

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Dated this Monday the 6th day of MAY 2002

Coram: Hon'ble Mr.Birendra Dikshit - Vice Chairman  
Hon'ble Mr.B.N.Bahadur - Member (A)

O.A.516 of 2001

S.B.Mandwe,  
Pharmacist Grade I,  
Medical Superintendent,  
Divisional Railway Hospital,  
Valsad - 396 001.  
Gujarat.  
R/o Flat No.405, Krishna Complex,  
Near White Church,  
Dharampur Road,  
Valsad.  
(By Advocate Shri G.S.Walia)

- Applicant

Versus

1. Union of India  
through the General Manager,  
Headquarter Office,Churchgate,  
Mumbai - 400 020.
2. Divisional Railway Manager,  
DRM's Office, Mumbai Central  
Mumbai.
3. Prakash Narain,  
Chief Pharmacist,  
Divisional Railway Hospital,  
Valsad, Gujarat.  
(Shri R.R.Shetty for respondents 1 & 2)  
(Shri C.M.Jha for respondent no.3)

O R D E R

By Hon'ble Mr.B.N.Bahadur, Member (A) -

The applicant in this case challenges the order of promotion dated 23.12.1998 by which respondent no.3 has been promoted as Pharmacist Grade - II in the pay scale of Rs.6,500-10,500/- It is contended by the applicant that



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respondent no.3 who is from the Scheduled Caste community has been promoted against a reserved post. The applicant thus comes up to the Tribunal seeking the following reliefs :-

- (a) This Hon'ble Tribunal be pleased to quash and set aside the letter dated 5.6.2001.
- (b) This Hon'ble Tribunal be pleased to quash and set aside the promotion of Respondent no.3 by order dated 23.12.1998 in the post of Chief Pharmacist Grade - II in the scale of Rs.6500-10500/-.
- (c) This Hon'ble Tribunal will be pleased to quash and set aside the promotion of Respondent no.3 as Chief Pharmacist I in the scale of Rs.7450-11500/- as ordered by the impugned order dated 27.6.2001.
- (d) This Hon'ble Tribunal will be pleased to order and direct the Respondents to consider the Applicant for promotion to the post of Chief Pharmacist Grade II w.e.f. 23.12.1998 i.e. the date from which the Respondent no.3 was promoted with all consequential benefits.
- (e) This Hon'ble Tribunal will be pleased to order and direct the Respondents to consider the applicant for promotion to the post of Chief Pharmacist Grade I in the scale of Rs.7450-11500/- w.e.f. 27.6.2001 with all consequential benefits of seniority, increment of pay and promotion, etc.



(f) Any other or further order as this Tribunal may deem fit, proper and necessary in the facts and circumstances of the case be passed.

(g) Cost of the Original Application be provided for."

2. The relevant facts as brought out by the applicant are that he is working as Pharmacist Grade - II in the pay scale of Rs. 6,500-10,500/- having been promoted to this grade on 27.6.2001. He claims he is senior to respondent no.3 in the then basic grade of Rs.330-560/- (seniority list at Exhibit 'C' ). The applicant states that respondent no.3 was promoted to the scale of Rs.5500 - 9000/- on the basis of reservation and was further promoted to Pharmacist Grade - II by way of upgradation and redistribution of various grades. The applicant refers to RBE 100/98 (Exhibit 'D') in this connection making the point that this is a clear case of upgradation of posts for which no reservation of SC/ST candidates is permissible. Thus it is the stand of the applicant that respondent no.3 should not have been considered for promotion in view of disposition as done through order dated 23.12.1998. The applicant being a General category candidate regained his seniority and hence claims promotion as Pharmacist Grade - II.

3. The applicant states that he made a representation on 19.4.2000 (Exhibit - E) and further representation on a number of occasions as also a representation through Western Railway Mazdoor Sangh. A reply was received on 5.6.2001 (Exhibit - F)

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which he claims is illegal and wrong reply. It is with such grievances that the applicant comes up to this Tribunal seeking the relief as set out in Para 1 above. The grounds detailed in Para 5 of this OA were argued, amongst others, by learned counsel for applicant.

4. The respondents in the case have filed a written statement of reply where the point is first taken that the cause of action of the applicant against the promotion arose on 23.12.1998 and not 5.6.2001 as is being made out by the applicant. Hence, the plea is taken by the respondents that the application is barred by limitation. Also that applicant is seeking to unsettle the seniority settled in December, 1998. It is stated that promotion of respondent no.3 to the post of Chief Pharmacist Grade - II from 23.12.1998 is very much in order as reservation orders have to be followed since there were six posts of Chief Pharmacist Grade - II. Even in the case of upgradation since the post of higher category are created, reservation orders have to be followed. Reservation cannot be made on the basis of entire cadre of Pharmacist but has to be made in each category/grade of Pharmacist. This stand is prominently taken by the respondents.

