

Central Administrative Tribunal  
Principal Bench

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C.P. No. 10/99  
in  
O.A. No. 1692 of 1991

New Delhi, dated this the 16 March, 2000

Hon'ble Mr. S.R. Adige, Vice Chairman (A)  
Hon'ble Mr. Kuldip Singh, Member (J)

Shri P.K. Sharma,  
R/o 217/G-27,  
Sector 3, Rohini,  
Delhi-110085. .... Petitioner

Versus

1. Shri K.B. Sankaran,  
General Manager,  
Central Railway, Mumbai.
2. Shri Maheep Kapoor,  
Divl. Railway Manager,  
Central Railway,  
Sholapur. ... Respondents

By Advocates: Shri B.S. Mainee for petitioner  
Shri E.X. Joseph for respondents

ORDER

MR. S.R. ADIGE, VC (J)

Heard both sides on C.P. No. 10/98  
alleging wilful flouting of the Tribunal's  
directions dated 6-12-96 in O.A. No. 1692/91.

2. In that O.A. applicant had sought  
assignment of seniority over those who had been  
promoted after 9.10.84, but had been given  
retrospective seniority on 1.1.84.

3. That O.A. came up for hearing on 6.12.96.  
On that date counsel for both sides conceded that  
consequent to issue of respondents' order dated  
27.11.96, applicant's seniority had been prefixed

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from 1.1.84 onwards. Respondents were directed to grant applicant consequential benefits which would flow from order dated 27.11.96 as admissible under rules and instruction on the subject and the O.A. stood disposed of by order dated 6.12.96.

4. Thereupon applicant contends that respondents failed to promote him as Asst. Commercial Manager, to which post his juniors had been promoted during pendency of the O.A. He submitted a representation on 12.8.97 (Annexure C-3), upon which he complains that respondents issued order dated 10.6.98 withdrawing the seniority granted to him in ~~terms~~ <sup>terms,</sup> of their letter dated 27.11.96, *and thereby committed contempt.*

5. Respondents in their reply point out that the O.A. was not decided on merits. They further state that in terms of the Tribunal's order, all consequential benefits were granted to applicant, the seniority list was modified and he was placed above Commercial Clerks. Pay fixation was given in higher grade from the date his juniors were promoted, and arrears were also paid, and he was also given promotion as Chief Commercial Inspector on the basis of modified seniority. This is not denied by applicant.

6. Respondents further point out that since apprentices/Commercial Inspectors such as applicant were granted regular appointment on 19.9.94 they could not claim seniority above Commercial Clerks who were upgraded from 1.1.84

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as the restructuring became effective from 1.1.84, the contention being that Commercial Clerks who got the higher pay scale of Rs.455-700 e.r.g. 1.1.84 were senior to Commercial Inspector who were appointed on 19.9.94. Respondents state that this issue was raised by the Railway Union, upon which the P.N.M. passed a resolution and clarification was given by the Railway Board that promotion from retrospective effect, whether ~~or~~ proforma or actual, entitled a person to grant of seniority from that date in terms of Paragraph 302 IREM. Hence by letter dated 10.6.98, the seniority granted to applicant by letter dated 27.11.96 and 7.3.97 were cancelled.

7. We have considered the matter carefully.

8. For a contempt proceedings to be initiated there has to be deliberate, wilful and contumacious disobedience of the Court's orders. The Tribunal's order dated 6.12.96 did not contain any findings on merit, but merely took note <sup>of</sup> respondents' letter dated 27.11.96. As applicant was satisfied with that letter dated 27.11.96 the O.A. was disposed of in terms of that order, with a direction to respondents to release the consequential benefits to applicant in terms of that letter in accordance with rules and instructions.

9. If after issue of that letter dated 7.11.96 the matter was raised by the Union and discussed in the P.N. Meeting and respondents took Railway Board's advice, who opined that promotion

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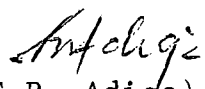


from a retrospective date whether proforma or actual entitled a person to seniority from that date, whereupon respondents withdrew the letter dated 27.11.96, it cannot be said that there has been any deliberate, wilful and contumacious disobedience of the Tribunal's order. Respondents should no doubt have taken leave of the Tribunal before issue of the letter dated 10.6.98 withdrawing the benefits granted by letter dated 27.11.96, but this at <sup>most</sup> ~~least~~ is a procedural lapse and cannot be described as deliberate, wilful and contumacious violation of the Tribunal's order.

10. Whether respondents' contention that Commercial Clerks who were upgraded from 1.1.84 will remain senior to apprentice/Commercial Inspectors such as applicant is a matter which cannot be adjudicated in a C.P. If applicant is aggrieved by respondents' letter dated 10.6.98 it is open to him to agitate his grievance in accordance with law if so advised.

11. Giving applicant liberty as aforesaid, the C.P. is dismissed. Notices discharged.

  
(Kuldip Singh)  
Member (J)

  
(S.R. Adige)  
Vice Chairman (A)

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