

Open Court.

Central Administrative Tribunal,
Allahabad Bench, Allahabad.

Dated: Allahabad, This The 7th Day of March. 2000.

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

Misc. Execution Application No. 2804 of 1999

in

Original Application No. 473 of 1992.

Arun Prakash Gupta
aged about 40 years
s/o Sri Om Prakash Gupta,
R/O 43 Vasudeo Basudeo Bada Bazar,
Jhansi.

. . . Applicant.

C/A Sri R.K. Nigam, Adv.

Versus

1. Union of India through General Manager,
Central Railway, Mumbai CSTM.
2. Chief Personnel Officer, G.M's. Office,
Mumbai. CSTM.

. . . Opp. Parties.

C/Opp. Parties: Sri A.K. Gaur, Adv.

Order (Open Court)

(By Hon'ble Mr. Rafiq Uddin, Member (J.)

This Misc. Execution Application has been
moved by the applicant for issue a direction
to the respondents to implement the judgment
dated 9.2.1993 passed in O.A. 473 of 1992 A.P.
Gupta Vs. Union of India for issuing appointment

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in favour of the applicant.

2. This Tribunal vide order dated 9.2.1993 while allowing the O.A. filed by the applicants including the applicant issued the directions to the respondents which are extracted as under :-

" The applications are allowed and the respondents are directed to hold an enquiry into the matter associating the applicants with the same and in case no foul play on their part is found they should not have been deprived of their appointment because someone has been found guilty. The enquiry should be completed within three months from the date of communication of this order. In case the entire examination has been cancelled and none of those who appeared in the examination got the appointment then the applicants will have no case for their appointment.

3. The applicant has stated in the present application that since there was no mal-practice or foul play in the selection of the applicant, the respondents can not put any hindrance in compliance in the judgment in question and the applicant is legally entitled to his appointment.

4. The respondents in their counter reply have contested the application mainly on the ground that the same is devoid of merit because the respondents have not committed any willful disobedience of the orders of this Tribunal. On the other hand the respondents have obeyed the order by calling the applicant before the High Powered Committee on 20.12.91. It is further

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stated that prior to the pronouncement of the order in question the C.A.T. Mumbai Bench by order dated 14.2.91 also allowed and disposed of similar cases filed by number of candidates for category No. 25 of Employment notice in question. The Mumbai Bench of the C.A. had also directed the Railway Administration to appoint a High Powered Committee to scrutinise all cases after giving notice to the affected parties and to form its opinion about the genuineness of test etc. Accordingly a High Powered Committee scrutinised all the cases and did not recommend appointment/ selection of any of the candidates. Thus the direction contained in the order in question to hold enquiry into the matter has substantially been complied with. The report of the enquiry of High Powered Committee was also duly accepted by the competent authority. Besides the Apex Court in Appeal No. 1821-31 of 1994 filed by the Chairman Railway Recruitment Board, Mumbai has also upheld the recommendations of the aforesaid High Powered Committee vide order dated 29.9.94 and dismissed the contempt petitions filed against the Chairman.

5. We have heard the learned counsel for the parties and perused the record.

6. The learned counsel for the respondents at the very outset has contended that the present application is not maintainable being time barred. The present application has been moved after seven years of the passing of the order in question. The Apex Court in *Hukum Raj Khinvsra*

Versus Union of India 1997 S.C.C. (L. & S.) page 943 has clearly laid down that in view of the provisions contained in Section 27(11) (211-A) of Administrative Tribunals Act 1985 final order passed by the Tribunal is executable within one year from the date of its becoming final. We find in the present case that the final order was passed on 30.9.91 whereas the present Misc. Execution Application has been filed on 6/8.7.99. Obviously the application is time barred and the same is liable to be dismissed on this ground.

7. Besides it, the applicant has not disputed the fact that High Powered Committee constituted by the respondents to enquire about the mal-practices etc. having committed in the selection in question and a report submitted by the High Powered committee was duly accepted by the competent authority. In our considered opinion, the compliance of the order of this Tribunal has been made by the respondents. Thus we do not find any merit in the present application and the same is dismissed.

Rafiq Nadeem
Member (J.)

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Member (A.)

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