

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

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...
C.P. No.218 of 1995

in

O.A. No.2277 of 1993

Dated New Delhi, this 12th day of February, 1996.

HON'BLE MR JUSTICE P.K. SHYAMSUNDAR, ACTING CHAIRMAN

HON'BLE MR K. MUTHUKUMAR, MEMBER(A)

1. V. K. Dawar
S/o Late Shri Hari Dass,
R/o N-4, Malka Ganj
DELHI.

2. M. M. Malik
S/o Shri B. D. Malik
R/o BD 983, Sarojini Nagar
NEW DELHI - 110 003.

... Applicants

By Advocate: Shri D. R. Gupta

versus

1. Shri Indrajit Chaudhuri
Additional Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan,
NEW DELHI.

2. Dr. A. K. Mukherjee
Director General of Health Services,
Ministry of Health and Family Welfare,
Nirman Bhawan,
NEW DELHI.

3. Dr. B. Chakraborty
Medical Superintendent,
Safdarjung Hospital,
NEW DELHI.

... Respondents

By Advocate: Shri M. K. Gupta

O R D E R (Oral)

Mr Justice P.K. Shyamsundar

We have heard both sides in this C.P. This C.P purports to arise from an order made by this Bench while disposing of O.A.2277/93 dated 25.11.94. It is not necessary to go into the

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merits or controversies that arose in the O.A. In the C.P we confine ourselves to the operative portion of the judgement rendered by the Tribunal in para-9 and para-10 which is reproduced below:-

"9. The learned counsel for the applicants however, submits that there should be a direction to the respondents that in case the work study recognises the need for upgradation of the posts of Stenographer held by them who are attached to the specified heads of the Department, that recommendation shall be given effect from 1990.

10. We are of the view that this is also a matter which should be considered by the respondents only. In the circumstances, we dispose of this OA with a direction to the respondents to pass final orders in regard to the upgradation of the posts of Stenographer in the Safdarjung Hospital, particularly the posts held by the applicants, within a period of three months from the date of receipt of this order and also consider the claim of the applicants for promotion to those posts in the light of the observations herein."

From the above, it is clear that albeit the applicants making a demand for promotion and according to them, granting of the same had to be related back to 1990, the Tribunal, in the light of the submissions made on behalf of the applicants in the OA, did not set any constraints on the demand but surely, directed the respondents to consider the case of the applicants in an appropriate manner. The direction does not say that the applicants should be promoted and given benefits from the year 1990 in turn. There is no such direction. The argument before us is that

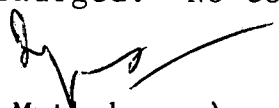
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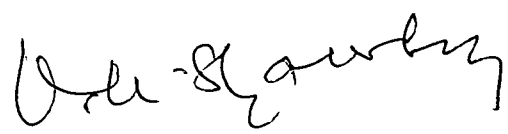
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from the order as construed from the directions issued, it becomes the duty of the department to promote the applicants w.e.f. 1990 provided they are found fit for promotion. The answering respondents maintain that they did find them fit but promoted them prospectively.

The applicants' claim for promotion from an earlier date was not considered because of a limitation under which the department had to operate in the matter of creation of posts that became effective from a prospective date and hence there could be no retrospective promotion from the year 1990 as pointed out by the learned counsel for the respondents and, that appears to be right.

We think there is no deflection from the order of the Tribunal. We hold that there is no contempt in the manner in which the department has acted and accordingly the contempt proceedings is dropped and the notices issued to the respondents are discharged. No costs.


(K. Muthukumar)
Member(A)


(P. K. Shyamsundar)
Acting Chairman

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