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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

C.P. No. 81/2008

in

O.A. 1226/2004

New Delhi this the 25th day of July, 2008

HON'BLE MR. JUSTICE M. RAMACHANDRAN, VICE CHAIRMAN (J)
HON'BLE DR. VEENA CHHOTRAY, MEMBER (A)

Vijay Kumar working as Chief Parcel Clerk,
Northern Railway,
New Delhi Railway Station,
R/o H.No. 50, Chaman Garden Extn.,
Railway Road, Karnal.

... Applicant.

(Applicant present in person)

Versus

1. Sh. Shree Parkash,
General Manager, Northern Railway,
Head Quarter, Baroda House,
New Delhi.
2. Sh. Rakesh Tyagi,
Divisional Personnel Officer,
Northern Railway,
DRM Office, State Entry Road,
New Delhi.

... Respondents.

(By Advocate Shri R.L. Dhawan)

O R D E R

Hon'ble Mr. Justice M. Ramachandran, Vice Chairman (J).

It is alleged that the respondent is guilty of Contempt of Court in that the order passed by the Tribunal in OA 1226/2006 dated 4.11.2004 had not been implemented. The applicant, who appeared in person, submits that the order had been taken up before the Hon'ble High Court of Delhi at the instance of the respondents but the Writ Petition had been dismissed, on 23.10.2007. But nevertheless the directions are not implemented and, therefore, the General Manager, Northern Railway is to be proceeded against under the Contempt of Courts Act for willful disobedience of orders of the Tribunal.



2. According to him, the order of the Tribunal was clear and unambiguous, in that he had to be given financial upgradation in the grade of Rs. 5500-9000 w.e.f. 09.06.1999. Having been appointed on 10.04.1987 as Commercial Apprentice as on 09.06.1989 he had put in 12 years of service, which was qualifying service for conferment of the benefit of upgradation. When there was refusal on the part of the administration to grant him the benefits, Original Application had been filed, and the Tribunal, on 4.11.2004, had directed respondents to take a final decision about the claim. It had been held that in the eventuality of grant of upgradation, he was to get consequential benefits but the above were not to affect the conduct of the departmental proceedings against him. The submission is that it was the duty of the respondents to extend the benefits but they had failed to come up with orders.

3. The affidavit filed by the respondents dated 17.4.2008 shows that consequential orders have been passed on 20.03.2008 and 15.04.2008, copies marked as Annexures R-3 (colly). It is claimed that the case of the applicant has been examined but as there was no merit in the claims, no benefits were payable. The gist of the submission is that the applicant would have been entitled to upgradation on 08.6.2001 after putting in 12 years of service but in the meanwhile major penalty proceedings have been issued on 24.5.2001, which is yet to be finalized and the extant orders in force prohibited extension of upgradation so long as a person was undergoing disciplinary proceedings.

4. It is further submitted that the contention of the applicant that he was entitled to upgradation from 1999 onwards was misconceived since his appointment was as a commercial apprentice which involved two years training period and only after above period, his service could have been reckonable for grant of upgradation. Mr. Dhawan had, with



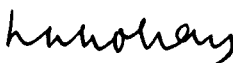
reference to Annexure R-3, pointed out that Railway Board's orders were clear on the subject.

5. The applicant submits that the order of the Tribunal referred to the issuance of a letter dated 07.06.1993 (paragraph 8 of the order) and when it had been shown that such letter had been issued, they could not have re-agitated the matter overreaching the judgment. Obviously, the claim of the applicant was that his date of entry in service was to be recognised as 10.4.1987 because of the order dated 7.6.1993 and, therefore, when such a letter is present, it would not have been possible for the respondents to contend that his service for two years at the initial stage could not have been possible to be counted. We had examined the issue closely. In view of Annexure R-3, and also since the respondents have produced, Annexure R-1 letter, dated 07.06.1993, there is no scope for any doubt, as the stand of the respondents alone might be acceptable. This is because the said letter only provided for grant of increments from the very inception; there was nothing to indicate that the period has to be considered as service for purpose of ACP. This was crucial. Therefore, the contention of the administration that he would have been eligible for upgradation only on 08.06.2001 was tenable. But by that time he had been subjected to disciplinary proceedings.

6. Our attention had been invited to orders passed in OA 390/2007, OA 269/2007 and MA 274/2008 in OA 999/2005. From a reading of the above, it is evident that there cannot be any dispute about the position that the disciplinary proceedings are continuing and have not been dropped. The Standing Counsel for the Administration submits that it is pending for long because of the series of the applications filed by the applicant and the Administration is prepared to expedite the matter if there is cooperation forthcoming. However, this does not

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appear to be a matter on which our attention is to be focused as of now. We find that the assertion that there is contempt of the orders of this Tribunal, is without valid justification. That would be sufficient reason to close this application. Consequently, we hold that no further proceedings are required to be held. Notice to respondents is discharged.


(**Veena Chhotray**)
Member (A)

'SRD'


(**M. Ramachandran**)
Vice Chairman (J)

Forth MA 566/10 for removal G.C.P