

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

C.P.NO.220/2002 IN
M.A.NO.1524/2002
M.A.NO.1525/2002
O.A. NO.729/2000

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Monday, this the 22nd day of July, 2002

Hon'ble Shri Kuldip Singh, Member (J)
Hon'ble Shri S.A.T. Rizvi, Member (A)

Praveen Kumar
Chowkidar, MES No.314484
C/O Chief Engineer, WAC
Air Force Palam, Delhi Cantt.

..Applicant

(By Advocate: Shri Vijay Kumar)

Versus

1. Shri Yogendra Narain, IAS
Secretary
Ministry of Defence
Govt. of India
New Delhi
2. Lt. Gen. Hari Uniyal
Engineer-in-Chief
Army Headquarters
Kashmir House
DHQ PO
New Delhi-11
3. Maj. Gen. Madhav Arren
Chief Engineer
HQ Western Command
Chandimandir

..Respondents

O R D E R (ORAL)

Shri Kuldip Singh:

The applicant had filed OA-729/2000 which was allowed with the following directions issued to the respondents:-

"8. Under the circumstances, this O.A. succeeds and is allowed, respondents are directed to consider applicant's candidature as a LDC against vacancies that were available in November 1996, when the aforesaid selections were held in accordance with rules and instructions with all consequential benefits. These directions should be implemented within two months from the date of receipt of a copy of this order. No costs."

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2. Since the said judgement was not complied with by the respondents, the applicant filed Contempt Petition, being CP-349/2001. During the pendency of the aforesaid CP, the applicant was granted promotion. So the applicant submitted that his grievances have been redressed by the respondents and he did not press the CP. Accordingly, the aforesaid CP was dropped. Thereafter, the applicant has filed the present CP alleging that the order, which was allegedly complied with, had not been complied with in letter and spirit, as while giving promotion to the applicant, the respondents have annexed the following conditions:-

"4. As per recruitment rules, the individual is required to qualify the prescribed typing test at the speed of 30 words per minute in English or 25 words per minute in Hindi, failing which his confirmation nor increments will not be granted."

3. In the present CP, the applicant submits that since this condition was not to be imposed as per the directions given by this Tribunal in OA, thus, the respondents have committed the contempt of this Court. It is also submitted that the applicant has already qualified the requisite test, so this is a clever device adopted by the respondents to frustrate the orders passed by this Tribunal and thus the respondents are in contempt of the orders passed by this Tribunal.

4. We have gone through the entire file. On perusal of the promotion order, we find that this order had been passed some time on 14.8.2001, whereas the aforesaid CP

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was decided on 10.10.2001, i.e., after passing the aforesaid order. The applicant had made a statement in the aforesaid CP that he was satisfied that his grievances had been redressed by the respondents. So, now it is no more open for the applicant to challenge the same by filing a fresh CP by submitting that the respondents are still in contempt as they have not complied with the Tribunal's order in letter and spirit. Moreover, the perusal of the promotion order shows that the Department had passed the promotion order and had annexed this condition as per recruitment rules prevalent for the promotion and it is as per recruitment rules that the applicant is required to qualify the typing test at the speed of 30 words per minute in English or 25 words per minute in Hindi. The allegations of the applicant that he had already qualified the test and it was not denied by the respondents by filing the counter reply in the OA, does not hold good because the test so qualified by the applicant is qualified by the word "preliminary test" and this test is probably for confirmation and for grant of further increments, which is in accordance with the recruitment rules. So, it is not possible for the Tribunal to pass a new order against the recruitment rules. If the recruitment rules prescribe a condition of passing a typing test, the applicant has to undergo for the same.

5. Considering the facts outlined in the preceding paragraphs, the Contempt Petition deserves to be dismissed. Accordingly, the same is dismissed. Notices ⁱⁿ ~~passed to the respondents are discharged~~ File be consigned to the record room. No costs.

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6.. If still any grievance survives, the applicant is at liberty to file fresh OA, if so advised.

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(S.A.T. Rizvi)
Member (A)

/sunil/

Kuldip Singh

(Kuldip Singh)
Member (J)