



**Central Administrative Tribunal
Principal Bench, New Delhi**

**CP No.244/2020
in
OA No.1386/2020**

This the 1st day of April, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)**

Kanchan Singh,
Chief Horticulturist, Group 'A',
Aged about 59 years,
S/o Sh. Bahori Lal,
R/o 24, House No.12/504, Friends Society,
Vasundhara,
Ghaziabad (UP)-201012

...Applicant

(By Advocate : Shri M.K. Bhardwaj)

Versus

1. The Raghvendra Singh,
Secretary,
Ministry of Culture,
Shastri Bhawan, New Delhi-110001.
2. Smt. V. Vidhyawati,
Director General,
Archaeological Survey of India,
24, Tilak Marg,
New Delhi-110001.

... Respondents

(By Advocate : Shri Y.P. Singh)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :-**

The applicant was considered for promotion to the post of Director in Archaeological Survey of India. The UPSC recommended his case for promotion on 30.12.2019. However, the Appointing Authority (AA) did not issue the order of promotion. Aggrieved by that, he filed OA No.1386/2020. That was disposed of on 05.10.2020 directing the respondents 1 & 2 to complete the process for promotion to the post of Director (Horticulture) on the basis of the recommendation of UPSC contained in proceedings dated 30.12.2019, within a period of four weeks from the date of receipt of a copy of the order. This contempt case is filed alleging that the respondents did not implement the order in the OA.

2. On behalf of the respondents, a detailed counter affidavit is filed. It is stated that several complaints were received against the applicant and taking the same into account, a charge memo was issued on 16.03.2021. It is stated that once the charge memo is issued, the applicant

cannot be promoted and he has to await the outcome thereof.



3. Today, we heard Shri M. K. Bhardwaj, learned counsel for the applicant and Shri Y. P. Singh, learned counsel for the respondents.

4. It is no doubt true that the applicant was selected for promotion to the post of Director in the month of December, 2019. Having waited sufficiently, he approached this Tribunal by filing OA No.1386/2020. The OA, in turn, was disposed of on 05.10.2020 directing the respondents to complete the process of promotion within a period of four weeks.

5. The respondents would have been certainly liable for contempt, but for the fact that the charge sheet was issued to the applicant on 16.03.2021. It is no doubt true that the charge memo was not in existence when the DPC met. In **Union Of India Etc. Etc vs K.V. Jankiraman Etc. Etc** 1991 AIR 2010, 1991 SCR (3) 790, the Hon'ble Supreme Court held that the occasion to adopt sealed cover procedure would arise only when, one of three factors, namely, initiation of disciplinary proceedings, filing of a criminal case or placing the officer



under suspension, exists. As a sequel, even while reproducing the relevant paragraphs of the judgment in K. V. Janakiraman's case, the DoP&T proceeded to add para 7 in the OM dated 14.09.1992, to cover the situation where the facts such as issuance of charge memo, registration of criminal case or placing the officer under suspension, arise after the recommendations made by the DPC; but before the actual order of promotion/appointment. It reads as under:-

“7. A Government servant, who is recommended for promotion by the Departmental Promotion Committee but in whose case any of the circumstances mentioned in para 2 above arise after the recommendations of the DPC are received but before he is actually promoted, will be considered as if his case had been placed in a sealed cover by the DPC. He shall not be promoted until he is completely exonerated of the charges against him and the provisions contained in this O.M. will be applicable in his case also.”

6. From a perusal of the same, it becomes clear that sealed cover procedure is deemed to have been adopted and the officer has to await the outcome of such proceedings.

7. We, therefore, dispose of the CP directing that the disciplinary proceedings initiated against the applicant



through minor penalty charge memo dated 16.03.2020 shall be completed within a period of six weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

pj/rk/mbt/ns