

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

No
Review
in
Promotion

R.A.No. 47 OF 1992
with
M.A.No. 82 OF 1991
in
O.A. No. 248 OF 1989.
~~T.A.No.~~

B

(64)

DATE OF DECISION 4-3-1993

Union of India & Ors. Petitioner s
(Orig. Respondents)

Mr. Dipak Raval for Mr. R.P.Bhatt, Advocate for the Petitioner(s)

Versus

P.R. Khandelwal, Respondent
(Orig. Applicant)
Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C.Bhatt, Judicial Member.

The Hon'ble Mr. V.Radhakrishnan, Admn. Member.

Jagpreet
Bh

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✗
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✗
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✗

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1. Union of India,
through The Secretary,
Ministry of Finance,
Department of Revenue,
Central Secretariat,
New Delhi.
2. The Chief Commissioner of
Income Tax,
Gujarat, Ahmedabad.
3. Central Board of Direct Taxes,
through Chairman/Secretary of
the Board, Ministry of Finance,
New Delhi.

.... Applicants.
(Orig. Respondents)

Versus.

Prabhudayal Laxminarayan Khandelwal,
A/4, Income Tax Flat,
Opp: High Court, Ahmedabad.

.... Respondent
(Orig. Applicant)

ORDER

R.A.No. 47/1992
with
M.A.No. 82/1991
in
O.A.No. 248/89

Date: 4-3-1993.

Per: Hon'ble Mr. R.C.Bhatt, Judicial Member.

Heard Mr. Dipak Raval for Mr. R.P.Bhatt, learned
advocate for the applicants(Orig. respondents).

2. This review application has come up for
preliminary hearing before us. The original respondents
have filed this review application praying that the
judgment dated 19th September, 1990 given by this
Tribunal in O.A. 248/89 be reviewed and be declared
that O.A. 248/89 is not maintainable and the same
should be dismissed. This Tribunal by judgment dated
19th September, 1990 allowed the Original Application
respondents
holding that the original / committed a patent

error in resorting to a process of selection on merit. The original respondents have averred in the review application that though all the relevant documents were produced before the Tribunal specifically contending that promotion was on the basis of merit, the Tribunal had not taken note of those documents. It is submitted ^{by original respondents} that the case of the applicant was considered by the D.P.C. of April 1988 in accordance with the Department of Personnel and Administrative Reforms O.A. dated 30th December, 1976 dealing with the procedure for making promotion and functionings of the D.P.Cs vide Annexure A-2. We have perused the grounds 4 to 8 of the review application also.

3. We have perused the judgment in details. The Tribunal has dealt with the submissions made by the learned advocate for the original respondents

Mr. R.P.Bhatt, the Tribunal has also referred to in details the two files which were relating to D.P.C. proceedings held in 1987 and April, 1988 which were shown by the learned advocate for the respondents at the time of hearing of the Original Application. The Tribunal has considered the documents which had been produced and shown at the time of hearing. The Tribunal has discussed all the points raised by the respondents in the application. Having gone through the judgment, we find no error

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apparent on the face of the record to interfere with
There is no substance in any of the grounds.
the judgment. / None of the ingredients of Order XLVII

Rule 1 of Civil Procedure Code is attracted. Hence

the review application deserves to be dismissed.

R.A. 47/92 with M.A. 82/91 ^{are} ~~is~~ dismissed.



(V. Radhakrishnan)
Member (A)



(R. C. Bhatt)
Member (J)

vtc.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD

Contempt

CA/TA/MA/RA/C.A. No.

44

/1291 in order 187

P. L. Khandewal

Mr. Pind

APPLICANT(S)

COUNSEL

VERSUS

UOI & Co

Mr

RESPONDENT(S)

COUNSEL

Date	Officer Report	Orders
	<i>Advance Copy not served. (11-11-9, P. L. Khandewal (1874))</i>	
<i>28/11</i>	<i>P. L.</i>	<i>Date referred to P. L. P. L.</i>
<i>21/11/82</i>	<i>P. A.</i>	<i>Date referred to P. L. P. L. Homedunt carried out as per order 2/12/82</i>
<i>22/11</i>	<i>P. A.</i>	<i>Date referred to P. L. P. L. 2/12/82</i>
		<i>Pl. was present not 26/12</i>
<i>20/3</i>		<i>Notice served on Respondent</i>
<i>24/3/</i>		<div>REPLY FILED</div> <i>by Sh. P. L. order 24/3/82</i>
<i>26/3/82</i>		<i>None present Reply filed order at 26.3.82. matter for order</i>
<i>13/5/82</i>		<div>REJOINDER FILED</div> <i>by Sh. for P. L.</i>

Date	Officer's Report	Order
23/71	23/71	Notice served on APP. REPLY FILED by S4 n R P Bhatt
		Pl. issue nfb in Par III to R III 2/29/72 Pl. issue copy of order dtd 16/8/92 to the Comm. f. h. by hand 2/27/8
	28/08/92	Copy of order dated 24/08/92 received.
15/91		Reply Filed <i>MHBhatt</i> <i>28/8/92</i> by Mr R P Bhatt on 15/9/90 For Response

