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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

CCP 124/1991
in
OA 2464/89.

Date of decision: January 30, 1992.

Shri K.P. Dohare ... Petitioner.

Vs.

Shri Suresh Mathur & Others ... Respondents

CORAM:

HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.

HON'BLE MR. D.K. CHAKRAVORTY, MEMBER (A).

For the petitioner ... In person.

For the respondents ... Shri J.C. Madan, proxy
counsel for Shri
P.P. Khurana, counsel.

ORDERS (ORAL)

(HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN)

The complaint in CCP 124/1991 is that the directions in O.A. 2464/89 regarding convening of the D.P.C. and consideration of his case for promotion in respect of the vacancies which occurred in the year 1986, have not been complied with. In the reply filed by the respondents, it is admitted that the D.P.C. did not complete its deliberations within the time fixed by the Tribunal. It is clear from the stand taken by the respondents that the proposal was sent to the Union Public Service Commission for convening the D.P.C. They took the stand that in view of the imposition of penalty of censure, the suitability of the petitioner gets affected. To get such claim recognised, the respondents went to the Supreme Court and the Supreme Court also
✓ dismissed the S.L.P. resulting in the decision of the


Tribunal being affirmed holding that if the imposition of the penalty of censure is taken as coming in the way of promotion, it would amount to imposing another penalty which is not permissible in law. In the light of the clear pronouncement it was not open either to the respondents or the Commission to assert to the contrary. They were no doubt entitled to agitate the decision in the matter before the Supreme Court which they ultimately did but unsuccessfully. As there was no stay granted by the Tribunal or by the Supreme Court, the respondents were under an obligation to comply with the directions of the Tribunal within the time fixed by it. If there was any difficulty in complying with the directions, the respondents ought to have secured extension of time from the Tribunal. This is not the case of an illiterate person not knowing law and not having any legal assistance. Here is the department of the Government well assisted by the lawyers, who are expected to be familiar with law. Hence, we do not appreciate the indifferent attitude exhibited by the respondents in not complying with the directions of the Tribunal within the time fixed by the Tribunal. This is not a case where they could presume extension of time and sit without complying with the directions within the time stipulated by the Tribunal. We were at one time inclined to take a serious view of the matter but it was pointed out subsequently that the respondents have since complied with the directions of the Tribunal and have filed a supplementary affidavit dated 27.1.1992. It is stated therein that the review DPC was held on 17.1.1992 to reconsider the case of the petitioner for promotion to the post of Additional


Industrial Adviser(Chemicals) against the vacancies for the year 1986 and that the said Review DPC has recommended that the name of the petitioner need not be included in the panel for the year 1986 as prepared by the DPC on 1.4.1987.

2. We are satisfied from this averment that there has been compliance of the directions of the Tribunal, but the fact remains that the judgement of the Tribunal was not complied with within the time. For that the respondents have expressed regret in para 8 of the reply. Their expression of regret is not elegantly worded. We are inclined to understand the statement in paragraph 8 as expression of unconditional regret and requesting the Tribunal to condone the lapse and to forgive them for the said act. This in our opinion, is sufficient to convey that they have repented and have prayed for their apology to be accepted. In the circumstances, we are inclined to accept the apology and drop the proceedings.

3. We are, however, told by the petitioner who argued the case in person that it is inconceivable that he could be found unsuitable. Having regard to the facts and circumstances of the case, this contention need not detain us as the Tribunal is not required to examine the correctness of the consideration of the case of the petitioner. We are to see whether an honest effort has been made for complying with the directions of the Tribunal considering the case of the petitioner. If the exercise of the functions is honest and an erroneous decision is taken, that is not a matter which can be agitated

in proceedings under the Contempt of Courts Act.
It is open to the aggrieved party to seek appropriate
relief in accordance with law. For the reasons
stated above, this CCP is disposed of accepting
the apology of the respondents. The Rule is
discharged.


(D.K.CHAKRAVORTY)
MEMBER(A)
30.1.1992


(V.S.MALIMATH)
CHAIRMAN
30.1.1992