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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

CP (C) NO. 366/93 in OA NO. 137/87
& CP (C) NO. 368/93 in OA NO. 63/87

New Delhi this the 17th day of November, 1993.

CORAM :

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

1. CP (C) NO. 366/93 in OA NO. 137/87

R. P. Sharma,
S/O Shri P. S. Sharma,
Aged 53 years, working as
Senior Analyst,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi-110008. ... Petitioner

By Advocate Shri R. P. Oberoi

Versus

Shri J. P. Singh,
Secretary,
Department of Animal Husbandry
& Dairying, Ministry of
Agriculture,
Krishi Bhawan, New Delhi. ... Respondent

By Advocate Shri P. P. Khurana

2. CP (C) NO. 368/93 in OA NO. 63/87

R. P. Singh,
S/O Shri R. K. Singh,
Aged 52 years,
Senior Analyst,
Delhi Milk Scheme,
West Patel Nager,
New Delhi-110008. ... Petitioner

By Advocate Shri R. P. Oberoi

Versus

Shri J. P. Singh,
Secretary,
Dept. of Animal Husbandry
& Dairying, Ministry of
Agriculture,
Krishi Bhawan,
New Delhi. ... Respondent

By Advocate Shri P. P. Khurana

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ORDER (ORAL)

Hon'ble Shri Justice V. S. Malimath :-

The petitioners complain in these contempt of court petitions that the directions issued by the Tribunal in O.A. Nos. 137/87 and 63/87 have not been complied with. The respondents, in answer, have stated that they have complied with the directions of the Tribunal and in support of their claim, produced as Annexure-I the order dated 2.11.1993 by which the two petitioners before us have been accorded promotion on regular basis w.e.f. 12.5.1972 and 5.5.1975. Whereas the respondents say that this order is in compliance with the judgment of the Tribunal, the petitioners asserted that it is not so. Hence, we have to examine as to whose version is worthy acceptance.

2. The principal direction in the judgment of the Tribunal is contained in paragraph 6/8(b) reads :-

"(b) If regular vacancies did exist before 3.12.84, the respondents shall if the applicant was within the zone of consideration on those respective dates, get his case examined by the DPC and if he is found fit and suitable for promotion to grant him the deemed date of promotion. His seniority shall be fixed accordingly."

What follows from these directions is that the Tribunal did not itself record any finding on the question as to whether there were any regular vacancies before 3.12.1984. The Tribunal also did not record any finding on the question as to whether the respective petitioners were within the zone of

zone of consideration on the respective dates when vacancies accrued before 3.12.1984. All these matters were left for decision by the respondents and if they found that there were vacancies and if the petitioners were within the zone of consideration to get their cases examined by the appropriate DPC and if the said DPC found them fit and suitable for promotion, to accord them the deemed dates of promotion and consequent seniority and other benefits. The order which has been produced before us dated 2.11.1993, extracts the substance of the aforesaid directions in the first paragraph of the order wherein it is stated that the cases of the petitioners have to be considered against the vacancies available for being filled up on dates earlier than 3.12.1984 under the promotion quota on the dates when such vacancies exist, if they are within the zone of consideration. It is stated that the matter was placed before the review DPC to take a decision in the light of the directions of the Judgment of the Tribunal. In paragraph 2 of the order it is stated that on the recommendations of the review DPC held on 19.10.1993 in pursuance of the CAT's order as stated above, the following Bactt. Assistants were promoted and their adhoc appointments regularised in the post of Sr. Analyst with effect from the dates indicated against their names. Then follows the names of the petitioners and others against whom deemed dates of promotion have been given. It was pointed out by

the learned counsel for the petitioners that the regular deemed dates of promotion accorded to the petitioners are the dates on which they were originally promoted on ad hoc basis. The petitioners' contention is that there were vacancies earlier than the dates on which they have been given deemed dates of promotion and their cases were required to be considered for these vacancies. This exercise of ascertaining the earlier vacancies and consideration of the petitioners' cases has not been done by the respondents, is the complaint.

3. We find from the preamble of the order that the judgment of the Tribunal has been correctly understood and summarised and the attention of the DPC has been invited to the directions of the Tribunal which required ascertainment of vacancies before 3.12.1984 and to consider the cases of the petitioners in the earliest vacancies when they came within the zone of consideration. If in this background the DPC considered and accorded deemed dates of regular promotion to the petitioners as on 12.5.1972 and 5.5.1975, the obvious inference to be drawn is that those were the dates on which the petitioners' cases could be considered for promotion in the vacancies that became available and that their cases having been considered they having been found fit and suitable, have been accorded those deemed dates of promotion. Hence, it is not possible to take the view that there has been any contumacious violation of the directions of the judgment of the Tribunal.

4. If the petitioners have a grievance that the exercise done by the authorities is erroneous or mistaken in either identifying the vacancies or in deciding as to whether the petitioners came within the zone of consideration, that is a matter which cannot be examined in the present contempt of court proceedings. If the petitioners have any grievance to make in this behalf, they are entitled to do so in appropriate original proceedings. The scope of contempt of court jurisdiction is limited to consideration of the question as to whether the directions of the Tribunal have been complied with or not. If in the process of complying with the judgment of the Tribunal, a decision erroneous is taken, that is not a matter which can be examined in contempt of court proceedings. That is a matter to be examined in appropriate original proceedings. Without prejudice to that right of the petitioners, we drop these proceedings.

/as/

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

Malimath
(V. S. Malimath)
Chairman