

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

CP No.13/2016 in OA No.444/2014

This the 04th day of March, 2021

**COROM : Hon'ble Shri Jayesh V. Bhairavia, Member (J)
Hon'ble Dr. A.K.Dubey, Member (A)**

Shri Kalidasbhai
Son of Shri Haribhai Jadav,
Age : 78 years
Residing at B/283 Prabhakar Tenaments
Nr. G.D.High School, Opp. Jay Raghuvir Society
Saijpur Bhoga, Ahmedabad – 382 345..... Applicant

(By Advocate Shri M.S.Trivedi)

V/s.

1. Shri Aparna Vaisha or her successor in the office
The Director General,
Prasar Bharati India's Public Service Broadcaster,
D.G.Doordarshan, Vigilance Section, Mandi House,
New Delhi - 110 001.
2. Shri A.K.Gupta, or his successor in the office
Senior Vigilance Officer, Prasar Bharati India's Public
Service Broadcaster, D.G.Doordarshan, Vigilance Section,
Mandi House, New Delhi- 110 001.
3. Shri A.K.Satpathi, or his successor in the office
The Pay & Accounts Officer, IRLA Group, AGCR
Building, Ministry of Information and Broadcasting,
New Delhi - 110 002.
4. Shri S.A.Vora, or his successor in the office
The Administrative Officer, Prasar Bharati Public Service
Broadcaster, Doordarshan Kendra, Nr.Aji Dam,
Rajkot - 360 003. Respondents

(By Advocate : Shri H.D.Shukla)

O R D E R – ORAL

Per : Hon'ble Shri J.V. Bhairavia, Member (J)

It appears from record that subsequent to the order dated 30.11.2015 passed by this Tribunal in the main OA No.444/2014, the applicant has filed CP No. 13/2016 in the month of April, 2016. During the pendency of it, the applicant had also filed RA No.09/2017 in OA No.444/2014. The said RA came to be dismissed vide order dated 04.04.2017. Aggrieved by the order dated 30.11.2015 passed by this Tribunal in main OA No.444/2014 as also order passed in RA No.09/2017 dated 04.04.2017, the Original respondents had filed SCA No. 15317/2017 before the Hon'ble High Court of Gujarat. The said SCA was dismissed vide Order dated 03.10.2017 with the observation as under :

“5. Having heard Shri Nirzar S. Desai, learned Counsel appearing on behalf of the petitioners and Shri M.S. Trivedi, learned Counsel appearing on behalf of the respondent (now heirs and legal representatives of the original applicant, as during pendency of the petition, original applicant has died), assuming that at the relevant time, seal cover procedure might not have been followed and there is no seal cover which is to be opened, the fact remains that at the relevant time, the case of the original applicant for promotion was not considered, when his juniors were promoted and his case was not considered for promotion on the ground that criminal proceedings were pending against him. In that event, when subsequently he has been acquitted, the case of original applicant was required to be considered for promotion, as if the criminal proceedings were not pending, more particularly at the time when juniors

were promoted and/or the cases of juniors for promotion were considered by the DPC. If the submissions on behalf of the petitioners are considered, in that case, despite the fact that the original applicant was subsequently acquitted, his case would never be considered for promotion. It is required to be noted that if at all the case of original applicant is considered for promotion, the day on which his juniors came to be promoted, the original applicant (now the heirs and legal representatives of the original applicant) would be entitled to get the deemed date of promotion and consequential benefits.”

2. Pursuant to the aforesaid order passed by the Hon’ble High Court in SCA No.15317/2017, the respondents have consider the case of the applicant and passed speaking order dated 29.12.2017 wherein it is stated :

“13. And, whereas it is clear from the above facts that the applicant was neither assessed nor recommended for promotion to JTS Management Cadre of IBPS by any of the DPC/ review DPCs held in 1994 and 2000 and he was also not in the consideration zone in the last Review DPC for the year 1990-93 held in UPSC on 09th & 10th August, 2016. Further, none of his juniors was either assessed or promoted in any of the DPC/ review DPCs held in 1994, 2000 and 2016. Therefore, there is no case of opening of sealed cover/ reconsideration of promotion to grant notional promotion to JTS grade of IBPS to Sh. Jadav.”

3. Standing counsel for the Opponent Shri H.D.Shukla submits that in compliance of the direction of the Hon’ble High Court of Gujarat and the Tribunal, the respondents have passed the speaking order. Therefore, nothing remains to be done in this matter and the contempt proceedings initiated against the respondents be dropped.

4. We have perused the materials on record and finds that sufficient compliance has been made by the respondents.

Counsel for the applicant, Shri M.S.Trivedi submits that the Hon'ble High Court has not interfered with the directions issued by this Tribunal. Therefore, it is statutory obligation on the part of the respondents to comply the order passed by this Tribunal in its true spirit. He points out that the averments made in the rejoinder to the reply filed in this CP and submits that the respondents in their reply to the OA stated that the claim of the employee for further promotion from the post of PEX is kept in sealed cover by the respondents. Therefore, this Tribunal without entering into the seniority position of the employee/ qua others employees who were promoted on the basis of the DPC held in the year 1994 or thereafter had issued direction to open the seal cover in case of the employee and give effect to the same. According to the counsel for the applicant, the respondents ought to have follow the said direction but failed to do so. Hence, committed the Contempt of Court.

5. We are not inclined to accept the submissions of the counsel for the applicant. As noted hereinabove, the respondents have duly considered and re-examined the claim of the applicant and they do not find it to accept the same for which cogent reasons has been stated in the speaking order dated 29.12.2017. In our considered view, sufficient compliance has been made with respect to the direction dated 30.11.2015 issued by this in

OA No.444/2014. Accordingly, the Contempt Petition stands dropped. Notices issued stand discharged.

(A.K.Dubey)
Member (A)

(J.V.Bhairavia)
Member (J)

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