

38

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

CCP 269/91 In
OA 14/87

Date of decision: 17.07.1992.

Shri Kali Prasad Mamgain ...Petitioner

Versus

Shri Mahesh Prasad & Ors.Respondents

Coram:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman

The Hon'ble Mr. I.K. Rasgotra, Administrative Member

For the Petitioner : Shri P.K. Aggarwal, counsel.

For the Respondents : Miss Nisha Sahai, proxy
counsel for Shri M.L. Verma,
counsel for the respondents.

O R D E R

The complaint in this case is that the directions issued by the Tribunal in OA 14/87 and connected cases decided on 22.3.1991 have not been complied with. The directions in the judgement are contained in paragraph 13, which we shall extract for the sake of convenience as follows:-

"The respondents are directed to expedite the submission of the report by the High Powered Expert Committee constituted in May, 1989, so that they are in a position to finalise the fixation of the pay scales of the applicants keeping in view the observation of the Fourth Central Pay Commission as contained in para 10.320, quoted above, as early as possible and in any case within four

months from the date a copy of this order is received by the respondents. the changes, if any, in the final prescription of the pay scales, after examination by the respondents, will be effective from January 1, 1986. The other reliefs claimed in all the O.As stand rejected and disallowed. The parties are left to bear their own."

When the matter came up before us on an earlier occasion on 10.2.92, we interpreted the aforesaid directions in the following manner:-

"We adjourn this case to 1.5.1992 to enable the respondents to report compliance with the decision of the Tribunal. When we say compliance, it means, taking a decision and passing an appropriate order in regard to the fixation of scales of pay to the post in question. We are not concerned with the question as to whether the respondents appoint another committee, it is for them to decide. What is the crux of the matter is to pass appropriate orders in regard to the fixation of pay scales as directed by the Tribunal in the original application."

This clarification was issued by us in the light of the stand taken by the respondents that the report of the Expert Committee, referred to in the judgement of this Tribunal not being comprehensive enough, it is not found helpful for the Government to take an appropriate decision and that, therefore, they are in need of fresh

assistance for taking a decision. We made it clear that it is for the Government to seek assistance from whatever quarter they consider it appropriate and take a decision in the matter. It was emphasized that the crux of the matter is that they should take a decision in regard to fixation of scale of pay to the posts in question. In other words, we made it clear that it is open to the Government to accept or not to accept the report of the Expert Committee or to take assistance in regard to the question involved, from any other person or authority to enable them to take an appropriate decision in regard to the fixation of pay scale. The judgment of the Tribunal in the Original Application cannot be construed as having effect of restricting consideration of only the report of the Committee constituted in the year 1989. In our opinion, it was open to the Government to reject the Committee's report if it was found unsatisfactory. But that would not justify not taking a decision in regard to the fixation of the pay scale. That decision they had to take as per the directions of the Tribunal, whether or not the report of the Committee was acceptable or not. Hence, if they feel that the report of the Committee is not comprehensive, nothing prevented them to take

the assistance from any other source to formulate their decision in regard to the fixation of the pay. What they have now submitted before the Court is the order dated 16.06.1992 to show that they have complied with the directions of the Tribunal. The order reads as follows:-

"That the matter regarding revision of scale of pay of the Staff Artists in Doordarshan was under consideration of the Ministry of Information and Broadcasting, in the light of the report of the fourth pay Commission as brought out in para 10.320.


Now, it has been decided by the High Power Expert Committee that no case for parity exists between Staff Artists of Doordarshan and Films Division. the present pay scale given to the Staff Artists of Doordarshan would continue."

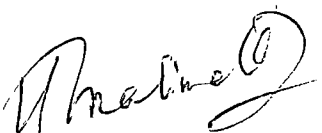
It has been stated in the affidavit filed on 17th July, 1992 that it has been decided by the High Power Expert Committee that no case for parity exists between Staff Artists of Doordarshan and Films Division and that the present pay scale given to the Staff Artists of Doordarshan shall continue. A copy of the Petition referred to above has been enclosed.

The order dated 16.6.1992, extracted above, is the decision of the Government to the effect that no case for parity exists between Staff Artists of Doordarshan and Films Division and, therefore, the present pay scale

should continue. In other words, the decision is to the effect that there is no ground for taking a decision to improve the scale of pay of Staff Artists of Doordarshan. We have no hesitation in holding that the order of the Government dated 16.6.1992 is in full compliance of the judgment of the Tribunal inasmuch as the decision has been taken, as directed by the Tribunal in regard to fixation of pay scale. Once the Government rendered the decision in this behalf, it has discharged its responsibilities imposed on it by the directions given by the Tribunal. Hence, no action under the Contempt of Courts Act is called for.

If on the merits of the decision, the petitioner has a grievance on the ground that the Government has not taken appropriate action and calls for interference, that is not a matter which we can examine within the four corners of this Contempt Petition. The petitioner is entitled to agitate the same before the appropriate forum. Without prejudice to the said right of the petitioners, these Contempt of Court Proceedings are dropped. No costs.


(I.K. RASGOTRA)
MEMBER (A)


(V.S. MALIMATH)
Chairman

July 17, 1992