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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

C.P.No. 420/2001

IN

O.A.No.790/1992

New Delhi: this the 2nd day of January, 2002.

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

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

Jai Charan Verma,
S/o Shri Hukam Singh,
working as Sub-Inspector No.D-743 in 8th Bn.,
DAF, DelhiApplicant.

(By Advocate: Shri Naresh Kaushik)

Versus

1. Shri Ajay Raj Sharma,
Commissioner of Police,
Delhi Police Head Quarter,
I.P.Estate, ITO
New Delhi.
2. Shri R.K.Sharma,
Addl. Commissioner of Police(Admn),
Now Special Commissioner of Police(Admn),
Police Headquarter,
MSO Building, I.P.Estate,
New DelhiRespondents.

(By Advocate; Shri Avnish Ahlawat)

ORDER

S.R.Adige, VC(A):

Heard both sides on C.P.No.420/2001
alleging contumacious non-compliance of the Tribunal's
orders dated 19.7.99 in OA No.790/92.

2. By that order dated 19.7.99, OA No.790/92
was disposed of after confirming the orders dated
15.10.92 passed earlier in the OA to the extent that
respondents were directed to open the sealed cover
in respect of applicant's admission to Promotion List 'F'
(Executive) within 2 months from the date of receipt of
a copy of the orders and thereafter to proceed in the
matter in accordance with law. If as a result of the
above directions, applicant was admitted to Promotion
List F(Ex) he was held entitled to such consequential

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benefits as were admissible to him in accordance with rules and instructions.

3. CWP No. 6425/99 filed by respondents in Delhi High Court was dismissed on 26.7.2001 (Annexure-2). Respondents' plea that applicant was involved in one more FIR bearing No. 398/90 under section 308/34 IPC and therefore the Tribunal was not justified in directing them to open the sealed cover was rejected.

4. As respondents took no action to open the sealed cover, pursuant to the dismissal of CWP No. 6425/99 on 26.7.2001, applicant filed the present CP No. 420/2001 on 28.8.2001.

5. In their reply to the CP respondents have stated in affidavit that pursuant to the Tribunal's order dated 19.7.99 the sealed cover was opened and it was found that the regular OPC had deferred applicant's case for consideration. As the sealed cover has been opened, it is submitted that there has been no contempt of the Tribunal's orders. It is further submitted that since initially applicant was acquitted in FIR No. 398/90 under sec. 308/34 IPC, a criminal appeal No. 112/2001 was filed by the State against the impugned order and the Delhi High Court vide order dated 30.8.2001 (Annexure-R-1) has set aside the acquittal and sent the case for trial before the criminal court. It is further submitted that a review OPC has been held for consideration of applicant's admission to promotion List 'F' (Ex.) w.e.f. 11.3.85; 8.11.85 and 28.8.86 and the result of the same has been received, but it has not been acted upon because applicant is

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presently under suspension in the aforementioned criminal case.

6. We have considered the matter carefully.

7. The operative portion of the directions to respondents contained in the Tribunal's order dated 19.7.99 was to open the sealed cover and thereafter to proceed in accordance with law. It is not denied that the sealed cover has been opened and it has been found that the regular OPC had deferred applicant's case for consideration. Meanwhile as stated by respondents, a review OPC was held to consider applicant's case for admission to Promotion List 'F' (Ex.) w.e.f. 11.3.85, 8.11.85 and 28.8.86, but its recommendations have not been acted upon, because applicant is under suspension in criminal case FIR No. 398/90 wherein the order of acquittal has been set aside by the Delhi High Court and the case has been sent for trial, it cannot be said that respondents have wilfully or deliberately defied the Tribunal's order dated 19.7.99, which alone would warrant initiation of contempt proceedings against respondents. If applicant is aggrieved by respondents' stand, it is open to him to challenge the same separately in accordance with law, if so advised.

8. Giving leave to applicant as aforesaid the CP is dropped. Notices discharged.

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

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

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