

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

CCP No. 44/2011 in Original Application No.535/2010

This, the 6th day of September, 2012

HON'BLE JUSTICE ALOK KUMAR SINGH, MEMBER (J)
HON'BLE SHRI S.P. SINGH, MEMBER (A)

Sudarshan Singh aged about 59 years son of Sri R.J.Singh, presently working as Deputy Conservator of Forest, Social Forestry Division, Etawah, resident of Forest Campus, Etawah.

Applicant.

By Advocate: Sri A.R. Masoodi

Versus

1. Sri Chanchal Kumar Tiwari (IAS), Principal Secretary, Department of Forest, Bapu Bhawan, Civil Secretariat, Lucknow.
2. Sri D.N.S. Suman, Principal Chief Conservator of Forest, U.P. Ananya Bhawan, 17, Rana Pratap Marg, Lucknow.
3. Sri Anoop Mishra, IAS, Chief Secretary, U.P. Civil Secretariat, Lucknow..

Respondents.

By Advocate: Sri Sudeep Seth for respondent No. 3

(Reserved on 5.9.2012)

ORDER

By Hon'ble Shri Justice Alok Kumar Singh, Member (J)

This contempt petition has been filed against the then Principal Secretary, Department of Forest (Respondent No.1), the then Chief Conservator of Forests(Respondent No.2), U.P.Sri D.N.S. Suman, the then Chief Secretary, U.P.Sri Anoop Mishra (Respondent No.3) and Sri A. Bhattacharya, Secretary, U.P.S.C. (Respondent No.4). On 3.9.12, the learned counsel fairly conceded that UPSC has complied with the orders. Therefore, notice issued against Sri Bhattacharya,Secretary, UPSC was discharged. Now , we have to see as to whether or not substantial complinace of the order of this Tribunal dated 2.8.2011 passed in O.A. No. 535/2010 has been made by rest of the respondents. The directions accorded by this Tribunal were as under:-

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"Accordingly, this O.A. is partly allowed with the direction to the respondent No.1,3 and 4 to consider the applicant for promotion to the Junior Administrative Grade from the date applicant's juniors were promoted and also consider the applicant for selection grade and higher promotion on the post of Conservator of Forests at par with the similarly situated/ junior person from the due dates, if he is otherwise found suitable, without taking into consideration the pendency of enquiry in question. But it would be subject to review, if any after conclusion of the enquiry in question. Simultaneously, the respondents are directed to conclude the enquiry in question within 4 months from the date of this order.

26. Since, the enquiry is still pending, we find ourselves handicapped in dealing with the relief pertaining to consequential benefits. However, we provide that the applicant can come to this Tribunal for redressal of his grievance, if any, in respect of consequential benefits at the appropriate stage if he is so advised. No order as to costs."

2. The respondents filed a writ petition No. 234/2012 against the above order, which was decided on 24.2.2012. The Hon'ble High Court did not find any illegality and infirmity in the judgment and order of this Tribunal. However, the order was modified to the extent that in case disciplinary proceedings are pending against O.P. 1, i.e. the applicant, authorities were directed to consider his candidature and adopt sealed cover procedure as provided under law expeditiously say within a period of 3 months from the date of receipt of certified copy of order of the Hon'ble High Court.

3. The respondents have submitted a detailed compliance affidavit sworn by Sri Rajesh Kumar Singh, Secretary, Department

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of Forest, U.P. saying that compliance has been made in the following manner:-

Re- Grant of Junior Administrative Grade - This grade was to be given to the applicant from 1995 after completion of 9 years of satisfactory services as submitted by the learned counsel for applicant before the Hon'ble High Court itself in the above writ petition No. 234/2012 as mentioned on page 3 paragraph 1 of the judgment of the Hon'ble High Court dated 24.2.2012. Accordingly, Junior Administrative Grade has been given to the applicant w.e.f. 1.1.95 vide order dated 29.5.2012 (Annexure -2). In his reply the applicant has said that it was not granted within a period of 4 months as directed by the Hon'ble Tribunal. But in fact, the period of 4 months was stipulated for conclusion of the pending enquiry. In respect of considering J.A.G., it was directed that it shall be made without taking into consideration the pendency of the enquiry in question. The Hon'ble High Court vide its order dated 24.2.2012 however, modified this direction to the extent that the candidature be considered expeditiously say within a period of 3 months and regarding enquiry, it was directed that sealed cover procedure may be adopted. The above period of 3 months ended in the last May of month whereas the above compliance has been made vide order dated 29.5.2012. Otherwise also there is no deliberate or willful disobedience. Therefore, we find that the compliance has been made on the above count and there is no willful and deliberate dis-obedience.

