

(16)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

REGN.NO. CCP 307/91 in  
OA 1551/89

DATE OF DECISION: 26.3.1992

Ramesh Singh Rana

... Petitioner.

Versus

Shri Arun Bhagat,  
Commissioner of Police  
and anr.

... Respondents.

CORAM: THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.  
THE HON'BLE MR. P.C. JAIN, MEMBER(A).

For the Petitioner.

... Mrs Meera Chibber,  
Counsel.

For the Respondents.

... Shri B.R. Prashar,  
Counsel.

ORDER (ORAL)

(Hon'ble Mr. Justice V.S. Malimath,  
Chairman)

The grievance of the petitioner in this case is that the judgement of this Tribunal in O.A. No. 1551/89 dated 2.3.1990 has not been complied with. It has been further clarified in CCP No. 124/90 on 24.7.1991 to the effect that the quashing of the impugned order dated 2.6.1989 is that the petitioner would be entitled to all consequential benefits including promotion to higher post in accordance with the relevant rules. The respondents have now taken the stand in the reply that the judgement has since been complied with. They state that the case of the petitioner has been considered for promotion and he has not been found fit. They further state that as and when further occasion arises, his case shall be

considered on merits and shall be promoted if he is found fit and suitable. The counsel for the petitioner, however, submitted that the stand taken in the reply to paragraph 4 indicates that what has weighed with the Departmental Promotion Committee is the pendency of the disciplinary enquiry against the petitioner. She submitted that this Court having quashed the disciplinary proceedings, it was not open to the D.P.C. to take the pendency of the disciplinary enquiry into account for assessing the suitability of the petitioner for promotion. In principle, the submission of the counsel for the petitioner is not assailable. The question for consideration is as to whether the respondents have assessed the suitability of the petitioner taking into account the pendency of the disciplinary proceedings even though they have been quashed by this Tribunal. The inartistic manner in which the reply has been given to paragraph 4 does give scope for such an argument. We, therefore, thought it proper to satisfy ourselves as to whether the D.P.C. has taken into account the pendency of the disciplinary proceedings in the matter of assessing suitability of the petitioner. On examination of the same, we find that the D.P.C. considered the candidature of the petitioner but he was not found fit and suitable for promotion. The result of Departmental Promotion Committee dated 11.2.1991 was kept in sealed cover as per procedure. It is in pursuance of the directions of the Tribunal by which the disciplinary proceedings were

quashed and the case of the petitioner was required to be considered, that the sealed cover was opened to consider if the petitioner has to be promoted. It is no doubt true that in the proceedings of the D.P.C., which were placed before us for perusal by the counsel for the respondents, there is a note in the corner that the disciplinary enquiry is pending. That obviously is a mistake. The D.P.C. did proceed to follow the sealed cover procedure on the assumption that the disciplinary enquiry was pending against the petitioner. But that does not mean that the pendency of the disciplinary proceedings was a circumstance that was taken into account for assessing the suitability of the petitioner. In all cases where sealed cover procedure is followed, disciplinary proceedings would be pending and, therefore, the D.P.C. has to assess the suitability without taking into account the pendency of disciplinary proceedings and to assess the suitability on the basis of the relevant service records. That precisely has been done in this case. The assessment of the petitioner was on the basis of the service records. On perusal of the records, we are satisfied that what has been done is to assess suitability on the basis of the service records of the petitioner and not the disciplinary proceedings pending against the petitioner. Hence, we are not inclined to take the view that this is a fit case for taking action under the Contempt of Courts Act.

2. It is not for us functioning under the Contempt of

Courts Act to decide as to whether there is any error committed in the matter of assessing the suitability of the petitioner. If the petitioner has any grievance, he has to work out his rights in appropriate proceedings.

3. For the reasons stated above, this C.C.P. is dismissed.

*Cec*  
(P.C.JAIN)  
MEMBER(A)

*V.S. Malimath*  
(V.S.MALIMATH)  
CHAIRMAN

SRD  
260392  
270392