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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

CCP No. 119/91

in

O.A. No. 1616/1987.

Date of decision: 17.9.1991.

Shri Amar Nath Bansal

...

Petitioner.

Vs.

Shri S.M. Vaish & Others

...

Respondents.

CORAM:

HON'BLE MR. JUSTICE AMITAV BANERJI, CHAIRMAN.

HON'BLE MR. I.K. RASGOTRA, MEMBER (A).

For the petitioner

...

Shri S.K. Sawhney, couns

For the respondents

...

Shri P.S. Mahendru,
counsel.

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

By this CCP, the petitioner, Shri Amar Nath Bansal prays for initiation of proceedings under Section 17 of the Administrative Tribunals Act, 1985 read with contempt of Courts Act, 1971 against the respondents (2 & 3) to enforce the implementation of the judgment dated 27th August, 1990. The second prayer is that the disciplinary proceedings against the petitioner should be deemed to have been closed in view of the fact that the same have not been completed within the time allowed by the Hon'ble Court.

The respondents have filed a reply in which they have said that there has been no wilful disobedience of the orders of the Bench. The delay which has occurred is on account of the labour involved in the matter. The respondents at no stage refused to implement the judgment of the Bench. It is stated that -

"Since as per the judgement the petitioner is deemed to have been promoted w.e.f. 1.4.1986, it involves a huge labour in calculating the benefits admissible to the applicant in terms of the judgment."

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The respondents have also filed a M.P. No. 2511/1991 in the CCP for necessary clarification in respect to the operative part of the judgement as to whether the difference of the salary which the petitioner had been drawing and the salary admissible for the post of Assistant Superintendent w.e.f. 1.4.1986 is covered within the term 'consequential benefits' and whether the applicant is entitled to the same.

We have heard Shri S.K. Sawhney, learned counsel for the petitioner and Shri P.S. Mahendru, counsel for the respondents. This Bench had heard the OA No. 1616/87 and passed the following order -

" Having regard to the fact that there is inexplicable procrastination in finalising the charge levelled against the applicant and that he has been promoted as Assistant Superintendent w.e.f. 28.4.1989 after 3 years from the date of issue of chargesheet, which in the opinion of the competent authority is not sustainable and which has not been pursued to its logical conclusion, we are of the view that the decision to hold back the promotion of the applicant w.e.f. 1.4.1986 was arbitrary and illegal. It appears to us that the grounds that led to the promotion of the applicant in 1989 were very much there even earlier as is evident from the letter dated 22/25 September, 1987 addressed to Commissioner, Departmental Enquiries by the Divisional Personnel Officer, DRM Office, New Delhi, if not earlier. There was, therefore, no justification for denying ad hoc promotion to the applicant from the due date on 1.4.1986. It will therefore be in the interest of justice to restore the promotion to the applicant from the due date. Accordingly, we order and direct the respondents that the applicant should be deemed to have been

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promoted on adhoc basis as Assistant Superintendent Rs. 550-750(Rs) w.e.f. 1.4.1986, with consequential benefits. We further direct that the disciplinary case against the applicant should be finalised within three months from the date of receipt of this order to avoid any further harassment to the applicant at the time of his retirement on superannuation. There will be no orders as to the costs."

The above order makes it clear that the decision of the respondent to hold back the promotion of the applicant w.e.f. 1.4.1986 was arbitrary and illegal. There is no justification for denying adhoc promotion to the applicant from the due date on 1.4.1986. The Bench further held that it would be in the interest of justice to restore the promotion of the applicant from the due date. It further directed the respondent that the applicant should be deemed to have been promoted on adhoc basis as Assistant Superintendent w.e.f. 1.4.1986 with consequential benefits.

When the applicant was being given ad hoc promotion from the due date on 1.4.1986, he would also be entitled to the difference in pay from the one which he actually received and the one which is admissible for that post. When we said that the applicant should be deemed to have been promoted on ad hoc basis w.e.f. 1.4.1986 it meant that the consequential benefits will also flow from it. We have, therefore, no doubt in our mind that the intent was clear and the applicant, Shri Amar Nath Bansal was entitled to the benefits

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which arose out of his promotion from 1.4.1986. This also disposes of the M.P.No.2511/1991.

It is evident from the material on the record that the applicant is yet to receive some of the consequential benefits as directed as per our order on the O.A. Although we have not directed any particular period of time within which the consequential benefits were to be given to the applicant but even if no period has been mentioned, it had to be done within a reasonable period of time. In our view, a period of six months, where no period of time has been mentioned, is a reasonable period. The judgment was pronounced on 27.8.1990 and six months period would come to an end at the end of February, 1991. The respondents have stated in their M.P. No.2511/1991 that the petitioner has been allowed:

- (i) proforma promotion with effect from 1st April, 1986;
- (ii) he has been granted the benefit of annual increments;
- (iii) he is entitled to draw higher rate of pay; and
- (iv) the amount of Rs.6000/- has been paid to him towards the benefit of higher rate of pay for the period 28th April, 1989 to 1st April, 1991.

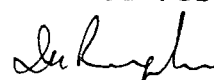
It was contended by the learned counsel that it was not a case of complete non-implementation of the judgment. But one matter stands out as to what should be the pay of the applicant from 1.4.1986 and the non-payment of the amount which was the difference between the pay and allowances that he received and the one that he would be entitled according to the order of the Tribunal. In this respect there has been no compliance with the order of the Bench. The reason given by the respondents for not implementing the order is that

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the calculations of the amount from 1.4.1986 involve a huge labour and time. Learned counsel has stated that the respondents require further time to implement the order after the clarification is given. We have already given the clarification as above and we would like the respondents to implement our order within a period of one month, i.e. 18.10.1991 as the applicant superannuates on the 31st October, 1991.

There is another prayer made in the C.C.P., viz. to direct that the disciplinary inquiry be deemed to have been closed. This relief had not been given in the O.A. On the contrary, we have said that the disciplinary inquiry must be completed within three months. That period has expired long ago. We are not impressed by the reason given for not completing the disciplinary inquiry. If there was any difficulty in interpreting our order dated 27.8.1990, clarification could have been sought long ago without waiting till 4.9.1991. What the respondents have now sought by the above M.P.No.2511/1991 could have been done long ago. However, we are of the view that the inquiry must be concluded by 18.10.1991 so that the disciplinary authority may pass an appropriate order within 7 days therefrom.

In the above view of the matter, we are of the opinion that the C.C.P. should be dismissed and notice issued to the respondents discharged, if the above directions contained in this order are implemented within the time schedule mentioned above. In-case it is not complied with, then the matter will be listed for further orders on 30.10.1991.


(I.K. RASGOTRA)
MEMBER(A)

17.9.1991.


(AMITAV BANERJI)
CHAIRMAN.

17.9.1991.