Re- Grant of Selection Grade - According to para 6 of the compliance affidavit, the applicant was considered and granted selection grade w.e.f. 1.4.2006 vide order dated 5.7.2012 (Annexure 4). The perusal of this order shows that the selection grade has been granted to the applicant w.e.f. 1.4.2006 from the date his junior Sri R.S. Mishra was granted this grade. The

gradation list of IFS officers of U.P. cadre as on 1.1.2012 field by the applicant himself along with reply shows the applicant at Sl. No. 70 and above Sri R.S. Mishra at Sl. No. 71. The above para 6 of the compliance report has been replied in para 14 of the reply filed by the applicant. The only objection appears to be that it has not been explained as to why the selection grade would not be admissible to the applicant when Dr. Prabhakar Dubey another junior member was granted this benefit in the year 2004. The said Sri Dubey finds place at Sl. No. 75 of the above gradation list. Further, it is said that several other junior persons were granted selection grade w.e.f. 24.3.2006. Suffice is to mention in this regard that in the O.A., no such specific points were either pleaded or emphasised. Rather under some wrong impression, it was pleaded in a general manner that his juniors have been given selection grade vide order dated 28.3.2003 which was found to be beyond comprehension because on the other hand, the applicant had claimed that the junior Administrative grade (which in first ladder) was admissible to his juniors in the year 2006. Therefore, the facts which are being said now in detail in the above reply cannot be looked into under these contempt proceedings. That may or may not be the subject matter of fresh O.A. Further, in respect of consideration of the applicant for selection grade and higher promotion on the post of Conservator of Forests, the direction of this Tribunal was for consideration at par with the similarly situated /junior person from the due date. Here, junior person has been mentioned in singular and not in plural, whereas in respect of consideration of promotion to the JAG, the words used by this Tribunal were in plural i.e. from the date his juniors were promoted. Therefore, we find that substantial compliance has been made on this count also.

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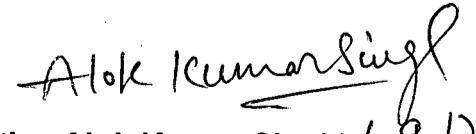
Re- Consideratino of the applicant for higher promotion on the post of Convervator of Forest at par with similarly situated

/junior person- In para 7 of the compliane report, it has been specifically averred that he was considered and promoted to the post of Conservator of Forests w.e.f. 13.5.2006, the date, applicant's junior was promoted vide order dated 23.7.2012. The relevant order has been placed at Annexure no. 5 of the compliance report. This order reveals that he has been promoted from 13.5.2006 w.e.f. which date his junior Sri R.S. Mishra (as mentioned in the above list at Sl. No.71) was promoted. Again , in reply filed by the applicant against the compliance report, similar point of other juniors has been raised which for the same reasons appears to be misconceived as far as this contempt petition is concerned.

Re- Departmental Enquiry - The direction of this Tribunal was to conclude the enquiry within 4 months from the date of the order. As said above, this order was modified in Feb, 2012 by the Hon'ble High Court saying that candidature of the applicant shall be considered and in respect of pending enquiry, sealed cover procedure would be adopted. Finally, vide order dated 2.6.2012, the disciplinary proceedings against the applicant has culminated and he has been exonerated (Annexure-3).Therefore, compliance in this respect++ has also been made.

4. In view of the above, we finally conclude that substantial compliance has been made. Therefore, this contempt petition is struck of in full and final satisfaction. Notices against the respondents stand discharged.


(S.P.Singh)
Member (A)


(Justice Alok Kumar Singh) 6.9.12
Member (J)