

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

CCP No.89/86 in

O.A. No. 984/86
T.A. No.

198

DATE OF DECISION August 3, 1989.

Shri Dina Nath & Ors. _____ Petitioner

Shrimati C.K.Sucharita _____ Advocate for the Petitioner(s)

Versus

Union of India & Ors. _____ Respondent(s).

Shri P.H.Ramchandani, _____ Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice Amitav Banerji, Chairman.

The Hon'ble Mr. B.C.Mathur, Vice-Chairman.

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? *Yn*
3. Whether their Lordships wish to see the fair copy of the Judgement? *N*
4. Whether it needs to be circulated to other Benches of the Tribunal? *#* ✓

MGIPRND-12 CAT/86-3-12-86-15,000

Aib
(Amitav Banerji)
Chairman
3.8.1989.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI
CCF No. 89/89 in
O.A. No. 984/86
~~XXXX~~

198

DATE OF DECISION 3.8.1989

Shri Dina Nath & Ors. Applicant (s)

Ms. C.K. Sucharita Advocate for the Applicant (s)

Versus

Union of India & Ors. Respondent (s)

Shri P.H. Ramachandani Advocat for the Respondent (s)

CORAM :

The Hon'ble Mr. Justice Amitav Banerji, Chairman.

The Hon'ble Mr. B.C. Mathur, Vice-Chairman(A).

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. To be circulated to all Benches of the Tribunal ?

JUDGEMENT

(Judgement of the Bench delivered by
Hon'ble Mr. Justice Amitav Banerji, Chairman)

This Civil Contempt Petition has been filed by seven petitioners for non-implementation of the order passed by a Bench of this Tribunal dated 10.8.1988. The petitioners' case is that by the above order, the Bench allowed Original Application with the directions that all the applicants and the interveners shall be regularised as Senior Investigators from the dates of their initial adhoc promotion and they shall be entitled to seniority and other consequential benefits accordingly. The Bench further directed that the order shall be complied with within a period of 3 months from the date of its receipt by the respondents. There is no dispute that the applicants and the interveners have been regularised as Senior Investigators from the dates of their initial

- 2 -

adhoc promotion and they have been accorded their seniority.

The petitioners claim that the respondents have not given other relief which was due to them and which has also been allowed in the Original Application. They lay special emphasis on these words in the order "other consequential benefits accordingly!" The petitioners also claim that ^{they} are entitled to promotion after having been accorded their seniority, which have not been done and juniors to them were already promoted. Consequently, they say that the judgement of the Tribunal has not been implemented by the respondents and the petitioners have no option but to invoke jurisdiction of the Court under Section 17 of the Act for appropriate action.

On behalf of the respondents, the plea is that there has been full compliance with the order passed by a Bench of the Tribunal. Not only the services of all the applicants have been regularised as Senior Investigators from the date of their initial adhoc promotion, but they have also been accorded their seniority. On the question of promotion to the next higher post, the stand of the respondents is that this is a separate matter and depends on selection and consequently that cannot ~~be~~ come within the purview of the words "consequential benefits". It was urged that the words "consequential benefits" can only mean any thing that arise out of the earlier part of the order, like monetary benefits including arrears etc. It was, however, urged that it would not take within its purview, a matter like promotion to

as,

a higher rank, which can only take place after a Departmental Promotion Committee ^{meeting} / or Selection. The respondents have not flouted the order of the Tribunal and as such, the CCP merits to be rejected.

We have heard learned counsel for the parties. Reference was made to the cases of Narender Chadha Vs. Union of India (A.I.R. 1986 S.C. 638) and B.S. Kapila Vs. Cabinet Secretary & Ors. (O.A No. 698/86 decided on 28.5.87).

We have frequently noticed CCP being filed for implementation of the order passed by the Tribunal including matters under the heading of "consequential benefits". Often the Tribunal while allowing an Application grants among other relief "consequential benefits" after ordering reinstatement or restoration of seniority etc. We have also noticed that a variety of claims are raised under the heading "consequential benefits", which were not even mentioned in the Original Application nor in any petition/application or representation made to the respondents. We could very well understand where a specific claim was made as a "consequential benefit" and that was rejected by the respondents. In such a case there could be an adjudication whether the petitioner was entitled to the specific consequential benefit/ or benefits.

In the present case, substantial period of time passed before the present CCP has been filed complaining that the order of the Tribunal has not been complied with. Meanwhile, regularisation has taken place and seniority has also been accorded and, thus, two items mentioned in the CCP have been complied with. If "Consequential benefits" mean monetary benefits, it is understandable. But where it

travel further and a claim is made in respect of an item which in our opinion cannot be granted in the normal course until further procedure is followed. Such "consequential benefits" cannot be enforced by a C.C.P. If an employee who was removed from service has been ordered to be reinstated treating the entire period from the date of suspension to the date of setting aside of the removal order, as in service, the term "consequential benefits" would cover the payment of all monetary benefits including increments and allowances.

However, if meanwhile the applicant because of his length of service has become entitled to be considered for promotion and has not been considered, the maximum that could come under


the term "consequential benefits" is that he should be considered for promotion, if eligible, but the Court will not be justified to direct his promotion to a higher post. If he is eligible to be considered for a higher post but is not selected, that may give rise to a fresh Application. It cannot be claimed as of right in a proceeding under Section 17 of the Act.

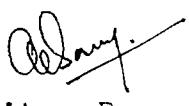
We are, therefore, of the view that in the present case, petitioners claim promotion as a consequence of being accorded seniority. If the promotion was to be made only on the ground of seniority subject to being unfit, even then a question remains to be decided as to whether the person's record has been seen or whether he has been declared fit. If he is found unfit, even in that case he would not be entitled to a promotion. Should he challenge that selection, it could only be done through a fresh O.A. and cannot be considered

as "consequential benefits" to be implemented or enforced through a CCP.

In the present case, the claim of the applicants is that they are entitled to be promoted to Grade IV after being accorded seniority. In our opinion, such a matter cannot come within the purview of "consequential benefits". Such matter may require consideration of questions of fact and law and in that event can only be gone into by a fresh Application. Such matter cannot be said to be a consequence arising out of the relief granted in the O.A. (Original Application).

We are, therefore, of the view that the petitioners are not entitled to any relief in the C.CP. Consequently, we dismiss the CCP and discharge notice issued to the respondents.


(B.C. Mathur)
Vice-Chairman
3.8.1989.


(Amitav Banerji)
Chairman.
3.8.1989.