

Central Administrative Tribunal
Principal Bench

C.P. No. 154 of 1998
in

O.A. No. 1271 of 1996

New Delhi, dated this the 6th September, 1999

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mr. Kuldip Singh, Member (J)

Shri Om Prakash,
S/o Shri Chhotu Ram,
Sr. Accountant,
Pay & Accounts Officer (PC)
Yojana Bhawan, New Delhi-110001.
R/o Vill. & P.O. Daryapur Kalan,
Delhi. ... Applicant

(By Advocate: Shri Sant Lal)

Versus

1. Shri M.D. Asthana,
Secretary,
Dept. of Statistics,
Ministry of Planning,
Sardar Patel Bhawan,
New Delhi-110001.

2. Smt. Vibha Pandey,
Controller of Accounts,
Ministry of Planning,
Principal Accounts Office,
Planning & Statistics,
Sardar Patel Bhawan,
New Delhi-110001.

... Respondents

(By Advocate: Shri Harvir Singh proxy
counsel for Mrs. P.K. Gupta)

O R D E R

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

Heard both sides on C.P. No. 154/98
alleging contumacious disobedience of the Tribunal's
order dated 2.4.97 in O.A. No. 1271/96.

2. By that order dated 2.4.97 respondents
were directed to communicate the results of the
sealed cover within one month from the date of
receipt of a copy of the order to applicant and grant

him all the benefits including promotion from the date on which the DPC met and the applicant would also be entitled to the consequential benefits. (24)

3. While passing the aforesaid orders, the Tribunal noted that applicant was considered for promotion by the DPC in its meetings held in 1988, 1989, 1991, 1992, May 1993, Dec. 1993, April 1995 and October 1995 and the recommendations in respect of each of these meetings was kept in sealed cover. The sealed covers kept after May, 1993 had been opened, and he had been found unfit on each occasion as well as in the DPC Proceedings held on 28.11.96. The aforesaid directions were therefore in respect of the sealed covers maintained upto May, 1993.

4. In so far as the 1988 DPC is concerned, respondents state that there were two DPCs held that year, one in January, 1988 and the other in July, 1988. They state that in both DPCs applicant's case was directed to be kept in sealed cover. They further state that unfortunately despite best efforts they have not been able to locate the January, 1988 sealed cover. However, from a perusal of the U.O. note dated 4.1.88 from Shri R.M. Sundaram, Under Secretary, Dept. of Statistics (Estt. I Sec.) which states that it was not possible at that stage to issue a vigilance clearance certificate to applicant, it cannot be said that Respondents have committed contempt of Court by not promoting applicant as a

2

25

result of the January, 1988 DPC. In the July, 1988 DPC he has clearly been found not fit for promotion as Sr. Accountant.

5. Respondents further state that in the 1989 DPC it was noted that applicant was under suspension while in the 1990 (and not 1991) DPC it was noted that he was under suspension from 16.4.88 to 1.2.90 and the cases against him had still not been decided. In the 1992 DPC it was noted that in view of the vigilance case pending against him he could not be promoted, while in the 1993 (22.5.93) DPC it was noted that in view of the vigilance case pending against him he could not be promoted.

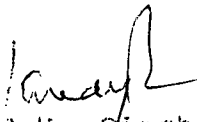
6. Respondents have further stated, and this has been noted in the Tribunal's order dated 2.4.97 itself that applicant's case was considered for promotion in each DPC held after May, 1993 but was not found fit. Eventually he was recommended fit for promotion by the DPC held in July, 1997 and was promoted as Sr. Accountant w.e.f. 31.7.97.


7. In the light of the U.O. Note dated 4.1.88 referred to in Para 4 above it cannot be said that grounds exist to proceed against respondents for contempt of Court for having expressed difficulties in promoting applicant as Senior Accountant w.e.f. January, 1988.

n

(26)

8. The C.P. is dismissed and notices to
alleged contemnors are discharged.


(Kuldip Singh)
Member (J)


(S.R. Adige)
Vice Chairman (A)

/GK/