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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

CCP No.313/92 in
OA No.207/86

Date of decision: 16.2.93

Dharam Veer

Petitioner

versus

Shri A.S.Virdhi
Executive Engineer
Field & Control & Drainage
Div.No.IV,
Delhi Admn. & anr. ----

Respondents

COURT: - THE HON'BLE MR.JUSTICE V.S.MALIMATH, CHAIRMAN
THE HON'BLE MR.I.K.RASGOTRA, MEMBER (A)

For the Petitioner --- Shri Rishi Kesh,
Counsel.

For the Respondents --- Shri A.K.Sharma,
Assistant Engineer.

ORDER (ORAL)

(PASSED BY HON'BLE MR.JUSTICE V.S.MALIMATH,
CHAIRMAN)

The complaint in this case is that the directions in OA No.207/86 have not been complied with. As we see that one of the directions issued in paragraph 8 of the judgement is to place the petitioner in a panel for ad hoc appointment or casual appointment to posts which may be filled up on ad hoc or daily rated basis taking into consideration the overall length of service from May, 1980 upto 30.4.1986 as a single unbroken spell of employment on casual-cum-ad hoc basis for determining his seniority. The respondents have filed a copy of the order passed on 26.9.92 in this behalf which says that the directions contained in the judgement have been complied with and the name of the petitioner has been placed on the top of the list for ad hoc/casual employment or appointment on daily rated basis. The counsel

for the petitioner, however, submitted that the petitioner's juniors have continued, whereas the petitioner has not been given appointment. There is no direction to give the appointment to the petitioner if anyone of his juniors has continued in employment. Hence no grievance can be made on this count. The only other direction issued by the Tribunal is that the petitioner should be given three chances to appear in a test or examination for regular appointment as a Typist Clerk or any other Grade 'C' post for which he is eligible deeming the age-limit to have been relaxed in his case. It is further stated that the petitioner shall thereafter be regularly appointed if he qualifies in the said test or examination. The complaint of the petitioner is that no test has been held even though the judgement in OA 207/86 was rendered on 20.9.91. The respondents' case is that no test whatsoever has been held for the reason that there is no regular vacancy for which such a test could be held. It is not the case of the petitioner that any test was held after pronouncement of the judgement and the petitioner was not given permission to appear in such a test or examination. There is no mandamus to hold a test within a specific period, whether or not there are vacancies for which such a test should be held. Hence it is not possible to take the view that any contempt has been committed because no test was held so far. In the order dated 26.9.92 the respondents have stated that the question of permitting the petitioner for appearing in the test when it is held is under consideration. It is obvious that as and when the test is held, the petitioner has to be given an

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opportunity to take it ~~without~~ treating the petitioner as having secured relaxation of age-limit in his favour. As that eventuality has not arisen so far, the question of taking action under the Contempt of Court Act does not arise. We do ~~expect~~ ^{expect} that the second direction shall also be complied with in the light of the elucidation which we have made. With these observations, this CCP is disposed of and the notice of contempt is discharged.

I.K.RASGOTRA
(I.K.RASGOTRA)

MEMBER (A)

V.S.MALIMATH
(V.S.MALIMATH)

CHAIRMAN