

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

CONTEMPT PETITION NO.80/2001
IN
ORIGINAL APPLICATION NO. 136/1996.

Friday, this the 12th day of April, 2002.

Hon'ble Shri Justice Birendra Dikshit, Vice-Chairman,
Hon'ble Smt. Shanta Shastry, Member (A).

Mrs. M.T.Patel & Ors. ...Applicants.
(By Advocate Shri R.Ramamurthy)

v.

Union of India & Ors. ...Respondents.

AND

1. Shri V.D.Gupta
General Manager,
Western Railway,
Churchgate,
Mumbai - 400 020.

2. Shri Nikhilesh Jain
Divisional Rail Manager,
Mumbai Division,
Western Railway,
Mumbai Central,
Mumbai - 400 008.

(By Advocate Shri V.S.Masurkar)

...Contemners.

: ORDER ON CONTEMPET PETITION (ORAL) :

Smt. Shanta Shastry, Member (A).

The applicant has filed this Contempt Petition being aggrieved by the manner in which the Respondents have implemented the order dt. 28.7.2000 in OA No. 136/96. The direction given by the Tribunal in the aforesaid OA was "application is allowed and the respondents are directed to grant Applicant No.3 promotion to the grade of Chief Clerk in terms of the selected panel dt. 28.4.1993 and place her above her immediate junior with consequential benefits if any. The application is accordingly disposed of in respect of applicant No.3". In compliance of this, the Respondents promoted the

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applicant as Chief Clerk w.e.f. 1.3.1993 against the reserved post of SC in restructuring of cadre vide their office order dt. 14.12.2000 with placement on the panel above her immediate junior. The Respondents have granted further promotion to the applicant to the post of Office Superintendent - I w.e.f. 12.8.1997 on proforma basis vide order dt. 30.3.2001 i.e. from the date her junior Smt. Sunita Chikhalkar was promoted.

2. The Learned Counsel for the applicant admits that the applicant has been granted promotion to the post of Chief Clerk from the date her immediate junior was promoted and the applicant has also been paid the full arrears consequent upon the promotion. The applicant, however, contends that the respondents have given the further promotion to the post of O.S. - I on a proforma basis. They ought to have given full arrears for promotion in the post of O.S. - I. Further grievance of the applicant is that the respondents have not considered the applicant for promotion to the post of Chief O.S., as the applicant was due for the same in 1999.

3. The Respondents have explained that the applicant was given proforma promotion in keeping with the Railway Rules as in para 228 of the Indian Railway Establishment Manual Vol. I, according to which even if promotion has been denied erroneously, no arrears are to be granted as the Railway Servant did not actually shoulder the duties and responsibility of a higher post.

4. In regard to further promotion to the post of Chief O.S., the Respondents submit that the applicant is not the seniormost SC, whereas, another person who is senior to the applicant.

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Although he has been transferred along with his post to Rajkot Division, his lien has been maintained for one year from 1.6.2001. There is some CBI investigation against the person concerned and his promotion to the post of Chief O.S. has been kept in sealed cover. In the circumstances, they could not consider promoting the applicant to the post of Chief O.S.

5. The Learned Counsel for the applicant once again argued that she was entitled to the arrears of pay in the promotion post of O.S. Gr.I. Further, the Respondents have withheld her increment for a period of two years in the post of O.S. - I though the penalty was in the post of Head Clerk. Therefore, this was also not justified. The Learned Counsel for the applicant further contended that when the post of Chief O.S. is lying vacant, the applicant ought not to have been denied the promotion to the post. According to the Learned Counsel, the applicant was entitled to all the consequential benefits after her promotion to the post of Chief Clerk.

6. We have heard the Learned Counsel for the applicant, as well as, the Respondents. A perusal of the direction given by this Tribunal as already reproduced in para 1 above makes it clear that the Tribunal's direction was with reference to the post of Chief Clerk i.e. promotion to the post from the date her immediate junior was promoted with consequential benefits. In our considered view, therefore, the relief was confined only to the promotion to the post of Chief Clerk. This is also confirmed from the prayers that the applicant had made in the OA. No where, in the prayers there is any mention about granting of further promotions to the post of O.S. - I and Chief

O.S. In the facts and circumstances of the case, we are satisfied that the Respondents have complied with the directions of the Tribunal dt. 28.7.2000. While the applicant may be aggrieved by the non-payment of arrears in the further promotion post of O.S. - I and non-promotion to the post of Chief O.S. In our opinion, this grievance cannot form part of the C.P. Accordingly, the Contempt Proceedings are dropped. Notices are discharged and the C.P. is dismissed. It would be open to the applicant to agitate his other grievances separately as per law and Rules.

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(SMT. SHANTA SHASTRY)
MEMBER(A)

B. Dikshit

(BIRENDRA DIKSHIT)
VICE-CHAIRMAN

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dt: 12.4.2002.
order/Judgement despatched
to Applicant/Respondent(s)
on 19.4.2002

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