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C.A./44/91 in O.A./248/89

Date	Office Report	Orders
2.1.1992		<p>Heard party in person. The applicant to amend the application by giving names of respondents ^{in cause file} who according to the applicant are alleged contemners contempters. The matter then be placed on Board.</p> <p><i>[Signature]</i> (R.C.Bhatt) Member (J)</p> <p><i>[Signature]</i> (A.B.Gorthi) Member (A)</p> <p>Mogera</p>
24.2.1992	<p>Res. submitted Preliminary notice served on Contemners No. 2 awaited from Rest. Christian 24.7.92 50.</p>	<p>Heard the petitioner in person. We take cognignce of this petition. The applicant has submitted that the respondents have not complied with the order of this Tribunal in OA/248/90 decided on 19th September, 1990. He submitted that the S.L.P. filed by the respondents before Hon. Supreme Court of India was also rejected on 22nd July, 1991. He requested the respondents to comply with the order of this Tribunal even after the S.L.P. was rejected but the respondents have paid no heed to it. Hence issue preliminary notice to respondents No. 2, 3 and 4 to explain as to why the contempt proceedings should not be taken against them for non-compliance of the order of this Tribunal. Notice returnable within four weeks. Applicant does not press for interim relief.</p> <p><i>[Signature]</i> (R C Bhatt) Member (J)</p> <p><i>[Signature]</i> (M Y Priolka) Member (A)</p> <p>Mogera</p>

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C.A. 44/91
in
O.A. 248/89

Date	Office Report	O R D E R
(22) 27.7.92.	<p>Resp. Submitted Notice issued as per this order 18/08/92 S.D.</p>	<p>Present: Applicant-in-person. <i>Mrs. Bhatt</i> None for the respondents.</p> <p>The reply has been filed to the rejoinder of the applicant by the 3rd respondents who states that the review DPC meeting has already been held on 18.5.1992 and the minutes have been accepted by the Finance Ministry. This reply is dated 26th June, 1992. There is no further reply indicating as to whether any order has been passed. Issue notice to the 3rd respondents to appear in person ^{at} in the next hearing with all the records and indicating whether an order in terms of Review DPC ^{has been} proceedings, passed. Call on 24th August, 1992.</p> <p><i>R.C. Bhatt</i> (R.C. Bhatt) Member (J)</p> <p><i>N.V. Krishnan</i> (N.V. Krishnan) Vice Chairman</p> <p>vtc.</p>

Date	Office Report.	O R D E R
24-8-92 (17)		<p>Present : The applicant-in-person Shri R.P. Bhatt Learned Counsel for the Respondent.</p> <p>Respondent No.3 Shri T.S. Rana</p> <p>We have heard the learned counsel. It is submitted that upon the receipt of approval of the Finance Minister, Respondent No. 3 took further action on 11-6-1992 by sending an office memorandum to Shri J.M.Pathak, Deputy Secretary, in the Department of Personal and Training (Establishment Officer's Office). Subsequent to the last proceedings before us on 27-7-1992, the third respondent had reminded the Establishment Officer, Government of India, by letter dated 12-8-1992. In both these communications there is a reference to the complaint application against the respondent. It is clear from this correspondence that the matter required ^{decision} discussion at the level of another authority who was not present in the OA or a respondent in the present application. The learned Counsel for the respondent therefore, submits that the respondents have taken, ^{all} an action with their province to get the decision. He therefore submitted that respondent should be given additional time of 3 months to report compliance.</p> <p>We are of the view that when a matter of contempt is hanging over Government, there should be some arrangement so that an urgent decision could be taken. In this case even though the Finance Minister has approved the DPC's and the case sent to competent authority before 26-6-1992, when the last was filed, final order has not been</p>

Date

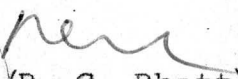
Officer Report

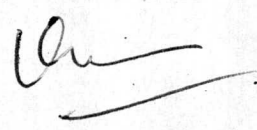
Orders

It appears that the respondents have not impressed upon the authorities who are to take the final decision, the consequences of delay in compliance, after a contempt application has been filed. We, therefore, give a further opportunity to the respondent to report compliance. We consider the period asked for to be unjustified. In the circumstances; the respondent are granted 3 weeks time from today, to report compliance of the original order. This should be accompanied by an affidavit of the third respondent explaining the delay and the reason why action should not be taken in contempt. In case the order is not complied with before the next date of hearing on 16th Sept. 1992, respondent should also appear in person to explain the delay and to consider further proceedings.

Call on 16-9-1992.

A copy of the orders be given to learned counsel for respondent. by hand.


(R. C. Bhatt)
Member (J)


(N. V. Krishnan)
Vice- Chairman.

*A