

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

C.P. No. 193 of 1999

in

O.A. No. 149 of 1993

New Delhi, dated this the 9th December, 1999

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri Virender Kumar,
Chemical & Metallurgical Assistant, Gr. II,
Diesel Shed, Northern Railway,
R/o 846/16, New Colony,
Sonapat,
Haryana.

... Petitioner

(Applicant in person)

Versus

1. Shri S.P. Mehta,
General Manager,
Northern Railway, Baroda House,
New Delhi.
2. Shri A.K. Sabharwal,
Sr. Chemist & Metallurgist,
Northern Railway, Diesel Shed,
Tuglakabad, New Delhi.
3. Shri N.P. Pushkar,
Chemist & Metallurgist,
Northern Railway, Charbagh Rly. Workshop,
Lucknow.
4. Shri Sunil Sharma,
Sr. D.P.O., Northern Railway,
DRM Office,
New Delhi.

... Respondents

(By Advocate: Shri P.M. Ahlawat)

ORDER

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

Heard both sides on C.P. No. 193/99
alleging that respondents have wilfully implemented
the Tribunal's order dated 7.12.98 in O.A. No. 149/93
only partially and also alleging misrepresentation
on the part of Respondents.

2. In O.A. No. 149/93 applicant had impugned his reversion order dated 20.7.84 and sought seniority above Respondent No.6 Shri R.N. Srivastava with consequential benefits including continuous officiation followed by regularisation as Jr. Chemical & Metallurgical Asst. w.e.f. 10.1.79 and costs.
3. By order dated 7.12.98 the Tribunal quashed the impugned order dated 20.7.84 Respondents were directed to consider applicant's representation which was pending with them and declare him senior to Respondent No.6 for purposes of further promotion as also notional pay fixation, but without benefit of back wages.
4. Respondents have filed reply affidavit and have enclosed copy of their order dated 7.5.99 (Annexure R-1) issued pursuant to the Tribunal's order dated 7.12.98. By that order dated 7.5.99, applicant's reversion dated 20.7.84 was withdrawn and applicant's pay was also re-fixed. As regards empanelment as Jr. Chemical & Metallurgical Asst. on regular basis, respondents have pointed out that the same depends on qualifying in the selection test. They state that applicant appeared in the selection test but did not qualify in the same as he did not obtain the minimum qualifying marks in professional ability as well as in the aggregate. Photo copy of the selection proceedings for the post Jr. Chemical & Metallurgical Asst. held on 18.7.86 and 31.7.86 have been filed by respondents, with copy of their letter dated 11.2.99 (taken on record) which bear out these averments.
5. Applicant has filed a rejoinder and has also filed written submissions. During hearing he asserted that respondents had not granted him seniority with

that of Respondent No.6 w.e.f. 1990-91; they had not paid him arrears of pay and allowances w.e.f. the date of the order dated 7.12.98; he was entitled to interest @ 15% p.a. for delayed payment; respondents should be appropriately punished for harassing him, and the reply of Respondent No.2 was false.

6. Pursuant to the Tribunal's order dated 7.12.98 respondents have issued order dated 7.5.99. In J.S. Parihar Vs. G. Duggar & Others JT 1996(9) SC 608 the Hon'ble Supreme Court has held

" Once there is an order passed by the Government on the basis of directions issued by the Court, there arises a fresh cause of action to seek redress in an appropriate forum. The preparation of the seniority list may be wrong or may be right or may or not be in conformity with the directions. But that would be a fresh cause of action..... (and) cannot be considered wilful violation of the order."

7. In the light of the above, the C.P. is dismissed. Notices are discharged.

Lakshmi Swaminathan
(Mrs. Lakshmi Swaminathan)
Member (J)

/GK/

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