

(2) 
CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

CP No.234/94 in OA No.1152/88

NEW DELHI THIS THE 3rd DAY OF JANUARY, 1995.

MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN(J)
MR.B.N.DHOUNDIYAL, MEMBER(A)

Sh.Lakhpak Singh
S/o Late Capt.Jage Ram
R/o Qr.No.F-9,N.P.L.Colony
New Rajinder Nagar
New Delhi-110060. Petitioner.

BY ADVOCATE SHRI B.B.RAVAL.

Vs.

1. Dr. S.K.Joshi
Director-General
Council of Scientific and Industrial
Research, Rafi Marg,
New Delhi-110001.
2. Shri Bhuvanesh Chaturvedi
The Vice-President
Council of Scientific and Industrial
Research, Rafi Marg,
New Delhi-110001.
3. Dr.E.S.Rajgopal
Director,
National Physical Laboratory
Hill Side Road,
New Delhi-110012.
4. Shri K.K.Mahajan
Scientist F
National Physical Laboratory
Hill Side Road,
New Delhi. Respondents

SHRI V.K.RAO, PROXY FOR
SHRI A.K.SIKRI, COUNSEL.

ORDER

JUSTICE S.K.DHAON:

Before the commencement of disciplinary proceedings, the petitioner was employed as a Security Officer in the National Physical Laboratory(NPL). He was awarded a punishment of compulsory retirement from service. Feeling aggrieved, he came to this Tribunal by means of OA No.1152/88. The OA was decided by this Tribunal on 9.7.1993 on the short ground that the failure of the respondents to furnish to the petitioner, a copy of the inquiry officer's report, vitiated the order of punishment. The respondents went up to the Supreme Court by means of a Special Leave Petition which was allowed and

the matter was remanded to this Tribunal for a fresh decision. On 9.7.1993, this Tribunal gave a fresh decision with certain directions which, as material, are these:

- (a) reinstate the petitioner on the post of Security Officer.
- (b) pay back-wages to the petitioner from the date of removal from service to the date of reinstatement, if he satisfies the authority concerned that during this period, he was not gainfully employed elsewhere.
- (c) the petitioner shall be given the benefit of continued service for purposes of seniority and promotion.

2. The complaint in this contempt petition is that the aforesaid directions have not been complied with.

3. A counter-affidavit has been filed on behalf of the respondents and a rejoinder-affidavit too has been filed. Counsel for the parties have been heard.

4. The first grievance is that the petitioner has not been reinstated as a Security Officer although he is being paid, after reinstatement, the same emoluments which would have been payable to him, if he had been designated as a Security Officer.

In the reply filed, it is stated that after ^{the} exit of the petitioner from service, a Security Officer had to be necessarily appointed. There is only one post of Security Officer. Though the petitioner is being asked to perform the duties of a Security Officer but his appointment has been shown as the Deputy Stores Purchase Officer, the pay-scale being

the same.

5. The clear direction of this Tribunal is that the petitioner should be reinstated as a Security Officer. It is implicit in such a direction that the petitioner should not only be paid the emoluments which were being paid to him as a Security Officer but he should also be designated as such an officer. The learned counsel appearing for the respondents conceded at the Bar that the respondents have so far observed this particular part of the direction in its breach. He has given an undertaking that the petitioner shall be redesignated as a Security Officer within a period of 24 hours from the date of receipt of a certified copy of this order.

6. The other grievance is that the petitioner has not been given due promotions. It appears to be an admitted position that the post of a Security Officer is an isolated post. Therefore, the question of seniority inter se for the purpose of giving promotion being taken into account does not arise. However, the respondents have stated that under the existing rules, if an employee has put in the requisite number of years of service, he is entitled to be put in the next Administrative Grade. The petitioner having put in the requisite number of years of service, his case for being placed in the next Administrative Grade was considered by a Departmental Promotion Committee(DPC). However, since the petitioner faces a departmental enquiry, the recommendations of the DPC have been placed in a sealed cover and the/ cover will be opened after the culmination of the disciplinary proceedings. It appears that the respondents have initiated certain other disciplinary proceedings against the petitioner which were pending when the punishment of compulsory retirement was awarded to him. According

to the learned counsel for the respondents, those proceedings have been revived. No exception can be taken to this course being adopted by the respondents. We have no doubt that the departmental proceedings shall be disposed of expeditiously so that the sealed cover may be opened and its contents, if in favour of the petitioner, may be given effect to.

7. In the rejoinder-affidavit filed, it has been stated that the petitioner has not been fully paid his back-wages. At the Bar, the learned counsel for the petitioner clarified that the respondents have not supplied to the petitioner, the details of the deductions which they have made from the amount which was really paid to him (the petitioner). The counsel for the respondents has stated at the Bar that such details would be furnished to the petitioner very shortly.

8. The learned counsel for the petitioner has urged that in order to harass the petitioner, the respondents have created a superficial Administrative Grade. According to him, there is already existing an Administrative Grade and in the normal course, the petitioner was entitled to be considered for being given that grade. Be that as it may, this Tribunal, in its directions, did not restrain the respondents from creating a new Administrative Grade to meet the exigencies of the situation. If the petitioner is given some Administrative Grade, and if he feels dissatisfied, it will be open to him to challenge the legality of such an action by taking appropriate steps before an appropriate forum and therein it will be open to him to take all possible pleas which are available

to him under the law.

9. With these directions, this CP is disposed of. Notices issued to the respondents are discharged. There shall be no order as to costs.

B.N.Dhundiyal
(B.N.DHUNDIYAL),

MEMBER(A)

S.K.Dhaon
(S.K.DHAON)
VICE-CHAIRMAN(J)

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