

CENTRAL ADMINISTRATIVE TRIBUNAL,**LUCKNOW BENCH LUCKNOW**

**Execution Application No. 337/2012 in
Original Application No. 52/2011**

Order Reserved on 2.9.2015

Pronounced on 17-09-2015

**HON'BLE MR. NAVNEET KUMAR, MEMBER(J)
HON'BLE MS. JAYATI CHANDRA, MEMBER (A)**

1. Dharmendra Dixit aged about 33 years son of Sri J.N. Dixit, resident of 558/27- Kha, Sunder Nagar, Alambagh, Lucknow.
2. Amit Kumar aged about 24 years son of Sri Suresh Chandra, resident of 150-B, Badi Lal Kurti, Dilkusha, Lucknow.
3. Abdul Rustam Ansari, aged about 33 years son of Sri Mohd. Sattar resident of Rajeev Nagar, Ghosiana, Telibagh, Lucknow.
4. Rabia Bano, aged about 30 years daughter of Sri Shehjahan, resident of 23, Khemchandra Market, Sadar, Bari Bazar, Lucknow.

Applicants

By Advocate: Sri Praveen Kumar

Versus

1. Union of India through the Secretary, Ministry of Defence, Sena Bhawan, New Delhi.
2. The Additional Director General of Man Power, MP 4 (Civ.) (b) Adjutant General's Branch, Army Head Quarters, DHQ, P.O., New Delhi.
3. The Commanding Officer, Army Medical Corps (Records), (Brigadier (Records), Lucknow.
4. The Officer in Charge, Army Medical Corps (records), Lucknow.

Respondents

By Advocate: Sri P.K.Singh

ORDER

HON'BLE MR. NAVNEET KUMAR, MEMBER(J)

The present Execution Application is preferred by the applicant for non-compliance of the order dated 20th December, 2012 passed by this Tribunal in O.A. No. 52/2011 through which the Tribunal directed as under:-

"21. Accordingly, O.A. No. 253/2014 is dismissed.

O.A. No.52/2011 is allowed and the impugned order

dated 16.6.2010 (Annexure A-1) is set aside . The

respondents are directed to proceed further in

W

respect of giving appointment to the selectee applicants on the post of Lower Division Clerk in pursuance of offer of appointment issued by the respondents on 4.6.2004. For the purpose of seniority, promotion and pay fixation they have to be deemed in service from the relevant date and month of the year 2004. But as far as prayer for payment of arrears since 2004 with interest is concerned, it is declined. There is no question of directing for payment of salary for the period during which they did not work. Therefore, the question of interest on the pay arrears is also ruled out. No order as to costs.”

2. Learned counsel for applicant submitted that despite the orders of the Tribunal, respondents have not complied with the order as such they are liable to be summoned.

3. On behalf of the respondents, reply is filed and through reply it is indicated that two writ petitions are preferred vide Writ Petition No. 211 (SB) of 2012 and Writ Petition No. 376 (SB) of 2012. In writ petition No. 211 (SB) of 2012, the Hon'ble High Court directed that **“In the mean time, if any appointment is being made, the same shall be subject to the final decision of the writ petition”** whereas in Writ Petition No. 376(SB) of 2012, the Hon'ble High Court observed that **“Learned counsel for applicant who was opposite party in the writ petition submitted that he will not claim the seniority in pursuance to the original orders passed by the Central Administrative Tribunal.”** Subsequently, Hon'ble High Court directed that “In case, such appointment orders are issued, the petitioners are directed to appoint opposite parties in pursuance to the said appointment order.

W

The Seniority will be subject to the final decision of the writ petition.”

4. The respondents in pursuance of the said orders of the Hon'ble High Court issued orders on 10th April, 2012 through which the applicant is given appointment and it is indicated that the seniority will be subject to the final decision of writ petition No. 376 (SB) f 2012 as directed by the Hon'ble High Court vide order dated 26th March, 2012.

5. Apart from this, it is also indicated by the learned counsel for the respondents that as per the orders of the Tribunal, the respondents were directed to proceed further in respect of giving appointment to the selectee applicants on the post of Lower Division Clerk in pursuance of offer of appointment issued by the respondents on 4.6.2004. For the purpose of seniority, promotion and pay fixation they have to be deemed in service from the relevant date and month of the year 2004 and as regard, seniority is concerned, the same shall be final out come of the writ petition pending before the Hon'ble High Court and as regards the promotion and pay fixation is concerned, since the seniority is subject to final decision of writ petition, as such respondents have not taken any decision in this regard.

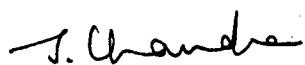
6. Learned counsel appearing on behalf of the applicant has categorically indicated that the respondents on the earlier occasions also argued the same point before this Tribunal and this Tribunal vide order dated 4.2.2015 directed the respondents to comply with the order of the Tribunal and passed order accordingly within a period of six weeks.

7. Though copy of the order passed by the Hon'ble High Court was earlier filed by the respondents counsel but for the first time, respondents brought on record the order of appointment dated 10th April, 2012 of the applicants through M.P. No. 332/01665/2015

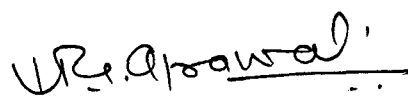
along with Supplementary Affidavit filed by Major Ravindra Kumar Malik.

8. The bare perusal of the Supple. Affidavit shows that since the writ petitions are pending and respondents have already issued the appointment orders and seniority shall remain pending subject to final out come of the writ petition., as such we deem it appropriate in the interest of justice to dispose of the execution application with liberty to the parties to get it revive after the disposal of the writ petition.

9. With the above observations, Execution Application stands disposed of. No orders as to costs.



(Ms. Jayati Chandra)
Member (A)



(Navneet Kumar)
Member (J)

HLS/-