

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

CP No.365/97 in OA No.2691/96

New Delhi, this the 10<sup>th</sup> day of February, 1998.

HON'BLE MR. JUSTICE K.M. AGARWAL, CHAIRMAN  
HON'BLE MR. R.K. AHOOJA, MEMBER(A)

Shri O.P. Makhija  
S/o Shri S.L. Makhija  
R/o S-1/26, Sadiq Nagar  
New Delhi.

Applicant

(By Advocate Shri S.K. Sawhney)

vs.

Shri A.P. Sharma  
Joint Secretary (Trgn.) and  
Chief Admn. Officer  
Ministry of Defence  
C-II, Hutments, Dalhousi Road  
New Delhi.

Respondent

(By Advocate Mrs. P.K. Gupta)

ORDER

JUSTICE K.M. AGARWAL:

One of the two applicants in OA No.2691/96 decided on 30.5.1997 has filed this Contempt Petition for non-compliance with the following directions made in the O.A.:

" In the light of these observations, Shri Joshi appearing on behalf of the respondents states that they would need more time to consider regularisation of the applicants as well as prior to 1995 as has been done with respect to six juniors to the applicants at Sl. No.18 to 24 by order dated 15.1.97, without insisting on the eligibility criteria prescribed subsequently in the year 1995. The respondents shall reconsider the case of applicants as well without insisting on eligibility criteria prescribed subsequently in the year 1995, since the respondents' order does not apply retrospectively.

Respondents are at liberty to reconsider the case of the applicants, in the light of the observations made above and in the light of order dated 23.5.97 passed by this Court, a copy of which was produced by Shri N.K. Aggarwal, and regularise the applicants in accordance with all other eligibility criteria, applicable prior to 1995. This should be done within a period of two months from today. Applicants are given liberty to approach this court if any further grievance survives by the order to be passed by the respondents."

2. In his counter, the respondent Shri A.P. Sharma in the present Contempt Petition has urged that appropriate order for compliance with the order of the Tribunal has been passed. The reasons for the delay in compliance have also been stated. However, the learned counsel for the applicant submitted that the directions made by the Tribunal in OA No.2691/96 on 30.5.1997 have not been fully complied with by the respondent. We have, therefore, to see if the directions made in the said OA have or have not been complied with by the respondent.

3. The grievance of the applicant is not that the directions have not been complied with, but that as interpreted by him, the order has not been complied with. His real grievance is reflected in paragraph 8 of the application, which is reproduced here-in-below:

"8. That in utter disregard of the directions of this Hon'ble Tribunal, the Respondents did not order the placement of the petitioner as Data Processing Assistant Grade 'A' on the plea that he was required to appear in a Departmental Test and only thereafter he will be placed as Data Processing Assistant 'A' w.e.f. 11.9.89 and in case he failed to qualify or could not be accommodated for want of vacancies he will have no claim. Orders to this effect were issued vide letter dated 11.11.97 Annexure P-6."


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Further grievance as manifested in paragraph 9 of the application may also be noticed:

"9. That person junior to the petitioner, the last man in the list Shri Harpal Singh was promoted without passing any fresh Departmental Test as he had appeared along with the petitioner and qualified the test in 1988. Even otherwise such a condition cannot be applied for promotion of the petitioner to the post of Data Processing Assistant Grade 'A' as provision in regard to passing any departmental Test was not available in the Recruitment Rules in 1989 the date from which the posts were upgraded."

4. Now the only direction made by the Tribunal on 30.5.1997, as understood by us, was for reconsideration of "the case of applicants as well without insisting on eligibility criteria prescribed subsequently in the year 1995, since the respondents' order does not apply retrospectively." As admitted by the applicant himself in paragraph 2 of his application, pursuant to restructuring of posts as per respondent's letter dated 20.1.1995, the post of Technical Assistants was bifurcated into Data Processing Assistant Grade 'A' and Data Processing Assistant Grade 'B' "with certain conditions in regard to educational qualifications etc." What were those certain conditions, may be gathered from paragraph 2 of the order made in O.A.No.2691/96, dated 30.5.1997. It indicates that as per the Recruitment Rules finalised by an order dated 20.1.1995, "the candidates were required to have graduation in relevant discipline as well as 'O' level certificate in computer application. Since the applicants do not have 'O' level certificate in computer application and graduation in the relevant discipline, they were not considered." According to us, this eligibility qualification

subsequently inserted was directed to be not applied to the cases of the applicants in O.A. There was no further direction for dispensing with the Departmental Test, or for placement of the petitioner in this contempt petition as Data Processing Assistant Grade 'A'. For this reason, we are of the view that the contempt petition is misconceived and liable to be dismissed. Accordingly it is hereby dismissed. The rule nisi, if any, issued against the respondent shall stand discharged.

  
(K.M. Agarwal)  
Chairman

  
(R.K. Ahooja)  
Member (A)