

Central Administrative Tribunal, Principal Bench

C.P. No. 163/99 In  
Original Application No. 2977 of 1992

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New Delhi, this the 27<sup>th</sup> day of January, 2000

Hon'ble Mr. S. R. Adige, Vice Chairman(A)  
Hon'ble Mr. Kuldip Singh, Member (J)

M. A. Khan  
S/o Late Shri Janab G. Khan  
Ex-Income Tax Officer,  
Green Park Colony,  
Behind Vishal Motors,  
Raipur Road,  
BILASPUR 495001 (MP)

- Applicant

(By Advocate - Shri P.P. Khurana)

Versus

1. Mr. J.A. Chowdhry  
Secretary,  
Ministry of Finance,  
Department of Revenue,  
North Block,  
New Delhi.
2. Mr. Ravi Kant  
Chairman,  
Central Board of Direct Taxes,  
North Block,  
New Delhi.

- Respondents

(By Advocate - Shri V.P. Uppal)

ORDER

By Hon'ble Mr. Kuldip Singh, Member (J)

This is a Contempt Petition filed by the applicant. He has pleaded that the orders passed by this Tribunal in his case has not been complied with, so the respondents are liable to be proceeded for contempt.

2. The respondents in their reply have submitted an unconditional apology for the delay in compliance of the orders and have also placed on record Annexure RC-1, which according to them, is a compliance of the orders passed by this Tribunal.

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3. However, the applicant has filed a rejoinder to this reply submitted by the respondents and has stated that as per Annexure RC-1, there is no compliance and the respondents are still liable to be proceeded for contempt.

4. We have heard the learned counsel for the parties and have gone through the records.

5. From a perusal of the order, we find that the applicant had filed the OA as he was aggrieved by the order passed by the respondents rejecting his representation for promotion as Assistant Commissioner of Income-Tax (Junior Scale) while other officers junior to him had been promoted vide order dated 10.11.1991. The OA was partly allowed after making certain observations, regarding the ACRs recorded in the case of the applicant, the Tribunal had given direction to the respondents to constitute a review DPC and consider the case of the applicant for the post of Assistant Commissioner of Income Tax. Accordingly, a review DPC was convened.

6. The learned counsel appearing for the applicant submitted that as per Annexure RC-1, the DPC had not recommended the name of the applicant for lack of vacancies whereas the fact is that junior officers to the applicant had been promoted to the post of Assistant Commissioner of Income Tax (Junior Scale). So this plea of the respondents that there were not sufficient number of vacancies, do not hold good and thus the respondents

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have committed cross contempt of court by not giving promotion to the applicant.

When the matter was taken up for hearing, we had also called for the records from the department. The minutes of the DPC were also perused by us. The proceedings of the DPC shows that the Committee after examining the Character Rolls in the light of the observations made by this Tribunal in OA No. 2977/92 had again assessed the applicant to be only as "Good" and the Committee also observed that the officers with better grading were included in the select list by the DPC and the Committee again did not recommend the inclusion of the name of the applicant for the vacancies for the relevant years. As per instructions on the subject, as contained in Swamy's Complete Manual on Establishment and Administration, Rule 6.2.1. (e), which is relevant, reads as under:-


"(e) The DPC should not be guided merely by the overall grading, if any, that may be recorded in the CRs but should make its own assessment on the basis of the entries in the CRs, because it has been noticed that sometimes the overall grading in a CR may be inconsistent with the grading under various parameters or attributes."


8. The DPC is fully empowered to give its own grading to the officers who are being considered for promotion based on the Character Roll of an individual officer.

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9. The minutes of the DPC in this case do suggest that the observations made by the Tribunal in OA 2977/92 were brought to the notice of the DPC and the DPC after having considered the same, did not find the applicant to have attained the bench-mark to include his name in the panel of promoted officers; hence we find that the respondents had substantially complied with the directions given by this Tribunal and no case for contempt of court is made out.

10. In view of the above, the CP is dismissed. Notices are discharged.

  
( Kuldip Singh )  
Member(J)

  
( S.R. Adige )  
Vice Chairman(A)

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