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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

C.P. No. 208/2000

IN

OA No. 832/1992

New Delhi: this the 28th day of MAY, 2001

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A)

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Mrs. Usha Anand,
W/o Sh. S. C. Anand,
R/o 11, Staff Qrs.,
Women's Polytechnic Maharani Bagh,
New Delhi-65.Applicant.

(By Advocate: Shri B. B. Rawal)

Versus

Sh. Ashok Pradhan,
Director (Training),
Govt. of NCT of Delhi & Ors.Respondents.

(By Advocate: Mrs. Meera Chhibber
& Sh. B. B. Saxena, Principal Secretary, NCT).

ORDER

S. R. Adige, VC (A):

Heard both sides on CP No. 208/2000 alleging contumacious non-compliance of the Tribunal's order dated 21.4.99 in OA No. 832/92.

2. Applicant in the present OA as well as applicant in OA No. 460/92 had filed the aforesaid 2 OAs as they were aggrieved by non-payment of arrears of pay and allowances pursuant to order of promotion in upgraded posts issued in their favour.

3. Both OAs were allowed by common order dated 21.4.99 with directions to respondents:

i) pay applicants' arrears of pay and allowances for the period they had worked on higher/ upgraded posts along with interest @12% to be paid 45 days after the amount is become due to them individually till the date these

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two OAs were filed namely 20.2.92 and 25.3.92;

ii) Arrears were to be paid within 4 months from the date of receipt of a copy of the orders:

iii) If the aforesaid orders were not complied with within the time limit stipulated above, respondents were to pay interest @ 18% p.a. on the entire amount from 21.4.99 till the date of actual payment.

4. The Bench also observed that this was eminently a fit case to order penal action in the light of the Hon'ble Supreme Court's ruling in Central Cooperative Consumers Store Vs. Labour Court, H.P. Shimla & Ors. 1993

(3) SCC 214 wherein legally valid claims were denied because of unreasonable and negligent attitude of respondents. Accordingly, Respondent-1 was directed to identify those functionaries who were responsible for the delay and initiate appropriate disciplinary proceedings against them and report compliance in this respect within 6 months from the date of receipt of a copy of the order.

5. Applicant filed the present CP on 17.4.2000 alleging that despite representation filed by him for implementation of the Tribunal's aforesaid order, respondents had done nothing in this regard.

6. A counter affidavit was filed by Lt. Secretary Shri Madhukar on 1.9.2000 on behalf of respondents in which any intention deliberately to defy the Tribunal's order was denied. It was contended that an RA had been filed seeking review of the aforesaid order dated 21.4.99 and hence respondents had not committed contempt of court and as regards fixation of responsibility on officials responsible for not giving applicant her arrears, it was stated that a decision to withdraw the

benefit had been taken at the level of the Chief Secretary, and Finance Secretary after detailed scrutiny of the case, and it was difficult to hold anyone responsible.

7. This matter came up for hearing on 17.11.2000 on which date during the course of hearing respondents' counsel handed over a copy of respondents' letter dated 4.9.2000 (copy taken on record) stated to be in compliance of the Tribunal's order dated 21.4.99 sanctioning payment of arrears to applicant.

8. During hearing applicant's counsel Shri Rawal drew attention to the gross delay by respondents in complying with the Tribunal's order dated 21.4.99. Shri Rawal also drew attention to that portion of respondents' reply affidavit in which it had been stated that the decision to withdraw the benefit was taken at the level of the Chief Secretary and the Finance Secretary after detailed scrutiny of the case by the Finance Department and it was therefore difficult to hold anyone responsible. Shri Rawal emphasised that these averments of respondents were wholly unacceptable, because however high an official might be, the law still remained above him.

9. As we were not made aware, whether applicant had actually received the arrears sanctioned to her vide order dated 4.9.2000, we had posted this case for further hearing on 14.12.2000.

10. Meanwhile in response to an addl. affidavit dated 11.12.2000 filed by respondents stating that further to their sanctioning order dated 4.9.2000 respondents had also sanctioned payment of interest to applicant vide order dated 6.12.2000, applicant filed her rejoinder, in which she stated that that

portion of the Tribunal's order dated 21.4.99 had not been complied with wherein respondents had been directed to identify those respondents responsible for the delay and negligence in the matter and initiate disciplinary proceedings against them and report compliance within 6 months from the date of receipt of a copy of that order. Furthermore it was emphasised that details of the calculations specifically throwing light on the period for which the payments had been made, the rate of calculation of interest etc. as well as the manner of deduction of income tax on the aforesaid sums, had not been furnished to applicant.

11. In the light of the above by our order dated 4.1.2001 we had held that compliance of the Tribunal's order dated 21.4.99 could not be said to be fully satisfactory and respondents were directed to file an addl. affidavit reporting full compliance of the Tribunal's order dated 21.4.99 and also to appear in person on the next date fixed i.e. 20.2.2001.

