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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

R.A.No.185/2007
M.A.No.448/2007
OA NO.2963/2004
with
M.A.No.1484/2007
O.A.No.1021/2005

New Delhi, this the **22nd** day of **November, 2007**

**HON'BLE Mr. Shanker Raju, Member (J)
HON'BLE Mrs. Chitra Chopra, Member (A)**

R.A.No.185/2007

M.A.No.448/2007

in

O.A.No.2963/2004:

Shri B.R.Arya
210-C, Pocket-C
Mayur Vihar-II
Delhi - 110 091.

... Applicant

(By Advocate: Sh. A.S.Bedi)

Versus

Government of NCT of Delhi
Through its Principal Secretary (Finance)
4th Level, Delhi Sectt.,
Players Building
New Delhi.

1. Union of India
Through its Secretary
Government of India,
Ministry of Finance
Dept. Of Expenditure
New Delhi. ... Respondents

(By Advocate: Ms. Simran proxy of Mrs. Avnish Ahwalat)

M.A.No.1484/2007

O.A.No.1021/2005:

Shri Hari Narayan & Ors. ... Applicants

(By Advocate: Sh. A.S.Bedi)

Versus

Union of India & Ors. ... Respondents

(By Advocate: Ms. Simran proxy of Mrs. Avnish Ahwalat)

ORDER(Oral)

Mr. Shanker Raju, Member (J):

Since common question of facts and law is involved in both the above MAs as well as in RA, the same are disposed of by this order.

2. MA No.448/2007 had been filed for clarification of this Tribunal's order dated 11.07.2006 in OA No.2963/2004. The MA was dismissed ex-parte on 30.03.2007. But in the light of the fact that an order passed in the Contempt Petition on 18.01.2007, rejected the claim of the applicants on the ground that whatever was specifically prayed, has not been granted, mere consequential benefits would not place the applicants' promotion with retrospective effect. Accordingly, the Contempt Petition was turned down giving liberty to pursue their remedy against the aforesaid orders, in accordance with law.

3. MA 912/2007 had been filed for restoration of MA 448/2007 which was allowed on 04.08.2007 and MA 448/2007 was restored and the same was also dismissed on the same date.

4. Against the aforesaid order dated 04.08.2007, RA No.185/2007 has been filed wherein notices have been issued. It is stated that an opportunity has not been granted to the applicants, as such a prayer for restoration of MA 448/2007 is made. We allow RA and MA 448/2007 is restored.

M.A.No.448/2007:

5. The learned counsel for the applicants states that cumulative reading of paras 17 to 20 of the Tribunal's order clearly signified that once there is a direction to accord consequential benefits, the same in its logic and as per the concerned OM issued by the DoP&T where in case of

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roster promotions, the date of promotion would relate back to the availability of the vacancy.

6. This has been strongly opposed by the respondents' counsel who states that whatever has not been granted earlier by this Tribunal, the same cannot be granted now, as it amounts to functuous officio and moreover this Tribunal would not assume the role of appellate authority to grant the applicants what was not granted earlier or to clarify in such a manner, which was not there in the earlier OA.

7. On careful consideration of the rival contentions of the parties and on perusal of the pleadings, we are of the considered view that when a specific direction was given and there is no reference as to put the applicants' back retrospectively in the matter of promotion, the only interpretation which we discern is that the respondents have to consider the claim of the applicants by passing an appropriate order and in the present case, though the applicants have been performing the duties on the concerned post on ad hoc/officiating basis, they have to be promoted regularly by a duly constituted DPC. If any grievance survives as to the dissatisfaction among the applicants as to grant of retrospective promotion, which was not the subject matter before the Tribunal, as not specifically granted, as per the Contempt Order, liberty would hold good.

8. Accordingly, finding no merit in MA 448/2007 (in OA 2963/04) and MA 1484/2007 (in OA 1021/2005), the same are dismissed.

Chitra Chopra
(Chitra Chopra)
Member (A)

S. Raju
(Shanker Raju)
Member (J)

/nsn/