

Central Administrative Tribunal  
Principal Bench: New Delhi

CP 323/97 in  
OA No. 271/96

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New Delhi, this the 4th day of December, 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)  
Hon'ble Shri N. Sahu, Member (A)

Shri J.P. Sharma,  
S/o Shri R.N. Sharma,  
WZ 419 Shiv Nagar,  
New Delhi-10 058

Petitioner

(Shri S.C. Luthra)

-Versus-

1. Secretary,  
Department of Education,  
Ministry of Human Resources Development,  
Shastri Bhawan, New Delhi.
2. Director,  
Central Hindi Directorate,  
West Block VII, R.K. Puram,  
New Delhi.
3. Chairman,  
CSIT, West Block VII,  
R.K. Puram,  
New Delhi.
4. Secretary,  
Union Public Service Commission,  
Shahjahan Road, New Delhi.

(Shri K.N. Bhatt, ASG alongwith  
Shri VSR Krishna, Counsel for Resp. No. 1)

Shrioo M.K. Gupta, Counsel for Resp.No. 2)

ORDER

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)

The order complaint against is the one dated 14.3.1997 passed in OA No. 271/1996. In para 5 of the said order we had recorded a finding that the post which became available in March 1993 has not been abolished and the same still exists. This decision was arrived at on the basis of the available facts on the file and on the basis of the submission then made.

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2. Further in Para 5 it is stated that the claim of the petitioner for the said post shall be considered irrespective of whether it is in the old and new nomenclature.

3. The complaint of the petitioner is that when the post was already pre-existing and the petitioner became eligible and available prior to the Notification of the new recruitment rules, those persons who became eligible under the new rules if they are not available and eligible according to the old rules, cannot be considered along with the petitioner when he is considered against the said post. The respondents by way of reply, submitted that the case of the petitioner was in fact considered by a DPC dated 17.4.1997 against two vacancies that has arisen in accordance with the new recruitment rules. The petitioner is disputing the said consideration is in compliance of our order dated 12.4.3.1997.

4. We too find that when the respondents considered various candidates for these two posts in accordance with the new recruitment rules by a DPC on 17.4.1997, the consideration was in accordance with the new rules and the petitioner happens to be far away within the zone of consideration. Had he been considered for the post that existed in 1993 - 1995 before the new set of rules became operative, he would be eligible and available for consideration. We must not fail to state that this seems to be the correct interpretation of our order.

5. In substance, we find that there is no wilful disobedience of our order and in view of the submission made by the respondents that they are willing to consider the case


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of the petitioner within a reasonable time on the basis of our findings that there existed a post in the year 1905 prior to the promulgation of the new set of rules. The counsel for the Respondents did assert that the existence of the vacancies prior to the new rules were in fact under dispute and which could not be properly presented to the Court at the time when the original OA was argued and orders were passed finally. We are unable to ignore the submission of the petitioner that the fact of availability of the said post is still under dispute cannot be a reason for non-implementation of our orders, and further elucidation or interpretation to that extent may not be appropriate in a proceedings under the Contempt of Court Acts.

6. In the circumstances and on the basis of the submission that the case of the petitioner would be considered under the previous recruitment rules, on the basis that there existed a vacancies prior to promulgation of a new set of rules, within five weeks from the date of this Order, we dispose of this CP and discharge the notices issued.

7. No order as to costs.

  
(N. Sahu)  
Member(A)

  
(Dr. Jose P. Verghese)  
Vice Chairman (J)