

(52)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH : NEW DELHI

C.P. No. 305/1994  
in  
O.A. No. 874/1989

New Delhi this the 18th Day of January 1995

Hon'ble Mr. Justice S.C. Mathur, Chairman  
Hon'ble Mr. P.T. Thiruvengadam, Member (A)

Dr. P.B. Varade,  
S/o Shri Bisanrao Varade,  
R/o 87-A, AC-2, Shalimar Bagh,  
New Delhi.

And employed as

Scientist Grade S-2,  
In the Indian Agricultural Research Institute,  
Pusa,  
New Delhi-110 012. ... Applicant  
(Applicant in Person)

... Vs.

Shri Sanjay Gupta,  
Senior Administrative Officer,  
Indian Agricultural Research Institute,  
New Delhi-110 012. ... Respondent  
(By Advocate: Shri V.K. Rao)

ORDER (Oral)

Hon'ble Mr. Justice S.C. Mathur -

The applicant alleges disobedience by the respondent of the Tribunal's order dated 29.9.1993 passed in CCP No.35/93 arising from Original Application No. 874/1989 decided on July 10, 1992. According to the applicant there is no compliance by the respondent of the direction contained in paragraph 6 of the Order and also paragraph 5.

2. In the Original Application the applicant had raised dispute regarding his promotion to the post of Scientist Grade S-2. The Original Application of the applicant was allowed. In purported compliance of the direction of the Tribunal the authorities granted promotion to the applicant w.e.f. 6.4.1993. However, in the order it was provided that the promotion was provisional. In the earlier CCP

1

-: 2 :-

it was explained on behalf of the authorities that the order was described as provisional because Special Leave Petition was pending in the Supreme Court. The Bench which heard the earlier CCP of the applicant was of the opinion that the promotion could not be treated to be provisional merely because Special Leave Petition was pending in the Supreme Court. Of course, it would be subject to the decision of the Supreme Court. The applicant alleges that despite this observation in paragraph 5 of the judgement the respondent has not issued an order of regular promotion. It has also been pointed out by the applicant that the Special Leave Petition is no longer pending as the same was dismissed on 25.11.1994. In our opinion, there was no requirement to issue a fresh order after the Special Leave Petition was dismissed or even after clarification has been given by the Tribunal through Order dated 28.9.1993. The promotion order dated 6.4.1993 automatically became regular in view of the observation made by the Tribunal in its said judgement. Accordingly the respondent cannot be said to have disobeyed anything observed in paragraph 5 of the judgement.

3. By the order dated 6.4.1993 the applicant was given promotion with effect from 1.1.1985. With effect from 1.1.1986 the scale was revised. The applicant's case before the Tribunal in the earlier Contempt Application was that first his scale <sup>to be</sup> was revised and thereafter increment should be given in the new scale. With regard to this matter the Tribunal provided that the applicant could make detailed representation to the Senior Administrative Officer who would decide the same within three weeks from the date of receipt of the representation. The applicant

✓

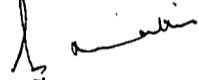
has pointed that in pursuance of this direction he made detailed representation on 23.10.1993 and the same was decided on 26.11.1993. The applicant's plea is that the Senior Administrative Officer has not taken the decision but the decision has been taken by the Assistant Administrative Officer. A copy of the Office Memorandum dated 26.11.1993 has been filed as Annexure III to the reply. A copy has been filed by the applicant also as Annexure CCP III. Indeed the Office Memorandum bears the signature of the Assistant Administrative Officer. However, it is mentioned that the Office Memorandum has been issued with the approval of the Project Director and in consultation with F&AO (Audit-I). Admittedly, the Project Director is an officer senior in rank than the Senior Administrative Officer. Further the claim made by the applicant had financial implication and therefore F&AO was also required to be consulted. In the circumstances we are of the opinion that substantial compliance has been made of the direction contained in paragraph 3 of the judgement. The applicant tried to argue that the fixation made through Memorandum dated 26.11.1993 is not legally correct. The Tribunal had directed a speaking Order to be passed. That has been done. The obvious purpose of directing the respondents to pass speaking order was that if the applicant remains aggrieved he may agitate his grievance in appropriate proceeding. By that he may have the remedy of filing another Original Application, but the respondent cannot be said to have disobeyed that direction of the Tribunal.

4. The applicant has raised the grievance that unless the order which describes the promotion as provisional is

amended, the same shall prejudice him when he is considered for promotion to the higher post. He submits that his service book is required to be amended properly. We find force in the submission of the applicant. However, the applicant has not made any assertion that the necessary correction has not been made in the service book. We hope that the service book will be corrected by the department.

5. In view of the above, we are of the opinion that the order of the Tribunal of which disobedience is alleged has been complied with and the respondent is not guilty of contempt. Accordingly, the Contempt Application is rejected and the notice issued is hereby discharged. There shall be no order as to costs.

P. J. L

  
(S.C. Mathur)  
Chairman

(P.T. Thiruvengadam)  
Member (A)

\*Mittal\*