Departmental file and has submitted that the matter had been reconsidered by the competent authority, i.e. the Hon'ble Minister vide his note dated 1.7.2002 after which the letter dated 2.7.2002 has been issued. He has relied on the judgement of the Hon'ble Supreme Court in **V. Kanakarajan Vs. General Manager, South Eastern Railway and Ors.** (1996 (10) SCC 102).

6. With regard to the letter dated 2.7.2002, Shri S.S. Tiwari, learned counsel has very vehemently submitted that this is nothing but a repetition of the earlier order issued by the respondents dated 10.1.2002 and, therefore, the respondents have clearly committed contempt of the orders of the Tribunal.

7. We have carefully considered the submissions of the learned counsel and the relevant documents on record.

8. Having regard to the orders and observations of the Tribunal dated 31.7.2001 read with 6.3.2002, with the subsequent actions taken by the respondents as seen from the notes in the relevant file submitted by them, particularly notes at pages 109-110, we are unable to agree with the contentions of the learned counsel for the

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petitioners that the respondents have not reconsidered the cases of the applicants in letter and spirit. Taking into account the orders of the Tribunal and the facts as a whole as observed earlier in the order dated 6.3.2002, it is not possible to come to the conclusion that the respondents have contumaciously or wilfully disobeyed the Tribunal's orders. We also see force in the submissions made by Shri V.K. Rao, learned counsel that the orders of Courts/Tribual have to be implemented in accordance with the relevant provisions of law and rules. The judgement of the Hon'ble Supreme Court in V. Kankarajan's case (supra) relied upon by the respondents is applicable to the facts in the present case. In that case, a Division Bench of the Calcutta High Court vide its judgement and order dated 29.6.1981 declined to entertain an application for contempt dated 29.6.1981. Aggrieved by that, an appeal was filed before the Apex Court. The Hon'ble Supreme Court has held:

"2. Inasmuch as the scope of the present appeal, which is directed against the dismissal of contempt application, is very limited, we are not inclined to go into other contentions raised by the appellant challenging the validity of certain related orders passed by the authorities. As a matter of fact, the High Court by the judgement under appeal held as follows while rejecting the contempt application:

"It was not directed by us that the question of promotion of the petitioner should be considered only on the basis of the confidential reports. It may be that the effect of the confidential reports being in favour of the petitioner, the respondents should have granted him promotion. But we are not considering the merits of the report of the competent authority in not recommending the promotion of the petitioner. We are also unable to consider whether the competent authority was justified in observing that the petitioner is not a suitable candidate for promotion as per rules. The remedy of the petitioner, in our opinion, lies not in an application for contempt but in a

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separate writ petition against the order that was communicated to him by the Chief Personnel Officer dated 18.5.1981.

In the circumstances, we do not think that the petitioner has been able to make out a case for contempt against the respondents. The petitioner will, however, be at liberty to move against the said order of the Chief Personnel Officer by writ application."

3. We are of the view that the High Court was right in declining to entertain the application for any contempt and reserving the right of the petitioner by separate proceedings to challenge the consequential orders passed by the authorities.

(Emphasis added)

We respectfully follow the aforesaid judgement of the Hon'ble Supreme Court. In the facts and circumstances of the contempt petitions before us, we dismiss the contempt petitions with liberty to the petitioners to challenge the consequential orders if so advised in accordance with law.

9. In view of the above, although CP 19/2001 in OA 246/1996 and CP 24/2001 in OA 1948/1995 have already been disposed of earlier by Tribunal's order dated 31.7.2001, however, since we have further heard the learned counsel for the parties in the contempt petitions the same are finally dismissed. Notices to the alleged contemners are discharged. Files be consigned to the record room.

10. Let a copy of this order be placed in CP 24/2001 in OA 1948/1995.

(Govindan S. Tampi)
Member (A)

SRD

(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

Lakshmi Swaminathan