

CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH

CP 205/2003 in OA 1069/2000

New Delhi, this the 24th day of September, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Sh. V.K.Majotra, Member (A)

1. Sh. Rakesh Kumar, S/o Late Sh. Amar Singh
(on behalf of himself as well as on behalf
of other applicants below and as Secretary
Association of Technical Officers of the Patent
Office, Delhi Branch, W-5, West Patel Nagar
Delhi - 110 008.
2. Sh. K.S.Kardam, S/o Late Sh. Har Lal
3. Sh. S.K.Pangasa, S/o Sh. D.N.Pangasa
4. Sh. M.R.Gupta, S/o Sh. Lal Chand
5. Sh. N.Ramchandani, S/o Late Sh. H.T.Ramchandani
6. Sh. S.K.Roy, S/o Sh. S.C.Roy
7. Sh. Hardev Karar, S/o Sh. Sant Ram
8. Sh. S.N.Sav, S/o Sh. S.R.Sav
9. Sh. N.R.Meena, S/o Sh. T.R.Meena
10. Sh. Shah Alam, S/o Sh. Cheedi Master
11. Sh. Manohar Singh, S/o Sh. Sarman Lal
12. Sh. Ashok Kumar, S/o Sh. J.N.Prasad
13. Sh. Rajesh Dixit, S/o Sh. B.L.Sharma

...Petitioner

(All originally working as and discharging duties of
Examiner of Patents & Designs Group 'A' Service).

(By Advocate Sh. Ramesh Babu for
Sh. R.P.Kapoor)

V E R S U S

1. Sh. V.Govindarajan, Secretary
Department of Industrial Policy
and Promotions, Ministry of Commerce-&
Industries, Udyog Bhawan, New Delhi.
2. Sh. S.S.Dawra, Secretary
Department of Personnel & Training
Ministry of Personnel, Public Grievances
and Pension, North Block, New Delhi.
3. Sh. D.C.Gupta, Secretary
Department of Expenditure,
Ministry of Finance
North Block, New Delhi.

4. Sh. S.Narayan, Secretary
Ministry of Finance
North Block, New Delhi.

...Respondents

(By Advocate Sh. M.K.Bhardwaj for
Sh. A.K.Bhardwaj)

(K2)

O R D E R (ORAL)

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

We have heard Sh. Ramesh Babu, learned proxy counsel for the applicants and Sh. M.K.Bhardwaj, learned proxy counsel for the respondents in CP 205/2003 in OA 1069/2000.

2. Paragraph-8 of Tribunal's order dated 2-8-2001 reads as follows :-

8. In the above view of the matter, the application partially succeeds and is accordingly disposed of. The respondents are directed to move the Ministry and finalise action with regard to the extension of Flexible Complementing Scheme, to the applicants as well, within six months from the date of receipt of a copy of this order. No costs.

3. Sh. Ramesh Babu, learned proxy counsel for the applicant has submitted that the above paragraph which has been quoted from the Tribunal's order will mean that the proposal which the respondents themselves had stated was under examination in the Department of Science and Technology, who had to take a favourable decision i.e. with regard to the extension of the Flexible Complementing Scheme (FCS) to the petitioners and cannot mean anything else.

4. On the other hand, Sh. M.K.Bhardwaj, learned proxy counsel has submitted that as per the directions of the Tribunal in the aforesaid order, the respondents were to move the Ministry and finalise action with regard to the extension of FCS to the

18

-3/-

applicants which they have done. He has frankly submitted that there has been some delay in taking the final decision for which they have tendered their unconditional apology. He has submitted that the learned counsel for the respondents in his oral submissions before the Tribunal had earlier submitted that the respondents' organisation itself had submitted a proposal for extension of FCS to the group 'A' officers in the Patent Office organisation. In pursuance of the directions of the Tribunal, a final decision has been taken with regard to extension of the FCS to the concerned officers.

43

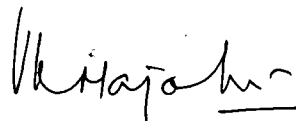
5. We have read the order of the Tribunal dated 2-8-2001 in OA 1069/2000. Admittedly, the main claim of the applicants in the OA was with regard to extension of the ACP Scheme to them and it was only during the arguments/hearing of the case that submissions had been made by the learned counsel for the respondents with regard to a proposal of the respondents to extend the FCS to Group 'A' Officers in that organisation. It is further noticed that in para 8 of the Tribunal's order, it is stated that the application partially succeeds and is disposed of with the directions as quoted in paragraph 2. It is also relevant to mention that extensive arguments have been put forth by the learned proxy counsel for the petitioners as well as the learned proxy counsel for the respondents, as to the manner in which the aforesaid directions of the Tribunal were to be implemented. Therefore, taking the totality of the facts into consideration as well as the aforesaid 'directions' of the Tribunal, it is not possible to

73

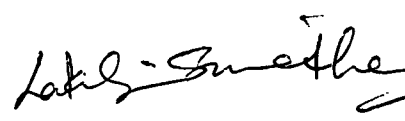
come to a categorical conclusion that the respondents have wilfully or contumacious disobeyed the Tribunal's order. This does not, therefore, warrant further action to be taken against the alleged contemnors to punish them under the provisions of Section 17 of the Administrative Tribunals Act, 1985 read with Section 12 of the Contempt of Courts Act, 1971. We say so because there is some amount of ambiguity in the order and it is, therefore, capable of more than one interpretation, which both parties are indeed trying to take umbrage under. In this context, therefore, we are of the view that if the petitioners have any further grievance on the letter issued by the respondents dated 8-8-2003, they should be given liberty to challenge the same, as advised, in accordance with law.

AA

6. In the result, for the reasons given above, CP 205/2003 is dismissed. Notices to the alleged contemnors are discharged with liberty as mentioned above.


(V.K. Majotra)
Member (A)

/vks/


(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)