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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

C.P. NO. 17/94 in
O.A. NO. 834/87

New Delhi this the 11th day of March, 1994

CORAM :

THE HON'BLE MR. JUSTICE V. S. MALIMATH, CHAIRMAN
THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

Dr. Fareed Ali Shamsi
S/O Late Mohd. Ishaq,
Research Assistant,
Bureau for Promotion of Urdu,
Ministry of Human Resources
Development, West Block-I,
R. K. Puram, New Delhi.
R/O Sector-8, N-214, R.K.
Puram, New Delhi.

... Petitioner

In Person

Versus

1. Shri S. V. Giri,
Secretary, Govt. of
India, Ministry of
Human Resources Development,
C-Wing, Shastri Bhawan,
New Delhi.
2. Smt. Fahmeeda Begum,
Director, Bureau for
Promotion of Urdu,
West Block-I, R.K.Puram,
New Delhi - 110066. ... Respondents

By Sr. Advocate Shri P. H. Ramchandani

C R D E R (ORAL)

Hon'ble Mr. Justice V. S. Malimath --

The complaint in this case is that the respondents have committed contempt in that they have not obeyed the directions issued by the Tribunal in O.A. No. 834/87 on 20.10.1992. Three directions were issued which were required to be complied with within a period of four months from the date of communication of the judgment. The first two directions are in

regard to payment of monetary benefits to the petitioner. We are informed that the dues in accordance with those directions have been paid to the petitioner in July, 1993. There has been a delay of about three months in this behalf. So far as the third direction is concerned, it was to consider the case of the petitioner for ad hoc promotion to the post of Research Officer pending decision on decategorisation of the post reserved for SC/ST candidates. As of date on which the C.C.P. was filed, admittedly, this direction had not been complied with. During the pendency of these proceedings, the order has been complied with in that the case of the petitioner was got examined by the DPC and in accordance with the recommendation of the said DPC, ad hoc promotion has been given not to the applicant but to one Shri Ghouri who was recommended by the DPC. The proceedings of the DPC were shown to us which make it clear that they did not find the petitioner fit and suitable for promotion. There is, therefore, due consideration of the petitioner's case for promotion. The direction was only to consider the case and that direction has been complied with. There is no doubt considerable delay in complying with this direction. We shall examine the question of delay later.

2. The petitioner maintains that non-consideration of his case is not fair and that it is really biased. Shri Ramchandani, learned counsel for the respondents showed to us the confidential records for several

years which are relevant for consideration wherein in the relevant column regarding fitness for promotion the entries are consistently to the effect that the petitioner was not fit for promotion. That no adverse remarks have been communicated to the petitioner is not, therefore, by itself sufficient to show that there have been unfair consideration of the petitioner's case for promotion. What is required to be communicated is an adverse remark. The assessment as to suitability for promotion cannot be considered as an adverse remark. Thus, such remarks are not required to be communicated. Be that as it may, consistently the petitioner has been found by the different authorities unfit for promotion that the DPC in the light of such confidential record found him not fit for promotion. We cannot draw an inference of unfairness and bias in the circumstances of this case.

3. Hence, the only question that survives for examination is the delay in complying with the direction. Learned counsel for the respondents submitted that it is on account of several administrative procedures and difficulties that the order could not be complied with within time. He submitted that efforts were made to carry out the direction in time. When the Tribunal fixes a particular time within which the directions are required to be complied with, every effort has to be made by the authorities to comply with the directions within the time granted. If the authorities in spite of their best efforts are not in a position to complete the process of

complying with the direction within time granted, the proper course to be adopted by them is to bring those facts and circumstances to the notice of the Tribunal and seek further extension of time. They cannot without taking such steps take their own time for complying long after the period fixed by the Tribunal in this behalf. We would be justified in the circumstances like these in noticing the conduct of the authorities for taking appropriate action under the Contempt of Courts Act. In this case so far as non-consideration of the petitioner's case for promotion within time prescribed is concerned, it cannot be said that the petitioner has been adversely affected for the reason the result would have been the same whether it was considered within four months or in March, 1994. The petitioner having been found ^{of} unfit having regard to consideration / record, she has really not suffered any disadvantage by the delay. It is, however, necessary to note that the petitioner ^{this} was compelled to approach the Tribunal with contempt of court case for the reason the respondents did not comply with the directions of the Tribunal. The petitioner would not have been required to take this trouble and incur expenditure had the respondents complied with the directions within the time prescribed. The same has to be said in regard to the delay in making the payment. The delay is only about three months so far as the payment is concerned. Having [✓] regard to these circumstances, we consider it just

and proper to compensate the petitioner by awarding appropriate costs in his favour. While dropping these proceedings, in view of the subsequent compliance, we direct the respondents to pay a cost of Rs.350/- to the petitioner within three months from this date.

K. Adige
(S. R. Adige)
Member (A)

V. S. Malimath
(V. S. Malimath)
Chairman

/as/