

Central Administrative Tribunal Lucknow Bench Lucknow

C.C.P. No. 30 Of 2005 In O.A. 160/96.

This, the <sup>8<sup>th</sup></sup>----- day of May 2007.

HON'BLE MR. A. K. SINGH, MEMBER (A)  
HON'BLE MR. M. KANTHAIAH, MEMBER (J)

Krishna Prakash aged about 52 years, son of late Sheri L.N. Gupta, resident of C-1/511 Sector G, Jankipuram (Sitapur Road Yojna), Lucknow 226021.

Applicant.

By Advocate Shri S. Verma.

Versus

1. Shri C.D. Arha, Secretary to the Government of India, Ministry of Mines, Shastri Bhawan, New Delhi.
2. Dr. K.N. Mathur, Director General, Geological Survey of India, 27 Jawahar Lal Nehru Road, Kolkata.
3. Shri U.K. Bassi, Deputy Director General, Geological Survey of India, Northern Region, Sector E, Aliganj, Lucknow.
4. Shri P.M. Tejale, Director General, Geological Survey of India, 27 Jawahar Lal Nehru Road, Kolkata-700013 as respondent No. 5
5. Shri Pashupati Nath Razdan, Deputy Director General, Geological Survey of India, Northern Region, Sector, E. Aliganj, Lucknow.

Respondents.

By Advocate Shri Sunil Sharma.

Order

By Hon'ble Mr. A. K. Singh, Member (A)

C.C.P. bearing No. 30/2005 has been filed by the applicant Shri Krishna Prakash (of the address given in the petition) against Shri C.D. Arha, Secretary to the Government of India, Ministry of Mines, Shastri Bhawan, New Delhi, Dr. K.N. Mathur, Director General, Geological Survey of India, 27 Jawahar Lal Nehru Road Kolkata and Shri U.K. Bassi, Deputy Director General, Geological survey of India, Northern Region, Sector E, Aliganj, Lucknow for deliberate disobedience of the order of

this Tribunal dated 20.8.2004 passed in O.A. No. 160/96. In operative part of this order, the Tribunal had issued the following direction:

"...That being the position, we find it just and proper to dispose of this O.A. by directing the respondents to consider the case of the applicant for promotion to the post of Senior Technical Assistant (Photo) taking into consideration that his case was considered by the D.P.C. and found fit for promotion. The respondents shall issue an appropriate order within a period of two months from the date of communication of this order."

2. The applicant submits that the order in question of the Tribunal was served on the respondents some time in middle of September 2004. A total period of two months was allowed to respondents for compliance of the order. But the respondents, did not comply with the same. Hence they have committed a contempt the above mentioned order of this Tribunal and are liable to be punished under Section 12 of the contempt of Court Act 1971 read with Section 17 of the Administrative Tribunal Act 1985.

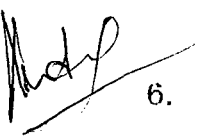
3. The respondents have opposed the contempt petition in question. They submit that the Hon'ble Tribunal Vide order dated 20.8.2004 has disposed of the Original Application No. 160/96 with the direction to the respondents to consider the case of the applicant for promotion to the post of Senior Technical Assistant through a speaking order within two months. During the pendency of the original application, the respondents had promoted the applicant to the post of Senior Technical assistant vide O.M. No. 203 to 204/A-32016/47/85-97/Rectd. Dated 05.01.1998. This fact was cancelled by the applicant during the pendency of the above-mentioned O.A. before the Tribunal. Since the applicant has already been promoted to the Post of Senior Technical Assistant on 5.1.98, the direction of the Tribunal as per above mentioned order are fully complied with and hence no case for contempt is made out all the three

respondents namely Shri C.,D. Arha, Dr. K.N. Mathur and Shri U.K. Bassi, according to them.

4. Applicants as well as the respondents were heard on 24.4.2007 through their respective counsels. They only reiterated the points as mentioned above in support of their case. We find that the operative portion of the Tribunal's order, which reads as under, does not mention above any specific date from which the applicant was to be promoted. This relevant Para of the above decision is again produced hereunder for arriving at a just and fair decision in this matter.

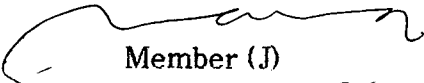
"...That being the position, we find it just and proper to dispose of this O.A. by directing the respondents to consider the case of the applicant for promotion to the post of Senior Technical Assistant (Photo) taking into consideration that his case was considered by the D.P.C. and found fit for promotion. The respondents shall issue an appropriate order within a period of two months from the date of communication of this order."

5. It is clear that the actual intention of the order does not get fully expressed through the letters of the order. It does not mention the date from which the case of the applicant was to be considered for promotion to the post of Senior Technical Assistant. The respondents contend that they have already promoted the applicant w.e.f. 5.1.98 and have thus complied with the above mentioned order.




6. In view of this, we are of the opinion that no case for deliberate disobedience of the above mentioned order of the Tribunal has been made out. As a result of the same, the C.C.P. No. 30/2005 merits dismissal and is accordingly dismissed and notices issued to the respondents are hereby discharged.

7. However, liberty is given to the applicant to file a separate O.A. on the fresh points raised before us which relates to the actual date of promotion w.e.f. 1994. This obviously gives rise to a fresh cause of action.

  
Member (J)

8.5.07

  
Member(A)

v.