

(22)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

CP No.83/94 in OA No.2561/90

New Delhi this the 26th Day of August, 1994.

MR.JUSTICE S.K.DHAON, ACTING CHAIRMAN
MR.P.T.THIRUVENGADAM, MEMBER(A)

Shri B.S.Jarial
S/o Shri G.S.Jarial
R/o B-9 Officers Flat
Central Jail Tihar
New Delhi.

PETITIONER

BY ADVOCATE SHRI S.C.JINDAL

vs.

1. Delhi Administration
5, Sham Nath Marg,
Delhi-6 through its
Chief Secretary(R.K.Thakkar)
2. The Secretary(Services)
Delhi Administration
5, Sham Nath Marg
Delhi-6 (Ms.Anita Wali)
3. The Inspector General of Prisons
Central Jail Tihar
New Delhi.(Smt.Kiran Bedi)

... RESPONDENTS.

BY ADVOCATE SHRI ARUN BHARDWAJ.

ORDER(ORAL)

JUSTICE S.K.DHAON:

The complaint in this petition is that the the directions given by this Tribunal vide its judgement 8.1.1993 have not been carried out.

2. In substance, this Tribunal gave two directions. The first is that the respondents shall take adequate steps to provide for promotional avenues to the officers in the category of Deputy Superintendent, Grade II. The second is that having regard to the fact that the respondents had taken work from the petitioner in the higher posts from 1984 to 1986, they shall consider giving suitable honoraria to the petitioner in accordance with the relevant rules.

3. A counter-affidavit has been filed on behalf of the respondents. Therein, the material averments are these. An amendment to the existing rules has been made and the amended rules have been duly published. This

takes care of the first direction.

4. So far as the second direction is concerned, reliance is placed by the Respondents upon FR 49(i). It is stated that in view of the provisions of the said rule, it is not permissible to give additional pay to the petitioner. In our opinion, the reliance of the respondents upon FR 49(i) is a misplaced one. In fact, the rule applicable was and is FR 46. FR 49 talks of additional pay and not of honoraria. Rule 46(B) deals specifically with honoraria. The respondents can ^{plead} ~~allege~~ with ~~a~~ success that they acted either under a mistaken legal advice or under some bona fide misconception ~~for which~~ applying FR 49(i). Therefore, the respondents cannot be punished for having committed the contempt of this Tribunal for not having carried out the second direction. However, we direct the Secretary(Services), respondent No.2 to apply his mind to FR 46 and thereafter comply with the direction of this Tribunal aforementioned. This shall be done by him within a period of one month from the date of receipt of a certified copy of this order. It will be permissible to the petitioner to transmit a certified of this order to the said officer by Registered Post Acknowledgement Due. The decision taken by the respondent No.2 shall be communicated to the petitioner within a period of two weeks from the date of taking the decision. Since the respondents have been let off on a merely technical ground, we will take serious note if the order of this Tribunal is not complied with within the time specified.

5. With these directions, the CP is disposed of. Notice issued to the respondents is discharged. No costs.

P. T. Thiruvengadam
(P.T.THIRUVENGADAM)
MEMBER(A)
SNS

S.K. Dhaon
(S.K.DHAON)
ACTING CHAIRMAN