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Central Administrative Tribunal, Principal Bench

CP 272/95 in OA 3222/92

New Delhi, this the 9th day of April, 1996.

Hon'ble Shri A.V. Haridasan, Vice-Chairman
Hon'ble Shri R.K. Ahooja, Member (A)

Shri B.S. Jolly,
s/o Late Sh. B.N. Jolly,
R/o B-6/41/1, Safdarjung Enclave,
New Delhi. Petitioner
(By Shri B.S. Charya, Advocate)

Versus

1. Shri C. Ramachandaran,
Secretary,
Min. of Urban Development,
Nirman Bhawan, New Delhi.
2. Shri K.K. Madan,
Director General (Works)
C.P.W.D., New Delhi. .. Respondents
(By Shri Madhav Panikar, Advocate)

ORDER (Oral)

By Hon'ble Shri A.V. Haridasan, Vice-Chairman

This C.P. arises out of the final order passed in the OA No. 3222/92 on 12.5.1995. The application was disposed off with a direction to the respondents to open the sealed cover and take action in accordance with law on the recommendation of the Departmental Promotion Committee. Since the respondents did not comply with the direction contained in the judgement, this Contempt Petition has been filed praying that the action against the respondents may be initiated under the Contempt of Courts Act.

2. The respondents, on notice ~~of~~ the CP, have filed an affidavit in reply and have also produced copies of orders passed by the department. Annexure ~~A~~₃ is an order dated 4.3.1996 by which the respondents have promoted the applicant on ad-hoc basis w.e.f. the date on which his junior was also promoted and fixed his pay at different points of time giving

him the due increments. Respondents have, in the reply, stated that for reasons beyond their control there has been some delay in complying with the direction contained in the judgement.

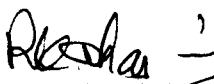
3. The learned counsel for the petitioner states that the respondents have not fully complied with the direction contained in the judgement as the promotion of the petitioner has been made notional while his junior has been promoted actually. Denying the petitioner the actual arrears flowing out of promotion w.e.f. the date on which his junior was promoted is unjustified and, therefore, the respondents are still liable to be punished under the Contempt of Courts Act. He also stated that the respondents have not correctly fixed his pension and it again shows the attitude of the respondents towards the petitioner.

4. Having perused the material on record, we find that though the respondents have taken unduly long time for implementation of the direction contained in the judgement, no intention in the minds of the respondents to defy the orders of the Tribunal is seen. The grievance of the petitioner is that the ~~his~~ arrears have not been paid ~~from time to time~~ ^{to him} and promotion has been made notional, is not ~~the~~ ^{the} question that ~~can~~ ^{will} the Tribunal go into in a Contempt Petition. What is ^{Germane} certain for consideration is only whether the respondents have violated the direction in the judgement.


5. We are convinced that the respondents have substantially complied with the direction and there is no need to proceed against them under the Contempt of Courts Act.

6. However, we note that the respondents have implemented the direction only after a notice on the contempt petition has been served on them. This attitude of the respondents and impression ^{given} by them that in every case the direction contained in the judgement are to be complied with only in case the contempt petition is filed, ^{is} misplaced and incorrect. Though it is necessary to take some coercive steps in matters like this, we make it clear that the abovesaid ^{observations} ~~orders~~ may be taken as a guidance in future. The delay in implementation of the direction is now condoned in the circumstances of the case.

7. With the above observation, the contempt petition is dismissed making it clear that if any grievance of the petitioner in regard to arrears ^{or} incorrect fixation of pension still remains, it will be open for the petitioner to seek proper relief in the appropriately instituted ^{Proceedings} application in that behalf.


(R.K. Ahooja)
Member (A)
9.4.96

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(A.V. Haridasan)
Vice-Chairman (J)
9.4.96