

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

(19)

CCP 81/93 in
DA 2710/91.

Date of decision: 17.8.1993.

A.K. Saxena

...

Petitioner.

Vs.

Smt. Alka Kala,
Secretary,
Department of Personnel and
Administrative Reforms,
Jaipur & Anr.

...

Respondents.

CORAM:

HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
HON'BLE MR. S.R. ADIGE, MEMBER (A).

For the petitioner ...

Shri S.K. Bisaira, Counsel.

For the respondents ...

Shri R. Sriprabhu, counsel.

JUDGMENT (ORAL)

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

There are two complaints in this case. One is that the promotion which has been accorded to the petitioner is conditional in the sense that it is stated to be provisional subject to the decision of the Supreme Court, the respondents having taken up the matter on refusal to extend the period for completing the inquiry to the Supreme Court. All that has been stated is that though the promotion has been given to the petitioner having regard to the findings of the DPC, the same is subject to the final decision of the Supreme Court. The respondents have said so because, according to them, the question of accordin^g promotion depended upon the question required to be as to whether the proceedings were completed before 15.1.1993 or not. As the respondents were not able to complete the inquiry within the specific period, they sought extension of time and that was refused by the Tribunal. The respondents

have questioned the same before the Supreme Court. If time was extended by the Tribunal as prayed for, they would not have been under an obligation to consider the case of the petitioner for promotion until the departmental inquiry was complete. It is in this background that the respondents have stated that the promotion given to the petitioner is subject to the final decision of the Supreme Court. We are not inclined to take the view that they have added a condition which is not relevant. Even in the absence of such a condition, that would have been the clear effect of the final order that may be passed by the Supreme Court in the appeal filed. Hence, it is not possible to take the view that the respondents have committed contempt by imposing such a stipulation that the promotion is subject to the final outcome of the Supreme Court. The word 'provisional' means that it is subject to the final outcome of the Supreme Court and not 'provisional' in any other sense.

2. Another complaint of the petitioner is that the respondents have forfeited their right to hold the inquiry as they have not completed the same before 15.1.1993, the date fixed by the Tribunal in its judgment. The counsel for the respondents submits that the only consequence flowing from not completing the inquiry within the specified time is to compel the respondents to consider the case for promotion after opening the sealed cover. It is urged that the directions in the judgment cannot be construed as having the effect of forfeiting the right to hold the inquiry if it is not completed before 15.1.1993. Shri Bisaria, learned counsel for the petitioner, however, maintains that the clear effect of the directions in fixing time limit for completion of the inquiry

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is to forfeit the right to hold the inquiry. We do not consider it expedient to examine this contention having regard to the pendency of the matter before the Supreme Court. Without expressing any opinion, reserving liberty to the petitioner to approach the Tribunal if it becomes necessary to do so in the context of the decision of the Supreme Court in the case filed by the respondents, these proceedings are dropped.

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(S.R. ADIGE)
MEMBER (A)

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Malimath
(V.S. MALIMATH)
CHAIRMAN