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CAT/J/13

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

with MA/676/96  
CA/08/96 in OA/521/90 in RA/48/94.

**O.A.NO.**  
**T.A.NO.**

**DATE OF DECISION** 8.11.1996

Balsukhray D.Rajpura **Petitioner**

Mr.M.M.Xavier **Advocate for the Petitioner [s]**  
**Versus**

Shri M.Ravindra & Ors. **Respondent**

Mr.R.M.Vin **Advocate for the Respondent [s]**

**CORAM**

**The Hon'ble Mr. K.Ramamoorthy :** Member (A)

**The Hon'ble Mr.**

**JUDGMENT**

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lerdships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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Dalsukhraj Dayalji Rajpura  
Bhavnagar

.... Applicant

(Advocate :Mr.M.M.Xavier)

VERSUS

1. Shri M.Ravindra  
General Manager,  
Western Railway,  
Churchgate,  
BOMBAY 20.
2. Shri M.M.Kholi  
Asstt.Electrical Engineer (W)  
Bhavnagar Para Workshop,  
BHAVNAGAR 364 003.
3. Shri K.M.Rao,  
Chief Electrical Engineer,  
Western Railway,  
Head quarter office  
Churchgate,  
BOMBAY 400 020.

(Advocate :Mr.R.M.Vin )

J U D G E M E N T

In

with MA/676/96  
CA/08/96 in OA/521/90 in RA/48/94

Date : 8.11.1996

Per: Hon'ble K.Ramamoorthy : Member (A)

The Contempt petition has been filed alleging that the respondent-deptt. had not carried out the orders passed by the Tribunal in its order of 27.9.1994 in OA/521/90, further clarified in its order of 19/4/1995, C.A. No. 48194.

2. In OA/521/90 the applicant had claimed that he was ~~were~~ wrongly not promoted from 1984 when his juniors were promoted. The Tribunal had partially allowed the O.A and directed the respondents to reconvene the D.P.C. from the year 1984 with a directions as under :-

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" Under these circumstance, the respondents are directed to reconvene the DPC for the year 1984 a view to consider the eligibility of the applicant for being promoted with effect from 1.1.84 not treating service record for the four years and adverse in view of non-communication of CRS. As per the decision in the review DPC, the question of deemed date of promotion for the applicant should also be decided."

3. It was further clarified in the decision of 19.4.1995 in RA/48/94 depending on the decision in the DPC, " The consequences will follow thereafter ". Consequently vide letter dated 28.3.1995, the Competent authority approved the proforma promotion with effect from 1.1.1984, but without grant of wages from that period.

4. The respondents in their reply have stated as under .

"The respondents submit that they have not committed any contempt as alleged. In fact they have substantially honoured and carried out the orders of this Tribunal. The applicant has been promoted as SEF/JSS in scale rs.2000-3200(RP) and regularised with effect from 1.1.84 and is also made entitled to proforma promotion with effect from 1.1.84. He is also made eligible for arrears of payment from the date of his taking over charge of SEF/JSS in scale of Rs.2000-3200(RP). Annexure hereto and marked as Annexure R is a true copy of the letter No:E/804/CAT/521/90 dated 24.1.96 issued by the Asstt. Electrical Engineer(W Shop)'s Office. This order is in full compliance of the judgment in OA/521/90 and

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and Review Application No:48/94. It will be noticed that in the R.A., the applicant had specifically sought directions for benefit of arrears of salary etc. The same relief is not only not granted but it ~~is~~ is clarified that the judgment is specific on the relief which ~~was to be~~ given. The respondents have have bonafide understood and interpreted the two judgments to mean that the applicant is not entitled to benefits of arrears for a period before his taking over the charge of SEF/JSS. He cannot get higher emoluments for a post on which he has not at all worked. ",

5. The matter in effect boils down to the interpretation of the order of the Tribunal. The references to reconvening the DPC and to decide on the deemed date of promotion has to be interpreted in the light of the facts of this case where the applicant had been allowed ad hoc promotion in 1986. The matter was also clarified the "Consequent benefits follows", as per the decision of the DPC. The DPC having decided to give promotion w.e.f. 1.1.1984 there is no reason to read further in the words "Deemed date of promotion" to deny arrears of pay as admittedly there has been an ~~error~~ in ~~not~~ correctly assessing the case of the applicant, when the junior was promoted, as borne out by the ~~subsequent~~ decision. In that sense the case is akin to the judgment of this Tribunal, in Contempt Case of - Deny Leonard vs. A.K. Agarwal .1 (1993) 24 STC.757. wherein also, it was noted that where there was no specific direction in the order for payment of arrears, the implementation of the judgment has to be carried out

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to its logical end. When in R.A. the Tribunal clarified that "Consequences will follow", it referred to the consequences arising from the decision of the DPC. Accordingly, as was decided in another Contempt Petition decided by the Lucknow Bench of the Tribunal on 15.5.1995 in the case of S.M.A.R. Zaidi Vs. D.P. Tripathi and Anr. (1996) 32 ATC-6, we order that arrears of pay etc. should also be paid from the date of deemed promotion. We direct the respondents to issue the necessary orders and pay to the applicant the sum due within a period of four months from the date of communication to the applicant.

6. However, in this case the Tribunal accepts the averment made that the action of the respondents has been based on what they "have bonafide understood". There has thus been no wilful disobedience and on that ground, notices issued in this case for contempt of court are discharged and contempt petition is rejected, with however, directions as above. In view of the disposal of C.A., MA/676/96 - does not survive.

  
( K. Ramamoorthy )  
Member (A)

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