5. The further part of the written statement seeks to meet the averments made in the OA parawise, details of the date of promotion of respondent no.3 are given and the point made with the said post of Chief Pharmacist Grade II is not an upgradation



but a new scale and post created insisting reservation to be followed. Description of details of the posts available etc. are provided in Para 6 of the reply.

6. An affidavit in reply to the OA has been filed by respondent no.3 (Prakash Narain) who resists the claim of the applicant praying that he be put to strict proof of the same. Taking the plea that the application is hopelessly time barred, the stand is also taken that the application suffers from lacuna of multiplicity of cause of action and mis-joinder of parties.

7. Respondent no.3 further states that the promotion provided to him was as per law, and also seniority published in the year 1998 where respondent no.3 was shown at serial no.3 in the list was not questioned. The further part of the written statement seeks to meet the averments made in the application para-wise. Some points similar to those taken by the official respondent have been taken, and are not being repeated here.

8. We have seen all papers in the case and have also heard the learned counsel for the respective sides, namely, Shri G.S.Walia for the applicant, Shri R.R.Shetty for official respondents and Shri C.M.Jha for private respondent no.3. The learned counsel for the applicant, Shri Walia, took us over the facts of the case by reference to various annexures etc. and took two broad legal contentions, the first being that the applicant was not called for 1998 selection and the second that no reservation can be provided in upgraded posts. He first

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referred to the seniority list of Pharmacists in the grade of Rs.445-700/available at Exhibit 'C' at Page 14 to make the point that the applicant was senior being at serial no.7; the private respondent are lower at serial no.12. He then took us over to page 18 viz. Railway Board orders RBE 100/98 and made the point that it was clear from these orders that this was a case of restructuring. Hence the important stand taken that once this is a case of restructuring, reservation was not applicable.

9. Seeking to establish the stand above, the learned counsel for the applicant then referred to the Memorandum dated 23.12.1998 stating that the panel and promotions thereto were provisional and subject to the decision of Civil Appeal in the well known case of Union of India Vs. J.C. Malik (1978 (1) SLR 844) and also to the SLPs filed against the decision of the Central Administrative Tribunal, Bombay dated 5.10.1993. The point was also made with reference to Exhibit - B order dated 27.6.2001 to say that even in the further elevation to the post of Chief Pharmacist Grade I the applicant had been wrongly left behind.

10. The learned counsel also alleged that the respondents had in fact admitted to the fact that the promotion was merely an upgradation as could be seen from the written statement at page 26 (internal page 3). He then referred to certain case laws through which support to his contentions was sought. He referred to the case decided by the Hon'ble Supreme Court in the matter of All India Non SC/ST Association (Railways) Vs. V.K. Agarwal and



others dated 31.1.2001 to make the point that it was clearly brought out that reservation will not be applicable to a mere upgradation which was evident in the case of reclassification or readjustment. The above judgment learned counsel Shri Walia argued was followed by this Tribunal (while deciding OA 1186/96, decided on 6.6.2001). The learned counsel Shri Walia also referred to the case reported in AIR 1974 SC 2302 to make the point regarding the provisional seniority list.

11. Shri Walia also argued in detail the point relating to the objection taken by the respondents in their written statement about the application being barred by limitation. The points made by him in gist was (a) the order was provisional and (b) applicant's representation was made on 19.4.2000 where he was asked to produce a new Select list. This was not done and a reply was provided only on 23.10.2001.

12. Arguing the case on behalf of the official respondents Shri R.R.Shetty first reiterated the point regarding limitation. As far as Applicant was concerned, his right had stood crystallised right in 1998. In regard to the arguments that reply was provided only on 5.6.2001, Shri Shetty stated that in this regard the provisions of Section 21 of the Administrative Tribunals Act,1985 are applicable and the reply did not give fresh cause of action. He took support from the ratio laid in

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in the case of State of Madhya Pradesh Vs. S.S.Rathore, (AIR 1990 SC 10) as also from the case of Ramalingam Chettiar Vs. P.K.Pattabiraman & another, (2001 (20 Supreme 133). Similarly it was argued that in the case reported (1998 SCC (L&S) 1660, the Hon'ble Supreme Court had cautioned that unsettling of settled seniority should not be done. He further argued that there was no Misc.Petition for condonation of delay either.

13. Shri R.R.Shetty further referred to the case law dated 31.1.2001 cited and made the point that this was not the final order and that it was not a judgment. Shri Shetty contended that Railway Board Rules cited at para (h) on Page 17 have the force of Recruitment Rules and that the applicant had not countered this contention. He referred to the case law of K.Manickaraj Vs. Union of India, (1997 SCC (L&S) 949). Support was also drawn from the case decided by the Full Bench of the Tribunal as reported in 1997 - 2001 page 24.

14. The learned counsel Shri C.M.Jha argued the case for private respondent. He first stated that he had adopted all the arguments taken by official respondents. Shri Jha also raised the point that the requisite period required for consideration for promotion had not been completed by the applicant and this was an infirmity in his case. He urged the point that seniority list was not challenged as contended by respondent no.3 in Para 10 of his written statement. The point regarding the case being hopelessly time barred was expounded by the learned counsel.



