

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

CCP-30/90 in
OA-1848/89

DATE OF DECISION: 9.11.90

SHRI K.P. MANGANI & ORS. PETITIONERS

VERSUS

THE ADMINISTRATOR I.E. RESPONDENTS
LT.GOVERNOR & ORS.

SHRI S.C. GUPTA, SENIOR COUNSEL FOR THE PETITIONERS.

SHRI M.M. SUDAN, COUNSEL FOR THE RESPONDENTS.

CORAM:

HON'BLE MR. T.S. OBEROI, MEMBER(J)

HON'BLE MR. P.C. JAIN, MEMBER(A)

O R D E R

This C.C.P. is directed against the respondents, for allegedly violating/disregarding the orders passed by this Tribunal in OA No.1848/89, on 15.9.89, thereby committing Contempt of this Tribunal.

2. The petitioners' case, briefly, is that after having been promoted as Grade-I (Executive) of Delhi Administration Sub-ordinate Service (DASS, in short), on various dates between 15.11.1979 to 25.11.1980, from Grade-II (Executive) of the said service and having worked continuously in the former grade, ever since their promotion, and having also been allowed to cross the efficiency bar in Grade-I (Executive), they were entitled to be considered for promotion on officiating appointments to duty posts of Delhi and Andaman and Nicobar Islands Civil Service, shortly put DANICS, under Rule 25(3) of DANICS Rules, 1971, in accordance

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with their seniority, as per the seniority list, as on 3.12.1980, issued by the Services Department of Delhi Administration on 19.5.1987. They have also averred that though initially appointed on ad hoc basis, their services were also regularised as Grade-I (E) in DASS, vide orders dated 13.3.87 and 23.3.87 (Annexure-A&B to the original application), with effect from the respective dates on which they were initially promoted to Grade-I (Executive). They have alleged that for ulterior motive, their due and legitimate claim for promotion to DANICS has been ignored, by the respondents, vide the orders recently issued to this effect (Annexure-F to the main OA), in view of impending promotions to DANICS. However, on O.A.No. 1848/89 having been filed by the petitioners before this Tribunal, and on hearing the petitioners with regard to same, the respondents were directed to provisionally consider the petitioners, provided they come within the zone of consideration, based on the final seniority list as on 3.12.1980, vide order dated 15.9.1989, and extended till further orders, vide order dated 2.11.1989. The petitioners have alleged that inspite of the said orders, the respondents are still persisting in the continuation of the impugned orders, and hence this Contempt Petition against them.

3. In the reply filed on behalf of the respondents, they have contested the claim of the petitioners and denied having committed any contempt of this Tribunal's order, as alleged. They have taken up the plea that the seniority list as on 3.12.1980, issued on 19.5.1987, could not be the valid basis

Below

for considering the claim of the petitioners, for the promotion as DANICS, as the said seniority list had under-gone a change, in consequence of various judgements passed by this Tribunal as well as the Hon'ble Supreme Court, reference of which finds mention on page three of their reply, particularly the judgement in OA No. 561/86 - B.L. Bhatnagar & Ors. Vs. Delhi Administration & Ors. and O.A. No. 67/86 (V.K. Seth & Ors. Vs. Delhi Administraation & Ors.), reported as ATR 1989 (i) CAT 257. The respondents have also stated that this position was well within the knowledge of the petitioners, and they have deliberately withheld the same being mentioned, in their original application, as well as the Contempt Petition. The respondents have also stated that in consequence of the various judgements, referred to above, the petitioners do not come within the zone of consideration, for promotion to the DANICS, and this aspect has been considered by the respondents, before issuing the impugned orders, and the seniority list, now in force, is the one issued by the respondents, vide Administration letter No.F.2(18)/89-JSC dated 10.11.89. The respondents thus vehemently refuted petitioners allegations that any contempt of this Tribunal's order has been committed by them.

4. In the rejoinder filed by the petitioners, the allegations earlier made in the petition were reiterated, adding that the directions in the judgement of this Tribunal in ATR 9(1) CAT 257 (B.L. Bhatnagar & Ors. Vs. Delhi Administration & Ors.) does not make any change, so far as the petitioners are concerned, and that the respondents have deliberately

ignored the petitioners' claim for promotion to DANICS, with a view to give benefit ~~of~~ ^{to} some others concerned.

5. We have carefully considered the rival contentions, as briefly discussed above. We have also perused the contentions urged in the CCP, its reply by the respondents, and also the relevant part of the pleadings in the original application No.1848/89, so far as the same were necessary to decide the present CCP. A perusal of orders dated 13.3.87 and 23.3.87 regularising the petitioners in Grade-I (Executive), which have been mainly the basis for reiteration of the claim by the petitioners, in para 3 thereof, shows that the orders regularising the petitioners in Grade-I (Executive) were subject to decision of any appeal or OA, by the concerned courts or Tribunal. In the same context, the respondents have referred to a number of judgements, passed by this Tribunal as well as the Hon'ble Supreme Court, which, according to them, have brought about a change in the ~~relevant~~ ^{relative} position of the petitioners, in the seniority, necessitated the issuance of seniority list, vide Administration letter dated 10.11.189. For holding the respondents liable under the Contempt of Courts Act, the essential ingredient to be looked into and required to be established is whether there is any wilful violation or disregard ^{ing} referred to by the respondents, it cannot be said that, not adhering to the seniority list as on 3.12.1980, deliberate issued on 19.5.1987, was wilful or ^{on} on the part of the respondents.

of the orders, in question. In the presence of judgements

6. After carefully considering the whole matter, we have no hesitation in arriving at the conclusion that this is not a case of any wilful defiance or violation of this Tribunal's order dated 15.9.89. Needless to say that the position claimed by the petitioners will be eventually decided, as per the decision of the main OA, in the due course.

The CCP is accordingly dismissed, without any order as to costs.

Dec 9/11/90
(P.C. JAIN)
MEMBER(A)

Dec 9/11/90
(T.S. OBEROI)
MEMBER(J)