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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

CCP 109/92 In  
OA 88/88

Date of decision: 21.07.92

Shri Baldev Raj Dhall

...Petitioner

Versus

U.P.S.C. & Others

...Respondents

Coram:-

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

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

For the Petitioner : Mrs. C.M. Chopra, Counsel.

For the Respondents : Mr. M.L. Verma, Counsel.

**O R D E R**

The complaint in this case is that the directions given in the judgement dated 14.1.1992 have not been complied with. The operative part of the judgement which contains the directions reads as follows:-

"Keeping the same in view, we direct the respondents to take back the applicant on the post held by him within one month from the receipt of a copy of this order, and also to take steps to regularise his services as L.D.C., in consultation with the Staff Selection Commission, relaxing, if necessary, the upper age limit for his appointment as L.D.C., in case he was within the prescribed age limit at the time of his initial appointment as claimed by him. Till such regularisation,

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the applicant shall be given the minimum pay scale of L.D.C., from the date of his being taken back on duty."

2. The clear effect of these directions is to require the respondents:

i) to take back the petitioner on the post held by him within one month from the date of receipt of a copy of the order.

ii) The respondents had to consider the regularisation of the services of the petitioner in consultation with the Staff Selection Commission by relaxing his upper age limit for his appointment as L.D.C. provided he was within the prescribed age limit at the time of his initial appointment.

iii) Till such regularisation, the petitioner was to be given the minimum pay scale of L.D.C. from the date of his being taken back on duty.

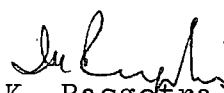
3. In this case the respondents have placed Annexure 'B' dated 14.2.92 to show that they have complied with the directions of the Tribunal to take back the petitioner on duty and to satisfy themselves if the petitioner was within the age limit on the date of his initial appointment. <sup>he was asked to produce evidence</sup> They have produced Annexure 'B' dated 14.2.92 which was communicated to the petitioner; it calls upon the petitioner to report for duty not later than 20.2.1992. It

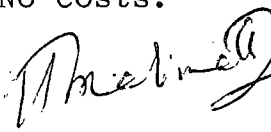
says that he would be taken back on duty as purely casual clerk on daily wages basis in the office of Union Public Service Commission. It further says that they would examine his case for regularisation and that till regularisation he will be given daily wages on the minimum of the pay scale of the L.D.C. from the date he is taken back on duty as casual clerk as per the directions of the Tribunal. He <sup>was</sup> asked to bring original certificates in support of date of birth and educational qualifications at the time of reporting. It is stated that the petitioner has produced the said records. The records produced by the petitioner would show that he was not within the <sup>prescribed</sup> age limit on the date of his initial appointment. That being the position, the first condition for considering his case for regularisation, was not satisfied. Hence no grievance can be made that the services of the petitioner have not been regularised. On the petitioner's own showing he was not within the <sup>prescribed</sup> age limit on the date of his initial appointment. The orders of the Tribunal make it clear that if the petitioner was within the prescribed age limit on the date of his initial appointment only then his services can be regularised. We, therefore, have no hesitation in holding that no action is called for

under the Contempt of Courts Act on the ground that petitioner's services have not been regularised.

4. The learned counsel for the petitioner, Mrs. C.M. Chopra, however submitted that the first responsibility cast on the respondents by the judgement of the Tribunal is to take the petitioner back on duty within one month. She was undoubtedly right in her submission. The respondents say that they have made an offer, as per Annexure 'B' requiring the petitioner to report for duty before 20.2.92 whereas the petitioner says that though he made attempt to report for duty but he was not allowed by the respondents to do so. The respondents say that he did not make any such attempt. We are satisfied that there is no formal communication declining regularisation. It is obvious that on the very date the petitioner submitted evidence regarding his date of birth, it became manifest that he was not within the prescribed age limit on the date of his initial appointment. Having regard to the specific stipulation contained in the judgement of the Tribunal, discussed above, we find it difficult to disbelieve that the petitioner who was so anxious to get back on duty would have refrained from duty. In the circumstances, there is good reason to accept the plea of the petitioner that his attempt to join duty did not succeed, though

the offer was made by Annexure 'B' on 14.2.92. If the said offer was given effect to, we are inclined to take the view that the petitioner would have reported for duty on 17.2.92, as that is the date on which the petitioner appeared before the authorities and submitted evidence in regard to his date of birth etc. The Petition for taking action under the Contempt of Courts Act has been filed on 3.3.92. In the circumstances, we are inclined to take the view that the petitioner should be deemed to have been in service at least for a period of one month before the respondents took the view that the petitioner was not eligible for regularisation. In the circumstances, we consider it appropriate to direct the respondents to pay the petitioner wages for a period of one month in the minimum of the pay scale of the L.D.C. This shall be done within a period of one month from the date of receipt of a copy of this order, failing which the said amount will be paid to the petitioner with interest at the rate of 12% p.a. from this date to the date of payment. No costs.

  
(I.K. Rasgotra)  
Member(A)

  
(V.S. Malimath)  
Chairman

July 21, 1992.

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