

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

C.P.NO. 202/2002
IN
O.A.NO.726/2000

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Wednesday, this the 18th day of September, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri S.A.T. Rizvi, Member (A)

V.K. Naithani
s/o Shri S.P.Naithani
aged about 50 years
r/o 52-B, Kanchanjunga Apartments
Sector-53, Noida
And employed as

Senior Field Officer in
Aviation Research Centre
Block V East, R.K.Puram, New Delhi

(Petitioner in person)

...Applicant

Versus

1. Shri Amar Bhushan, Special Secretary (SR)
(Then Additional Secretary (SR)
Cabinet Secretariat, Govt. of India
Bikaner House (Annexe)
Sahajahan Road
New Delhi-66
2. Shri R.S.Bedi, Director & Special Secretary
(Then Additional Secretary)
Aviation Research Centre
Cabinet Secretariat
Block V East R.K.Puram, New Delhi-66

(By Advocate: Shri R.N.Singh)

...Respondents~

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, VC (J):

We have heard the petitioner and Shri R.N. Singh, learned counsel for respondents in CP-202/2002. We have also perused the relevant documents, including the directions of the Tribunal in OA-726/2000 together with the documents annexed by the respondents as well as the Hon'ble Supreme Court's order dated 8.4.2002 in Writ Petition (Civil) No. 61/2002 (M. Nagaraj & Ors. Versus Union of India & Ors.) with connected petitions.

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2. The direction given to the respondents by the Tribunal in the aforesaid case was to refix the seniority of the petitioner in the grade of Senior Field Officer in pursuance of the judgment of the Hon'ble Supreme Court in *Ajit Singh Vs. State of Punjab* (JT 1999 (7) SCC 153). The petitioner has contended that in terms of these directions, he ought to have been placed senior to one Shri Bhagat Ram (SC). On the other hand, Shri R.N.Singh, learned counsel has submitted that during the time of implementation of the Tribunal's order, an Office Memorandum dated 21.1.2002 (Annexure R-I) has been issued by the nodal Ministry, DOP&T. We also note that the Hon'ble Apex Court has, by an order dated 8.4.2002, given certain directions to the respondents with regard to the earlier promotions granted and made subject to the result of the Writ Petitions.

3. The issues raised by the petitioner in CP-202/2002 raise important questions of constitutional law which are pending adjudication before the Hon'ble Supreme Court. In the meantime, the Constitution has also been amended by the 85th Constitutional Amendment Act, 2001 which also has a bearing on the issues raised in this Contempt Petition. The petitioner has submitted that he has been promoted as Assistant Director w.e.f. 10.6.2002 vide order dated 7.6.2002, although notionally, he has been promoted to that post w.e.f. 3.12.1999. His claim is that he ought to have been promoted to that post w.e.f. 20.4.2000, i.e., the date when the aforesaid Shri Bhagat Ram (SC) was promoted and also ^{be} granted financial benefits.

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4. In the above facts and circumstances of the case, we do not consider it necessary to proceed any further in the Contempt Petition as it cannot be held that the respondents have wilfully or contumaciously disobeyed the Tribunal's order justifying any other action being taken against them under the provisions of the Contempt of Courts Act, 1971 read with Section 17 of the Administrative Tribunals Act, 1985. The important constitutional law issues are pending adjudication before the Hon'ble Supreme Court.

5. In view of what has been stated above, CP-202/2002 is dismissed. Notices issued to the alleged contemnors are discharged. File be consigned to the record room. We presume that the respondents shall also review the case of the petitioner after pronouncement of the aforesaid judgment of the Hon'ble Supreme Court in M. Nagaraj's case (supra).



(S.A.T. Rizvi)
M (A)



(Mrs. Lakshmi Swaminathan)
V.C. (J)

/sunil/