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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

C.P. No.271/2006
C.P.No.183/2006 In
O.A. No.13262004

New Delhi this the 28th day of August, 2006

Hon'ble Shri V.K. Majotra, Vice Chairman (A)
Hon'ble Shri Mukesh Kumar Gupta, Member (J)

Devi Dayal Sharma
Retd. T.G.T./Advocate
R/o C-449, Main 100 Ft. Road,
Chhajjupur, Shahdara, Delhi-110032.

-Applicant

(Applicant present in Person)

Versus

1. Shri Vijay Kumar, IAS,
Director of Education,
Govt. of NCT of Delhi,
Block-10, Old Secretariat,
Delhi-110054.
2. Shri S.N. Dhasmana
Office Superintendent,
Establishment-II, Branch,
Directorate of Education,
Govt. of NCT,
Block-10, Old Secretariat,
Delhi-110054.
3. Shri Vijay Kumar
Head Clerk
Establishment-II, Branch,
Directorate of Education,
Govt. of NCT,
Block-10, Old Secretariat,
Delhi-110054.
4. Ms. Gitanjali G. Fundra,
Addl. Director of Education,
(Administration)
Directorate of Education,
Govt. of NCT of Delhi,
Establishment-II, Branch,
Old Secretariat,
Delhi-110054.

-Respondents

(By Advocate: Ms. Simran, proxy for
Mrs. Avnish Ahlawat)

ORDER (Oral)

Hon'ble Shri V.K. Majotra, Vice Chairman (A)

Heard.



2. OA-1326/2004 was disposed of vide orders dated 11.8.2005 directing the respondents to place the case of the applicant before review DPC and consider his case as per the Recruitment Rules which were in force as on 30.6.2000 for the post of Lecturer/PGT (Economics). In case applicant is found fit, appropriate orders to that effect should be passed by the respondents and benefits in accordance with law should be given to him including re-fixation of the pensionary benefits. This action was required to be taken by the respondents within a period of four months.

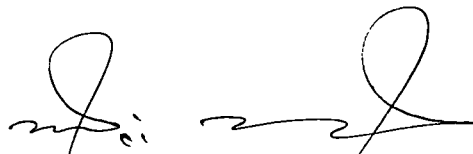
3. In pursuance of Tribunal's directions, respondents have passed orders (Annexure CCP-2) dated 10.1.2006, to the effect that applicant's case was considered by the review DPC held on 16.12.2005 and in view of the criminal case pending against him, the assessment of the DPC in respect of Shri Sharma ^{has} been kept in the sealed cover, as per instructions issued by GOI vide OM dated 14.9.92. Respondents have then passed orders dated 11.7.2006 stating that the sealed cover was opened and it was found that the review DPC met on 16.12.2005 ^{and he} found the applicant unfit for promotion to the post of PGT on regular basis for the vacancy with effect from 14.7.2000, i.e., the date from which the TGTs who were recommended by DPC held on 30.6.2000 were promoted to the post of PGT. Thus, it was decided that applicant cannot be promoted to the post of PGT.

4. During the pendency of CP-183/2006, applicant filed another CP-271/2006, pointing out that review DPC should not have followed the sealed cover procedure in view of K.V. Jankiraman's case as had been stated by the Tribunal in its orders dated 11.8.2005. It is stated, therein, "the contention of learned counsel for respondents that he would be considered after exoneration in criminal case cannot be accepted in view of the fact that in K.V. Jankiraman's case, Hon'ble Supreme Court has already held that the crucial date is the date when DPC meets and the name of a person can be put in sealed cover, only if on that date, either applicant has been served with a charge memo in the disciplinary case or charge-sheeted in the criminal case. Since challan had been filed in the criminal case on 31.10.2001, the sealed cover procedure should not

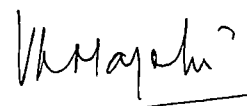
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have been followed. It is found that the sealed cover had been opened by the respondents prior to the date of filing of CP-271/2006, which was filed on 21.08.2006.

5. In our view, no contempt is made out on the basis of the second CP-271/2006. Since respondents have passed orders dated 11.07.2006 in pursuance of Tribunal's directions contained in order dated 11.08.2005, no contempt is made out in this case as well. As such, CP is dropped and notices issued to the respondents are discharged.



(Mukesh Kumar Gupta)
Member (J)



(V.K. Majotra) 28.8.06
Vice Chairman (A)

cc.