

(P)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

CCP No.35/93 in
OA No.874/89

Date of decision: 29-09-1993

Dr.P.B.Varade ... Petitioner
vs.

Dr.Balram Jhakhar,
President,
India Council of
Agricultural Research,
New Delhi & ors. ... Respondents

For the petitioner .. Sh.B.B.Raval, Counsel.

For the Respondents .. Sh.A.K.Sikri, Counsel.

CORAM:

THE HON'BLE MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN
THE HON'BLE MR.B.N.DHOUNDIYAL, MEMBER(A)

ORDER

(BY HON'BLE MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN)

This is a contempt petition.

2. This Tribunal while disposing off OA No.874/89 on 10.7.1992 passed the following order which is relevant:

" In the above conspectus of the case, we quash and set aside the proceedings of Assessment Committee for the period ending December, 1984 holding them perverse, as not supported by the record. We further direct that the respondents shall constitute a fresh Assessment Committee to reassess the applicant for five yearly period ending December, 1984 and if the applicant is found suitable for promotion, he shall be considered for promotion to S-2 grade with effect from 1.1.1985 with consequential benefits.

The Respondents are further directed to implement the above orders with utmost expedition but preferably within sixteen weeks from the date of communication of this order."

(Sik)

3. The main complaint in the contempt petition is that the order of the Tribunal has not been carried out within the time specified by it. We may note that this Tribunal did not strictly specify the time within which the respondents to implement were required/its orders/directions. The direction was to implement the order with utmost expedition but preferably within sixteen weeks from the date of its communication. Therefore, the fact that the order of the Tribunal was not implemented within the period of sixteen weeks from the date of its communication will not per se constitute a contempt of this Tribunal.

4. A counter-affidavit has been filed on behalf of the parties. It is, the material averments are these. The respondents have full regard to the order of this Tribunal and have no intention to disobey its order. The judgement of this Tribunal was received by the counsel for the respondents on 24.7.1992. It was sent to the concerned Institute where the petitioner is working and that Institute forwarded the same to the Headquarters i.e. Indian Council of Agricultural Research on 18.8.1992 and the same was received on 19.8.1992 in the Council. On receipt of the said judgement, the ICAR sent the same to the Ministry of Law with regard to advice for filing of a SLP. On the advice of the Law Ministry a SLP was filed in the Supreme Court and the same is pending. In these circumstances, there was a delay in implementing the judgement. The respondents have implemented the directions of this Tribunal by means of the order dated 6.4.1993. A perusal of the said order will indicate that a fresh assessment

committee was constituted to reassess the petitioner for next promotion for the period ending 31.12.1989. Pursuant to the assessment, the respondents appointed the petitioner to the erstwhile Grade S-II in the scale of Rs.1100-1600 with effect from 1.1.1985 but the same was subject to the decision in the SLP. The petitioner has also been given the consequential benefits as directed by this Tribunal. The pay of the petitioner has been fixed at the stage of Rs.3700/- in the scale of Rs.3700-5700/- with effect from 1.1.1986. The arrears for the period from 1.1.1985 to 30.4.1993 have been paid to the petitioner, total amount being Rs.65,193 after deducting Rs.31,000/- for Income Tax and Rs.10,000/-towards G.P.F. The delay in implementing the directions of this Tribunal is regretted.

5. Annexure A to the counter-affidavit is the true copy of the Office Order dated 6.4.1993. A reading of the said order makes it clear that an order of appointment had been issued in favour of the petitioner in pursuance of the judgement of the Tribunal dated 10.7.1992 in the aforesaid OA. In paragraph 2 of the order, it is stated that the appointment is subject to the outcome of the SLP filed by the Council in the Supreme Court against the aforesaid judgement of the Tribunal. In paragraph 3, the appointment is described as provisional. The counsel for the petitioner contends that the respondents, while giving provisional appointment to the petitioner, acted in violation of the directions given by this Tribunal. The

Sw

counsel for the respondents has pointed out that the purpose of describing the appointment as provisional is merely to emphasise that the appointment is subject to the decision of the Supreme Court in the SLP. We, therefore, make it clear that the appointment of the petitioner by the Office Order dated 6.4.1993 is not provisional but is a regular one. However, the same is subject to the decision of the Supreme Court in the SLP.

6. The learned counsel for the petitioner next urged that while fixing the pay of the petitioner with effect from 1.1.1985, the increment which was due on 1.1.1986 had not been taken into account. Learned counsel for the respondents made an offer that this grievance of the petitioner will be examined by the Senior Administrative Officer and if he comes to the conclusion that the petitioner is not entitled to the increment with effect from 1.1.1986, he shall pass a speaking order. It will be open to the petitioner to make a detailed representation to the Senior Administrative Officer setting out therein his case with respect to the increment on 1.1.1986. The Senior Administrative Officer shall give his decision thereon within a period of three weeks from the date of receipt of the representation from the petitioner. If he decides to reject the same, he shall give reasons in support of his order.

(S.W)

7. The next complaint is that the year-
wise break-up of the Income Tax/ payable by
the petitioner has not been supplied to him
(the petitioner) by the respondents. During
the course of arguments, papers containing
the break-up were shown to us with a copy thereof
served on the learned counsel for the petitioner.
However, we direct the respondents to give
a detailed statement containing the break-up
of the Income Tax amount to the petitioner
within a period of one month from the date
of receipt of a copy of this order by the counsel
for the respondents.

8. The next grievance is that the pay of
the petitioner has been incorrectly fixed.
The learned counsel for the respondents made
an offer that even this grievance will be examined
by the Senior Administrative Officer and the
decision of that officer will be communicated
to the petitioner.

9. Lastly it is urged that this Tribunal
should direct the respondents to pay interest
at the rate of 18% p.a. to the petitioner.
In the OA no such relief had been granted
to the petitioner. This prayer, in our view,
is beyond the scope of the contempt petition.

10. With these directions, the contempt
petition is disposed off and the notices issued
to the respondents are discharged.

There shall be no order as to costs.
B.N. DHOUNDIYAL
(B.N. DHOUNDIYAL)
MEMBER (A)

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