

Central Administrative Tribunal
Principal Bench

CP 219/94

in

O.A. 359/88

New Delhi this the 9th day of December, 1997.

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Hon'ble Shri R.K. Ahooja, Member(A).

1. Shri B.D. Bhatia,
S/o Shri L.M. Bhatia,
Chief Engineer, Baroda House,
New Delhi.
2. Shri B.D. Abhyankar,
S/o Shri Dhawkanath,
Chief Engineer, Baroda House,
New Delhi.
3. Shri S.B. Saxena,
S/o Shri B.B. Saxena,
Chief Engineer, Baroda House,
New Delhi.
4. Shri Rajendra Kr. Agarwal,
S/o Shri Jyoti Parsad Agarwal,
Dy. Chief Engineer,
Northern Railway,
Allahabad (Construction).
5. Shri Vinay Bhushan Bhatnagar,
S/o Shri B.B. Lal Bhatnagar,
under Dy.CE/TM/N. Rly,
Baroda House,
New Delhi.
6. Shri Gurdarshan Singh,
S/o Shri Sarban Singh,
Sirhind (Ambala Divn.),
Northern Railway.
7. Shri D.P. Chaudhary,
S/o late Shri T.R. Choudhary,
PWI, Northern Railway,
Prayag under Assistant Engineer,
Northern Railway, Paryag.
8. Shri S.S. Malhotra,
S/o late Shri D.R. Malhotra,
PWI Gr. I, under
Assistant Engineer,
Northern Railway, Rohtak.

9. Shri Harish Chandra,
S/o late Shri Behari Lal,
Office of DRM, N. Delhi,
under DSE (C) N.Delhi.

10. Inderjeet Khatri,
S/o Shri Girdhari Lal Khatri,
PWI, H. Nizamuddin,
New Delhi. ...Applicants.

By Advocate Shri B.S. Mainee.

Versus

Shri Masih Uz Raman,
General Manager,
Northern Railway, Baroda House,
New Delhi. ...Respondents.

By Advocate Shri B.K. Aggarwal.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

This is a Contempt Petition (CP 219/94) filed by the applicants in O.A. 359/88 alleging that the respondents have failed to implement the judgement dated 6.7.1993 nor have they given any reply to their representations.

2. We have heard the arguments advanced by Shri B.S. Mainee, learned counsel for the applicants, at great length and also the arguments advanced by Shri B.K. Aggarwal, learned counsel for the respondents and perused the pleadings in O.A. 359/88. The Tribunal by order dated 6.7.1993 had directed the respondents to regularise the petitioners' seniority and confirm them in the grade of APWIs on the basis of their service, duly taking into consideration the service rendered by them as AIOWS. It was further directed that the case of the petitioners shall be considered on merits for further promotion to the next higher grade w.e.f. the dates when their immediate juniors were promoted

to such higher posts. The respondents have submitted that they have complied with the directions of the Tribunal which has been disputed by the applicants. The Tribunal's order dated 21.5.1997 is also relevant in which it has been held that in case of 2 of the petitioners, namely, S/Shri B.D. Bhatia and B.D. Abhyankar, since they had not availed of the opportunity to appear in the examination, the respondents cannot be faulted in not giving them retrospective promotion. Therafter, the case of only one of the petitioners, namely, Shri I.J. Khatri had been considered. The main contention of Shri B.S. Maine, learned counsel, is that the criminal case pending against him since 1979 is yet to be concluded and as many as 15 witnesses have yet to be examined. He, therefore, submits that this fact could not come in the way of the respondents giving him ad hoc promotion. We note from the additional affidavit filed by the respondents dated 3.9.1997 that in furtherance of the order dated 21.5.1997 the respondents have reviewed the case of Shri Khatri in accordance with the Railway Board's instructions dated 21.1.1993. They have submitted that his case for ad hoc promotion was considered by the competent authority and taking into account the relevant facts, the same has not been approved. Shri Maine has vehemently disputed the reasons and conclusions of the competent authority and has submitted, inter alia, that the respondents cannot now take the view that the charges against the petitioner are very grave in nature or that he is responsible for the delay which are contrary to the facts and are mala fide.

3. We have to keep in view that this is a Contempt Petition filed by the petitioners and now pressed only in respect of one person that the respondents have wilfully and contumaciously disobeyed the directions of the Tribunal dated 6.7.1993. From perusal of the materials on record and the facts briefly narrated above, we are satisfied that the respondents cannot be held to have committed wilful disobedience of the Tribunal's order for which action under the Contempts of Court Act, 1971 read with Section 17 of the Administrative Tribunal's Act, 1985 is called for. In the facts and circumstances of the case, therefore, the Contempt Petition is dismissed. Notice issued to the respondents on the Contempt Petition is discharged giving liberty to the petitioner, if so advised, to challenge the orders in accordance with law by way of original proceedings.

R.K. Ahooja
(R.K. Ahooja)
Member(A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'