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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

C.P. NO.184/2006 in
O.A. NO.2979/2004

This the 14th day of September, 2006

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)
HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J)

J. P. Hilori ... Applicant

(By Shri K. C. Mittal, Advocate)

versus

K. M. Chandrasekhar & Others ... Respondents

(By Shri V. P. Uppal, Advocate)

1. Whether to be reported? *Yes*
2. Whether to be circulated to other Benches?

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

/as/

V.K

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

C.P. No.184/2006 In
O.A. No.2976/2004

New Delhi this the 14th day of September, 2006

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

J.P. Hilori,
S/o Late Shri Mannu Lal,
R/o 146, Manoranjan Park,
Saket, Meerut,
Uttar Pradesh.

-Applicant

(By Advocate: Shri K.C. Mittal)

Versus

1. Shri K.M. Chandrasekhar,
Secretary, Ministry of Finance,
Department of Revenue,
Govt. of India, North Block,
New Delhi-110001.
2. Ms. M.H. Kherawala,
Chairman, Central Board of Direct Taxes,
Ministry of Finance, Govt. of India,
North Block, New Delhi-110001.
3. Shri Gurbachan Jagat,
Chairman,
Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi.

-Respondents

(By Advocate: Shri V.P. Uppal)

O R D E R

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

By virtue of this petition has been alleged willful disobedience and non-implementation of Tribunal's order dated 31.10.2005 in OA-2976/2004 at the hands of the respondents.

2. In the OA, applicant had sought quashing of penalty orders dated 19.1.2002 and 4.10.2004 with all consequential benefits including seniority, promotion, pay and allowances etc. Applicant had been awarded the minor penalty under Rule 16 of the CCS (CCA) Rules, 1965 on account of misconduct.

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3. OA-2976/2004 was disposed of quashing and setting aside penalty order dated 19.1.2002 and order dated 4.10.2004. It was directed that consequential benefits would follow as per rules.

4. Applicant is stated to have made several representations (Annexure A-2) to the respondents, requesting implementation of Tribunal's directions, however, respondents did not take any effective steps towards implementation of Tribunal's directions. Hence the present C.P. was filed on 30.05.2006, i.e., 7 months after the date of Tribunal's orders.

5. Initially, Respondent No.2, Chairman, Central Board of Direct Taxes was called upon to submit a status report.

6. Counsel for respondents informed the Court during hearing on 08.08.2006 that disciplinary proceedings against the applicant initiated vide memorandum dated 7.1.99 were dropped and that the sealed cover in respect of applicant's promotion shall be opened whereafter appropriate orders would be passed and if applicant's name has been recommended for promotion, approval would be obtained from the Appointments Committee of the Cabinet (ACC) and in this manner complete implementation of Tribunal's directions would be effected by 31.08.2006. Case was taken up on 11.08.2006, 22.08.2006 and 01.09.2006.

7. On 01.09.2006 Shri K.C. Mittal, learned counsel of applicant contended that respondents were deliberately delaying implementation of directions of this Court and consequential promotion of the applicant. He stated that while the Tribunal has been generously accommodating respondents and granting adjournments from time to time, respondents, particularly Department of Revenue had not been making any serious efforts for obtaining approval of ACC for applicant's promotion. Respondents had not abided by the time limit of 31.08.2006 sought by respondents themselves for implementation of Tribunal's directions.

8. After hearing the parties on 01.09.2006, following orders were passed:-

"a) Secretary, Ministry of Finance, Department of Revenue shall file an affidavit before the next date of hearing regarding special efforts made by him and other respondents for full compliance of Tribunal's directions. It is made clear that we have taken the view that mere writing of a letter by Member of CBDT does not comprise sufficient efforts for compliance of Tribunal's directions. He could have himself spoken with the Establishment Officer, Cabinet Secretary and even Secretary in the PMO. No such efforts seem to have been made by him.

b) Similarly, Shri S.N. Mishra, Establishment Officer & Additional Secretary, DoP&T shall also file an affidavit detailing action taken by him and any special efforts made by him towards obtaining approval of the ACC".

9. On 11.09.2006, Shri S.K. Mohanty, Under Secretary, Department of Revenue filed an affidavit stating that respondents tender unqualified apology and that Secretary (Revenue) had made special efforts for ensuring full compliance of the directions of the Tribunal. Secretary (Revenue) had written a demi-official letter dated 6.9.2006 to Cabinet Secretary. It was further stated that as a result of these efforts, approval of ACC has been obtained and requisite order No.126 of 2006 dated 11.09.2006 has been issued promoting the applicant to officiate as Commissioner of Income Tax in scale Rs.18,400-22,400 w.e.f. 4.8.2000, i.e., the date of promotion of his immediate junior Smt. Sarojini Lal with consequential benefits.

10. Learned counsel for respondents requested that six weeks more time be granted for according consequential benefits to applicant.

11. We have taken into consideration the pleadings and contentions made before us from both sides. We noticed that the Tribunal had issued directions way back on 31.10.2005 in OA-2976/2004. Respondents have indeed caused an inordinate delay in implementing Tribunal's directions. Applicant had made quite a few representations and in the present Contempt Petition the Tribunal had held a number of hearings asking the

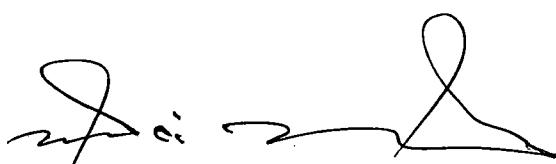
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authorities to take effective steps for implementing Tribunal's directions. Respondents have indeed dealt with the matter in an extremely casual manner and not made any good and effective efforts for implementing Tribunal's directions, otherwise applicant would have got his relief within a reasonable period of say six months, i.e., 30.04.2006. In the end, we had to resort to a stern action in the matter. On 01.09.2006, we had directed Secretary, Department of Revenue to file an affidavit before the next date of hearing regarding special efforts made by him and other respondents for full compliance of Tribunal's directions. It was made clear that mere writing of a letter by Member of CBDT does not comprise sufficient efforts for compliance of Tribunal's directions. He was required to speak with the Establishment Officer, Cabinet Secretary and even Secretary in the PMO. We had also directed that Shri S.N. Mishra, Establishment Officer shall also file an affidavit detailing action taken by him and any special efforts made by him towards obtaining approval of ACC. We find that such affidavits have not been filed by Secretary, Revenue and the Establishment Officer. Respondents have merely tendered unconditional apology through the Under Secretary.

12. Now that ACC's approval has been obtained and promotion orders of the applicant passed, We take a lenient view and accept the unconditional apology of the respondents.

13. As regards the request of the learned counsel of respondents for grant of time for six weeks for providing consequential benefits to the applicant, noticing that the applicant would be retiring on superannuation on 30.09.2006, respondents are granted time up to 28.09.2006 so that after having undergone a long suffering, applicant shall have satisfaction of at least receiving the consequential benefits of his promotion before the date of his retirement.

14. In view of promotion of applicant and assurance given on behalf of respondents as respects grant of consequential benefits within the stipulated period and with the above observations, CP is dropped and notices to the respondents are discharged, however, with liberty to the applicant to resort to appropriate proceedings, if any grievance still survives.



(Mukesh Kumar Gupta)
Member (J)



14.9.06

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

cc.