

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

Hon'ble Shri M.P.Singh, Member(Admnv.)  
Hon'ble Shri Shanker Raju, Member (Judicial)

C.P.No.109/2001 in  
M.A.No.2374/2001  
O.A.No.1631/1996

(36)

New Delhi, this the 13th day of November, 2001

1. Shri I.S.Garg  
s/o Late Shri Jagdish Sharan Garg
2. Shri J.N.Joshi  
s/o Late Shri G.M.Shastri
3. Shri A.K.Chohdda  
s/o Late Shri V.P.Chohdda
4. Shri Ravi Gupta  
s/o Late Shri O.P.Gupta
5. Shri V.L.Sharma  
s/o Shri Laxman Prashad
6. Shri S.R.Chandra Sekaran  
s/o Late Shri S.R.Radhakrishnaier
7. Shri O.P.Sharma  
s/o Shri Tara Chand Sharma
8. Shri Mohd. Yunus  
s/o Mohd. Ismail
9. Shri A.D.John  
s/o Late Shri A.J.Daniel

All Directors (Supply)  
Directorate General of Supplies & Disposals  
Jeevan Tara Building  
5, Parliament Street  
New Delhi - 110 001. ... Applicants

(By Advocate: Shri Harvir Singh)

Vs.

1. Shri Prabir Sengupta  
Secretary (Commerce)/Supply Wing  
Ministry of Commerce  
Udyog Bhavan  
New Delhi - 110 011.
2. Ms. Neena Ranjan  
Director General  
Directorate General of Supplies & Disposals  
5, Jeevan Tara Building  
Sansad Marg  
New Delhi - 110 001. ... Respondents

(By Advocate: Shri N.S.Mehta, Sr. Standing Counsel  
with Shri S.K.Gupta)

O R D E R(Oral)

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By Shanker Raju, Member (J):

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Heard the parties. The alleged contemnors are present, in person, in the Court.

2. The applicants have alleged wilful and contumacious disobedience of the orders of this Court passed on 29.2.2000 in OA No.1631/96 wherein directions have been issued to the respondents to carry out the promotion process of the applicants and respondents No.2 to 6 after considering the claim of the applicants on the basis of their placement in the seniority list of Assistant Directors by ignoring the higher placement of respondents 2 to 6 in the seniority list of Deputy Directors based on their belonging to the reserved category, namely, Scheduled Caste and Scheduled Tribe and the applicants would be entitled to all consequential benefits arising out of the implementation of the aforesaid directions.

3. The applicants states that though the respondents have in part complied with the directions of this Court by antedating their seniority and promotion on notional basis but they have not <sup>been</sup> <sub>been</sub> made entitled to the actual benefits, i.e., arrears with effect from the assumption of the charge. In this background, placing reliance on the decision of the Union of India Vs. K.V.Janakiraman, 1991(2) Scale SC 423 it is stated that in the event the respondents accord all the benefits of promotion and seniority, the applicants cannot be deprived of the actual benefits on the principle of 'no work no pay' as it is an illegal action of the respondents which prevented the applicants to perform their duties during this

period. The learned counsel for the applicants have stated in para 2 of his Contempt Petition that due to non-compliance of the orders of the Hon'ble Tribunal in full, he has resorted to file Contempt Petition. It is further stated that the directions issued by this Court are for all the consequential benefits arising out of the implementation of the aforesaid directions and one of the benefits arising out the implementation is accord of arrears of salary to the applicants on account of the revision of their seniority and antedating their promotion.

4. The learned Sr. Standing Counsel for the respondents, Shri N.S.Mehta, has stated that the applicants in the OA have not specifically prayed for arrears of salary as consequential benefits and in the Contempt Petition also he has not prayed for arrears of salary, the claim of the applicants in the Contempt is restricted as review <sup>of seniority</sup> as such he is estopped from claiming the same and in view of the decision of the Apex Court in J.S.Parihar Vs. Union of India & Others, 1996(9) SCC 608, for a fresh cause of action the remedy is not under Contempt Petition but filing another OA to redress their grievance. In this background, it is stated that as the direction of the Court has not specifically allowed arrears of salary to the applicants there is no wilful and contumacious disobedience of the orders of the Court. However, it is stated that there has been a delay, for which the respondents have tendered their unconditional apology. Lastly, it is stated that the orders of this Court have been complied with in letter and spirit.

5. We have carefully considered the rival contentions of both the parties and perused the material on record. In the directions of this Court, in OA No:1631/96, the applicants have been specifically made entitled to all the consequential benefits arising out of the implementation of the aforesaid directions. Having regard to the decision, in K.V.Janakiraman *supra*, they cannot be denied the arrears of salary on the principle of 'no work no pay'. Having revised the seniority list and antedated the promotion of the applicants, ~~the~~ one of the benefits arising out of the implementation is certainly the arrears of salary. The applicants have been deprived of joining the promotional post on the basis of the illegalities of the respondents by not according them, at the relevant time, to which they were entitled to. The decision of J.S.Parihar's case *supra* would have no application in the present case as all the consequential benefits including arrears is not a new cause of action the applicants in their OA has made a specific prayer for accord of consequential benefits on revision of the seniority. The further contention of the learned counsel for the respondents that as the applicants have not specifically prayed for the arrears of salary in the Contempt Petition they cannot be accorded the same. We do not agree with the submission of the learned counsel for the respondents. The applicants in para 2 of their Contempt Petition have specifically contended that due to non-compliance of the orders of this Court in full, the applicants have resorted to present Contempt Petition. In our considered view, the implementation of the order of this Court in full includes accord of arrears of

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salary to the applicants for the period they have been given notional promotion, the act of the respondents by restricting the actual promotional benefits from the date of ~~promotion~~<sup>assumption of charge</sup> the promotional post is not legally justifiable.

6. In the result, the respondents are directed to accord the applicants the actual arrears of salary in pursuance of orders passed, in compliance of the directions of this Court, dated 1.12.2000, 27.8.2001, 4.9.2001 as well as 1.10.2001 and 8.11.2001, within a period of two months from today. The CP is accordingly disposed of. Notices issued to the respondents are discharged.

S. Raju  
(SHANKER RAJU)  
MEMBER(J)

*m/singh*  
(M.P.SINGH)  
MEMBER(A)

/RAO/