

Central Administrative Tribunal
Patna Bench, Patna
CCPA No. 49 of 2003.
(Arising out of OA No. 334 of 1996).
(Patna, this Monday, the 5th Day of July, 2004).

Maheshwari Singh, son of Late Ram Lakhan Singh, Inspector of Police, C.B.I., A.H.D.Deptt. (B) Office, Dr. S.K.Sinha Path, Bailey Road, Patna-1, and presently residing at M.I.G. 6 MF-7/231, Bahadupur Housing Colony, P.S.: Agamkuan in the town and district of Patna. PETITIONER.
By Advocate :- Shri M.N.Roy.

Vs.

1. Shri A.K.Agrawal, Secretary, Department of Personnel, Training and Pension, Central Secretariat, New Delhi.
2. Shri P.C.Sharma, I.P.S. Director, Central Bureau of Investigation, Special Police Establishment, Lodi Complex, New Delhi. RESPONDENTS.

By Advocate :- Shri S.C.Jha,

Addl. Standing Counsel.

CORAM :- Hon'ble Smt. Shyama Dogra, Member (Judicial).
Hon'ble Shri Mantreshwar Jha, Member (Administrative)
O R D E R (ORAL)

Shyama Dogra, Member (J) :- This contempt petition has been preferred by the petitioner for non-compliance of the order passed by this Court in OA No. 334 of 1996, decided on 11.12.01 whereby, directions were given to the respondents to dispose of the representation of the applicant while holding the applicant being entitled for consideration for promotion in the rank of Sub-Inspector w.e.f. the date his juniors were promoted with consequential benefits.

2. The respondents have filed show cause and submitted that orders passed by this Court have been fully complied with as the applicant has been promoted retrospectively to the grade of Asstt. Sub-Inspector w.e.f. 15.05.1989 under seniority quota. However, the applicant has not cited name of any person who are junior to him and have been promoted to the rank of Asstt. Sub-Inspector and Sub-Inspector. Even the applicant has been promoted to the grade of Sub-Inspector w.e.f. 06.10.1993 from the date his junior, Shri Jai Narayan, was promoted as Asstt. Sub-Inspector and Sub-Inspector respectively. As consequential benefits, the applicant has also been allowed notional fixation of pay in the grade of Asstt. Sub-Inspector and Sub-Inspector.

Shyam Jha

and financial benefits of pay and allowances w.e.f. date he actually took over the charge as Sub-Inspector/CBI. Therefore, nothing survives in this contempt petition. The respondents have also placed on record various details with regard to the status of the private respondents of the OA.

3. It is further submitted in the show cause filed by the respondents that the claim of the applicant to put his name above the name of one N.C.Dutta in the seniority list of Sub-Inspector as on 01.01.1995 and to promote him in the rank of Sub-Inspector w.e.f. 14.02.1992, is not justified as the said Dutta was promoted to the grade of Asstt. Sub-Inspector of Police in 1987 under 25% examination quota after having qualified in the departmental competitive examination, whereas, the applicant has been promoted to the grade of Asstt. Sub-Inspector in 1999 under seniority quota; therefore, his seniority cannot be compared with said Shri N.C.Dutta. Hence, he is much senior to the applicant in the grade of Asstt. Sub-Inspector and promoted to the grade of Sub-Inspector earlier to the applicant.

4. In reply to these submissions, it is submitted by the learned counsel for the applicant that the orders of this Court have not been complied with in its letter and spirit in view of the submissions that the applicant has been shown, junior to said N.C.Dutta and the applicant should have been also promoted in the rank of Sub-Inspector of Police w.e.f. 14.02.1992 with all consequential benefits of pay and allowances.

5. We have heard the learned counsel for the parties and carefully gone through the record. After perusal of order passed by this Court in the aforesaid OA particularly, para 7, it is found that the applicant was held to be entitled for consideration for promotion in the rank of Sub-Inspector w.e.f. the date his juniors were

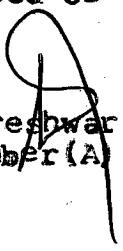
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promoted with consequential benefits while passing speaking orders on his representation.

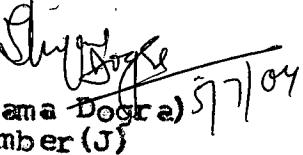
6. In pursuance of this, the respondents have passed orders of promotion with retrospective effect whether rightly or wrongly. While passing such orders, the respondents cannot be said to be guilty for ^{deliberately} flouting the orders of this Court and it will not amount to contempt of courts for disobedience of the orders passed by this Court. However, if the applicant still feels aggrieved, it is open for him to challenge those orders as it gives him a fresh cause of action. Moreover, the applicant has not filed any rejoinder to rebut the contentions being raised by the respondents in the show cause.

7. In view of these observations, as made hereinabove, we are not inclined to proceed further in the matter. Having said so, while discharging the notices issued to the respondents, this contempt petition stands disposed of, with liberty to the petitioner to challenge the orders passed by the respondents in pursuance of the directions as given by this Court in the aforesaid OA if he still feels aggrieved to do so.

8. With this, this contempt petition stands disposed of with no order as to costs.


(Mantreshwar Jha)
Member (A)

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(Shyama Dogra) 577/04
Member (J)