

Central Administrative Tribunal, Lucknow Bench, Lucknow

R.A.No. 9/2005 in Original Application No.87/ 2002

(Converted as M.A. for Execution by the Court)

This the 15th day of September, 2005

HON'BLE SHRI SHANKER RAJU MEMBER (J)
HON'BLE SHRI S.P. ARYA MEMBER (A)

Kamta Prasad Pandey
By Advocate: Sri R.C.Singh

...Applicant

Versus

U.O.I. and others
By Advocate: Sri S.P.Singh

...Respondents

ORDER (ORAL)

By Hon'ble Shri Shanker Raju, Member (J)

Imparting justice forbids multiplicity of litigation. It is prohibited in law to drag a litigant again and again to seek recourse of law which would be a wastage of public exchequer. Accordingly the R.A. is treated as an M.A. for execution.

2. In the above back drop, R.A.No. 9/2005 in our order passed on 18.1.2005 in O.A. No. 87/2002, where the applicant has sought inclusion of his name in the panel according to the seniority and eligibility for promotion as HSG-II under the BCR scheme w.e.f. 1.10. 91 and against the panel prepared for the post of HSG -I, it is contended that the applicant was senior most to the persons at S.No. 60 to 66 and was accorded non norm based HSG II. The Tribunal directed in the order (Supra) to consider the applicant for promotion to HSG-I (GL) along with officials who were given HSG II /BCR cadre w.e.f. 1.7.95 or later and in case applicant is found suitable for such promotion, he would be promoted w.e.f. the date the officials getting HSG II cadre w.e.f. 1.7.95 or later were promoted with all consequential benefits.

3. The above directions leave no doubt that consideration of the applicant was for HSG I on the ground that juniors who had been given BCR HSG II had already been considered and promoted. This also signifies that the BCR HSG II had already been accorded to the applicant. It is not disputed that the claim of applicant was to be considered.

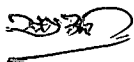
4. Though in review [✓] which is [✓] treated as an Execution Application, respondents have taken strong objection by contending that by virtue of a decision [✓] of the Full Bench of this Court in O.A. 329/2000 D.C. Mishra and others Vs. UOI and

others, decided on 3.1.2005 after completion of 26 years of service required for HSG II BCR but applicant was not promoted against the (norm based) as he was adjudged unfit by the DPC. Accordingly his claim was rejected.

5. While dealing with an application for execution or a contempt, as held by the Apex Court in Director of Education Vs. Ved Prakash, 2005 AIR SCW 3759 that one cannot add or subtract to the directions issued or would not sit by way of review. The only attempt would be to get the direction of the court implemented in true letter^{ly} and spirit. Whether the directions are wrong or right, remedy is left open to the concerned to approach the appropriate forum. Unless it is not done, the directions still remain in vogue to be respected to be complied with by the respondents.

6. In the above view of the matter, as respondents have already been directed to consider the case of the applicant for promotion as HSG I in case HSG II BCR officials from Sr. No. 60 to 66 being junior to applicants are considered, these directions are to be respected and complied with by considering case of the applicant. We dispose of this converted application for execution with direction to the respondents to comply our direction with true letter and spirit within a period of two months from the date of receipt of this order.

7. Learned counsel for respondents stated that BCR and TBOP schemes are not promotion but upgradation only which we cannot take cognizance as in the select list, they have implemented the promotion by considering these schemes as non norm^{ly} based HSG II. As such similar treatment has to be meted out to the applicant otherwise this would be infraction to the Principle of Equality enshrined under Article 14 and 16 of the Constitution of India.

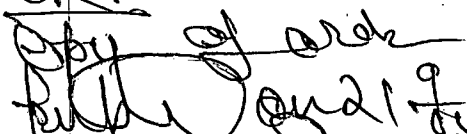


(S.P. ARYA)
MEMBER (A)

HLS/-



(SHANKER RAJU)
MEMBER (J)

OR.
By 
21/9/05