12. On that date, Shri Harvir Singh who was representing respondents sought permission to withdraw from the CP and Mrs. Chhibber appeared on behalf of respondents. She submitted a copy of the addl. affidavit dated 19.2.2001. Shri Rawal objected to Mrs. Chhibber's making submission on behalf of respondents in the CP in the absence of the Bench's permission to Shri Harvir Singh to withdraw as respondents' counsel from the CP. However, Mrs. Chhibber drew our attention to the CAT Full Bench decision in the case of D.P. Badola Vs. R.K. Prasad & Ors (CAT Full Bench Decisions Vol. (III) Page 161) to contend that her appearance on behalf of respondents in the CP could not be successfully challenged. Shri Rawal sought some time to study the addl. affidavit dated 19.2.20001.

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13. The matter was taken up for hearing on 8.3.2001. Pursuant to our directions Shri B.B.Saxena, Principal Secretary, Department of Training & Tech. Education, Govt. of NCT of Delhi along with other departmental officials were present in Court.

14. We heard applicant's counsel Shri Rawal and respondents' counsel Mrs. Chhibber on the contents of the addl. affidavit submitted by Shri B.B.Saxena dated 19.2.2001.

15. We note that at the outset in the affidavit he has tendered his unconditional apology to the Tribunal as well as the applicant. In this connection he has stated that after the Tribunal's order dated 21.4.99 there were frequent changes of Director/ Secretary in as much as 5 Secretaries were changed. Furthermore, an RA had been filed against the aforesaid order dated 21.4.99 which was rejected by circulation finally on 11.8.2000 (Annexure-R1). It is further stated that the Directorate of Training & Technical Education had on the recommendations of the DPC promoted applicant to the post of Jr. Lecturer, but since some irregularities were noticed in her promotion a detailed scrutiny was carried out by Finance Department which held that the promotion was wrongly given to her and she should not be reverted. The matter was thereupon placed before the Chief Secretary who ordered for issue of a show cause notice and it was therefore not a case where an individual official purposely raised objections to deny applicant her benefits. It is further stated that the examination of the case was done at various levels and none in the Dte. of Trg. & Tech. Education or in Women's Polytechnic where applicant worked was responsible for not caring to examine the case of

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applicant in terms of rules and regulations. It is further stated that the complete circumstances and facts were placed before Respondent No.1 who agreed that in this case no one could be held responsible. It is also stated that since the matter involved other Agencies and the Deptt. of Training & Tech. Education had to take up the matter with the Law Department & Finance Deptt, it resulted in some delay which was not at all intentional, but absolutely bona fide. It has been stated that the instructions have been complied with in full, and copies of sanctioning order, supported by copy of due and drawn statement, as well as statements regarding calculation of interest, income tax etc. have been filed. It has further been stated that in case there has been any error in calculation, applicant may point it out to the college from where the payments were made and the matter would be looked into.

16. Shri Rawal has vehemently argued that the delay by respondents in complying with the Tribunal's order dated 21.4.99, coupled with their not identifying functionaries responsible for delay in denying applicant her valid claims, and initiating appropriate disciplinary proceedings against them requires to be taken a very serious note by the Bench and contempt proceedings should be initiated against them, because otherwise it would set a wrong signal to all concerns that court's orders need not be taken seriously.

17. We have given careful thought to these submissions.

18. We have already noted that Shri B.B.Saxena presently posted as Principal Secretary, Deptt. of Technical Education, Govt. of NCT of Delhi has tendered an unconditional apology to the Court

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as well as applicant after appearing before us in person. He has also submitted that this was not a case where an individual purposely raised the objections to deny her legitimate claims. The complete facts and circumstance of the case were placed before the Lt. Governor, Delhi who was Respondent No.1 in the OA, who agreed that this was not a case where anybody was deliberately responsible for the delay. As different agencies were involved and the matter was taken to Law Deptt., some time was taken in processing the case which was not at all intentional but absolutely bonafide. The Tribunal's directions have been complied with in full and in case there is any error in calculation, the respondents are willing to make the necessary corrections.

19. In the light of the aforesaid facts and circumstances, and having regard to the unconditional apology furnished by Shri B.B.Saxena, Principal Secretary, Deptt. of Technical Education, Govt. of NCT of Delhi, we are inclined to accept the same and not pursue these contempt proceedings any longer. However, instances such as these underscore the need for respondents to set up some institutional mechanism at departmental level itself to ensure that legitimate claims of their employees are disposed of expeditiously and efficaciously without compelling them to resort to litigation.

20. Subject to the aforesaid observations, the CP is dropped and notices are discharged.

A. Vedavalli
(DR.A.VEDAVALLI)
MEMBER (J)

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(S.R.ADIGE)
VICE CHAIRMAN (A).

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