

Central Administrative Tribunal
Principal Bench

C.P. No.19/2003
In

O.A. No.856/1990

26

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Shri V.K. Majotra, Member (A)

Ex. Insp. Rai Singh Dabas
RZ-108, Lokesh Park,
Najafgarh, New Delhi.

-Petitioner

(By Advocate: Shri Arun Bhardwaj)

Versus

1. Shri R.S. Gupta,
Commissioner of Police,
Police Headquarters, I.P. Estate,
New Delhi.
2. Shri Sewa Dass,
Joint Commissioner of Police (Head Quarters),
PHQ, I.P. Estate,
New Delhi.
3. Dr. A.K. Singh,
DCP, (PCR),
PHQ, Delhi.

-Respondents

(By Advocate: Shri Vijay Pandita)

ORDER

(25th Aug., '03) h

Hon'ble Shri V.K. Majotra, Member (A)

Earlier on applicant had filed OA-856/90 challenging action of the respondents in not granting him seniority as Sub-Inspector w.e.f. 1984 when he joined Delhi Police as SI from BSF. That OA was decided on 5.1.1993 (Annexure CP-1) with the following directions:-

"Both the counsel are agreed that the judgment rendered by the Principal Bench of the Tribunal in OA No.2089/1990 dated 27.11.1992 between Shri Baljit Singh Bamel Vs. Union of India & Others fully covers this case. The counsel for the respondents, therefore, rightly and fairly submitted that the benefit of the said judgment would be made available to the petitioner as well. We record the statement of the counsel for the respondents that the benefit of the said

h

judgment would be accorded to the petitioner as well. We, therefore, direct the respondents to extend the benefits of the said judgment to the petitioner expeditiously preferably within a period of three months".

27

2. According to the applicant, when the respondents did not implement directions of the court contained in aforesaid order of 5.1.1993, he filed a Contempt Petition whereupon respondents promoted him as Inspector w.e.f. October, 1987 and later confirmed him as Inspector w.e.f. October, 1989. Later on, on 14.12.99 Hon'ble Supreme Court decided Civil Appeal Nos.5363-64 of 1997 in the case of SI Roop Lal & Anr. Vs. Lt. Governor & Ors. (Annexure-CP-2) upholding the judgment of the Tribunal. On 31.7.2001, applicant was placed under suspension. On 6.8.2001, a DPC meeting was held to review promotions in accordance with Supreme Court's directions in Roop Lal's case (supra). In September 2001, a departmental enquiry was instituted against the applicant. On 25.11.2002, applicant was dismissed from service in the departmental enquiry against which applicant has stated to have filed an appeal. Respondents have now issued order dated 30.10.2002 (Annexure P-4) whereby respondents are alleged to have withdrawn the benefit of promotion list 'F' w.e.f. 1.10.1987, The benefit of confirmation as Inspector w.e.f. 1.10.1989 and that of admission to promotion list 'F' w.e.f. 15.1.1986 have also been withdrawn. Applicant was recommended by DPC held on 6.8.2001 for admission to promotion List 'F' w.e.f. 15.1.1986. The same has been kept in sealed cover on the ground that applicant was placed under suspension w.e.f. 1.8.2001. In the

1/3

23

present petition, applicant has contended that respondents are deliberately and intentionally not implementing order dated 5.1.1993 in OA-856/90.

3. Respondents have stoutly denied the contentions raised in the petition. According to them, order dated 5.1.1993 in OA-856/90 was reviewed in RA-2089/90 and CP-181/93 vide order dated 4.11.1993. It has been pointed that applicant has filed contempt against order dated 5.1.93 and not against the order passed in RA. Respondents submit that applicant had been accorded benefits, as per Tribunal's directions, of revised seniority and promotion to the rank of Inspector (Min.) w.e.f. 1.10.1987. Following the judgment of the Supreme Court in Roop Lal's case (supra) seniority of the applicant and four others was fixed amongst the officiating Sub-Inspectors (Min.) vide Annexure R-3 dated 20.2.2001. After the revision of seniority, applicant and four other officers became eligible for their promotion to the rank of Inspector (Min.) w.e.f. 17.2.1986 instead of 1.10.1987. Review DPC was held on 6.3.2001 to consider the merit and suitability of officers for admission to promotion List 'F' w.e.f. 15.1.1986, the date on which the names of their immediate juniors were so considered. The review DPC recommended the names of all these officers including the applicant for admission to Promotion List 'F' (Min.) w.e.f. 15.1.1986. However, as the applicant was placed under suspension, he could not be promoted. His earlier promotion w.e.f. 1.10.1987 was cancelled

11

29

✓ vide order dated 21.8.2001 (Annexure R-4) inadvertently. The mistake was rectified vide issuing Annexure R-5 dated 25.10.2002. Applicant's promotion to the post of Inspector w.e.f. 15.1.1986 was withdrawn and recommendation kept in sealed cover. He was ultimately dismissed from service w.e.f. 25.11.2002. Respondents have also pointed out that present C.P. is the second Contempt Petition and the present Contempt Petition has been filed in respect of judgment dated 5.1.1993 after a gap of 10 years.

4. We have heard the learned counsel of both sides.

5. Learned counsel of the applicant stated that the benefit of promotion which had been granted to the applicant on implementation of directions of this court contained in order dated 5.1.1993 has been withdrawn by the respondents and thereby they have committed contempt. Learned counsel stated that this benefit could not have been withdrawn even if the applicant was placed under suspension later on and ultimately dismissed from service.

6. It is observed from Annexure R-1 dated 4.11.1993 that order dated 5.1.1993 in OA-856/90 was reviewed. The contention of the respondents that applicant has filed the second contempt against order dated 5.1.1993 in OA-856/90 and none against the order dated 4.11.1993 in RA-658/98 in OA-856/90 is borne out from record. Even this contempt petition has been


h


30

filed after a period of 10 years of the orders in OA-856/90 and is hit by limitation under law.

7. Applicant has suppressed information regarding order in RA-2089/90 and RA-658/98. Not only that the present C.P. has been filed much beyond the prescribed limitation period, this is the second contempt petition filed against order dated 5.1.1993 in OA-856/90. It is an established law that repeated contempt against the same orders cannot be maintained. Further, order dated 5.1.1993 in OA-856/90 having been reviewed by order dated 4.11.1993 cannot form the basis of a Contempt Petition even when filed within the limitation period.

8. Having regard to the discussion made and reasons stated above, this Contempt Petition is dismissed. However, applicant shall have liberty to agitate the issues raised in the present C.P., through a different process, if so advised, as per law. Notices issued to the alleged contemners are discharged.


(V.K. Majotra)
Member (A)


(Smt. Lakshmi Swaminathan) 25/8
Vice-Chairman (J)

cc.