

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

CCP 180/1992

in

O.A. No.40/1989.

August 13, 1992.

Shri N.L. Sehgal .

...

Petitioner.

Vs.

The Secretary,
Ministry of Agriculture,
New Delhi and another

...

Respondents .

CORAM:

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

HON'BLE MR. I.K. RASGOTRA, MEMBER (A).

For the petitioner

...

Shri B.B.Raval, counse

For the respondents

...

None.

ORDER (ORAL)

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

The complaint in this case is that the judgment of this Tribunal in O.A. 40/1989 dated 14.11.1990 has not been complied with. The Tribunal quashed the order of compulsory retirement of the petitioner from service and directed that he be taken back on duty. The period of absence from the date of compulsory retirement upto the date of reinstatement was directed to be treated as leave due, including leave on half-average pay subject to the production of medical certificates, in accordance with the rules. There was a general direction that he will also be entitled to all consequential benefits subject to his certifying that he was not gainfully employed during

the period from the date on which he was compulsorily retired to the date of reinstatement . A time limit of six weeks was fixed for compliance. . The petitioner came to this Tribunal under the Contempt of Courts Act in CCP 44/1991 complaining that the judgment of the Tribunal has not been complied with. That C.C.P. was disposed of on 4.7.1991. It is stated in the judgment rendered in that C.C.P."that in compliance to the directions contained in the judgment of the Tribunal, the petitioner has been reinstated in service, paid an amount of Rs.8400/- due to him by way of arrears of salary and that steps are in progress for holding the review DPC to consider his promotion to the next higher grade." It is also noticed that the delay in convening the DPC was on account of certain disputes regarding seniority raised by some other persons in the same cadre. With these findings and observations, the Tribunal disposed of the C.C.P. that respondents have substantially complied with the directions and that the Tribunal does not see any reason to proceed against the respondents under the Contempt of Courts Act. After saying this, it has been added that if there is any further claim monetary or otherwise it is open for the petitioner to initiate appropriate proceedings in that behalf.

2. In this second C.C.P., it is contended that the judgment has not been fully complied with. One of the complaints is that promotion has not been accorded

to him even though the seniority dispute stands settled in favour of the petitioner. To this the answer of the respondents is that they are making every effort to get the case of the petitioner examined by the D.P.C. As it is only on the strength of the finding of the D.P.C. that the petitioner's claim for promotion can be considered. It cannot be disputed that it is essential that the D.P.C. should assess the suitability of the petitioner for promotion. In regard to ^{the} explanation offered in the reply (we must, however, notice that the counsel for the respondents was not there to explain their case) it is averred that the General Manager having vacated his office, regular Manager not having been appointed so far, there is problem in regard to the D.P.C. functioning. It is their case that the General Manager being the Chairman, has to be there to preside over the D.P.C. An assurance is given in the reply that as soon as the General Manager is appointed, the case of the petitioner would be got examined by the D.P.C. and appropriate steps taken for granting him relief in regard to promotion. There is no good reason to disbelieve the statement of the respondents that there is a vacancy of the General Manager and it has not yet been filled up. While one would not appreciate the delay in filling up such important post, we cannot be oblivious to the administrative delays in

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such matters. The essential question for examination in a Contempt jurisdiction is as to whether non-compliance with the directions of the Tribunal is ⁱⁿ wilful disobedience. It will not be wilful disobedience if there is a genuine difficulty in taking necessary steps for complying with the judgment of the Tribunal. In this view, we are inclined to take the view that the difficulty in appointing the General Manager cannot be regarded as a wholly irrelevant circumstance in the matter of taking action under the Contempt of Courts Act. We are assured that as soon as the General Manager is appointed, the D.P.C. would be convened and the case of the petitioner would be got examined and the petitioner would be accorded the promotion. We are satisfied that the conduct of the respondents cannot be regarded as amounting to wilful disobedience of the directions of the Tribunal.


3. As regards the complaint that the petitioner has been given a pittance of Rs.8400/- whereas he is entitled for more money, we are not entitled to examine this aspect as the same has been concluded by the order in the earlier C.C.P. No.44/91. The Tribunal has further reserved liberty to the petitioner to initiate appropriate proceedings if the petitioner has a further monetary claim. This means that the Tribunal accepted the payment of Rs.8400 as due compliance without prejudice to the rights of the petitioner to question the same in an appropriate judicial proceedings.

Hence we do not express any opinion as to whether the petitioner is entitled to higher amount. All that we say is that as the matter stood concluded by the order in CCP 44/91, we will not be justified in examining the same in the present C.C.P. as this question stands concluded by the order in the earlier C.C.P. The petitioner can work out his rights, if any, by initiating other legal proceedings if he feels that the amount of Rs.8400/- paid to him is not correct amount and he is entitled to higher amount.

4. In the circumstances, we do not find any justification for taking action in the present C.C.P. and we accordingly drop these proceedings.

5. Later on Shri P.P. Khurana, learned counsel for the respondents appeared.


(I.K. RASGOTRA)
MEMBER (A)


(V.S. MALIMATH)
CHAIRMAN