

(22)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

C.P. NO. 195/94

in

O.A. NO. 1499/91

New Delhi this 01st day of February, 95.,

Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman (J)

Hon'ble Mr. B.N. Dhoundiyal, Member (A)

Shri Nihal Singh
S/o Shri Hari Singh
NW 165, Swamy Bagh
Dayal Bagh,
A G R A (U.P.)

..... PETITIONER

(through Shri D.K. Garg, Advocate)

Vs.

1. Shri N.R. Sivaswamy
Chairman
Central Board of Direct Taxes,
North Block
NEW DELHI.

Contd..... 2/-

SW

2. Shri N.C.Jain
Chief Commissioner of Income Tax
Income Tax Bhawan
Civil Lines
KANPUR.

3. Shri J.L.Negi
Commissioner of Income Tax
Sanjay Place
AGRA(U.P.)

..... RESPONDENTS

(through Shri V.P.Uppal, Advocate)

ORDER

(Hon'ble Mr. B.N.Dhoundiyal, Member (A)),

This contempt petition has been filed by the applicant in O.A. No. 1499/91 alleging that the respondents have disobeyed the directives given by this Tribunal in its order dated 4.3.1992.

2. The directions in the order 04.03.1992 was as follows:

"the application is disposed of with a direction to the respondents that the applicant should be paid the minimum of the pay-scale of Typist, and that he should be considered for regularisation, in accordance with the relevant recruitment rules, if vacancies are available. For the purpose of regularisation the respondents shall relax the age-limit to the extent of the service already rendered by him as Typist.

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Contd.... 3/-

(90)

In the facts and circumstances, we do not direct payment of back wages to him!"

3. In the counter affidavit filed by the respondent, the averments are these: Shri Nihal Singh has already been granted the minimum of pay scale of a Lower Division Clerk in as much as there is no sanctioned post of English Typist with the respondents. As regards, regularisation of petitioner, it may be reiterated that there is no sanctioned post of English Typist with the respondents and as such there is no vacancy in that post. Only the post which is equivalent to that of English Typist is that of Lower Division Clerk. The vacancies of L.D.Cs are to be filled up 90% by direct recruitment and 10% by promotion. The promotion vacancies can be filled up only from amongst the regular group 'C' servers, Record Keepers and Staff Car Drivers and Group 'D' employees. The petitioner is neither Group 'C' employee nor regular Group 'D' employee and cannot be considered for promotion vacancy. He has been given opportunity to appear in the examination conducted by the S.S.C. for direct recruitment to the post of L.D.C.

4. We have gone through the records of the case and heard the learned counsel for the parties. In the judgment dated 04.03.1992, it was clearly stated that "In our opinion, the mere fact that the applicant has

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continued to work as English Typist since February, 1988, does not make him eligible for regularisation in the said post. The petitioner has not referred to the relevant recruitment rules and as to how he becomes eligible for regularisation!"

5. Thus, the above observations of the Tribunal read that recruitment rules for the post of L.D.C. shows that what tribunal had in mind was relaxation⁴ to the extent of service already rendered by the applicant as Typist. There is no whisper in the judgment that his regularisation should be done in relaxation of the other rules. The respondent shall therefore, allow the petitioner to appear in the examination conducted by Staff Selection Commission for Lower Division Clerks, after granting him relaxation to the extent of service rendered by him.

The contempt petition is disposed of with the above observations. Notices issued to the respondents are discharged.

B. N. Dhoondiyal
(B. N. DHOUNDIYAL)
MEMBER(A)

S. K. Dhaon
(S. K. DHAON)
VICE-CHAIRMAN(J)