Rearguing the case learned counsel Shri Walia made the following points:-

(a) The clarification of Hon'ble Supreme Court referred to was binding as it was clear that the Court was aware of the law as could be seen from a reading of those orders. In case of conflict, the latter judgment had to be as held by the Hon'ble Supreme Court in the cases of M/s Murari Lal Agarwal Vs. & Sons Vs. The Assistant Commissioner (Judicial) Sales Tax and another, AIR 1971 Allahabad 1 (FB) and in the case of Vasant Tatoba Hargude and others Vs. Dikkaya Muttaya Pujari, (AIR 1980 Bombay 341). Shri Walia took the point that the law was not clear in 1998 and hence the order was provisional. He argued that Section 20 of the Administrative Tribunals Act applies only to final order[s].

15. We first took up for analysis the contention raised by respondents regarding the case being hit by law of limitation and by delay and laches.

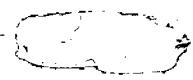
16. The order being impugned in the first instance is dated 13.12.1998 and the OA is filed on 11.7.2001. It is seen that the applicant has indeed made a representation (Exhibit-E) and this is dated 19.4.2000. He has protested in regard to the promotion of Shri Prakash Narain. It seems that he also represented the case through Western Railway Mazdoor Sangh and received a reply

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at Exhibit - F. This reply ( Exhibit F) considers the representation on merits and rejects it. The point to be determined is whether the cause of action will thus be available from the date of rejection i.e. 5.6.2001. In this regard the support is sought from the case of Sua Lal Vs. The State of Rajasthan and others, (AIR 1977 SC 2050). The head note reads as follows:

"Constitution of India, Art.226 - Laches - Governor dismissing review application holding it to be a ground of delay of two years - Not open to High Court to resurrect ground of delay in review application and make it a ground for dismissing writ petition. Decision of High Court (Raj), Reversed."

In view of this position the case of Sua Lal (supra) and the ratio determined clearly helped the case of the applicant. We also see from the aforesaid dates that it is not as though the matter is hit by laches. Another argument taken in this regard was that the reply was provided to Western Railway Mazdoor Sangh and not the applicant. This can hardly be a point taken against the applicant on the count of limitation, especially where it is known that in the Railways there exists a practice where employees are allowed the system of representing through the Unions also. The matter is protected by the ratio decided by the Hon'ble Supreme Court in the case of Sua Lal (supra). We, therefore, reject the objection taken on the grounds of limitation.



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17. We now come to the merits of the case. We straigtaway come to the case law referred to by the learned counsel for the applicant i.e. order of the Hon'ble Supreme Court in the matter of All India Non Scheduled Caste/Scheduled Tribe Employees Association (Railways) Vs. V.K. Agarwal and others (Contempt Petition (Civil) 304/1999 in Civil Appeal No.1481/1995 decided on 31.10.2001. The short order made by the Hon'ble Supreme Court reads as under:-

"It appears from all the decisions so far that if as a result of re-classification or re-adjustment there is no additional posts which are created and it is a case of upgradation, then the principle of reservation will not be applicable. It is on this basis that this Court on 19th November, 1998 and held that reservation for SC & ST is not applicable in the upgradation of existing posts and Civil Appeal No.1481/1996 on the connected matters were decided against the Union of India. The effect of this is that where the total number of posts remained unaltered, though in different scales of pay, as a result of re-grouping and the effect of which may be that some of the employees who were in the scale of pay of Rs.550-700 will go into the higher scales. It would be a case of upgradation of posts and not a case of additional vacancy or post being created to which the reservation principle would apply. It is only if in addition to the total number of existing posts some additional posts are created that in respect of those additional posts the reservation will apply, but with regard to those additional posts the dispute does not arise in the present case. The present case is restricted to all existing employees who were re-distributed into different scales of pay as a result of the said upgradation.

The Union of India shall re-work the seniority in the light of the clarifications made today and report within 6 weeks from today."

The observation of Full bench in the case referred to above by Learned Counsel for Respondents has been seen carefully by us. The case law referred to in that judgment is also seen. It is

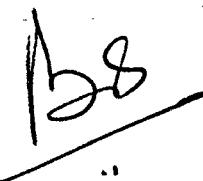


significant to note that the case of **Union of India Vs. V.K.Sirothia**, 1999 SCC (L&S) 938 is also mentioned. On the other had we have before us the case cited by learned counsel for applicant in the matter of **All India Non SC/ST Association (Railways) Vs.V.K.Agarwal and others** dated 31.1.2001. The Hon'ble Supreme Court has ordered as below:

"..... It appears from all the decisions so far that if as a result of re-classification or re-adjustment there is no additional posts which are created and it is a case of upgradation, then the principle of reservation will not be applicable. It is on this basis that this Court on 19th November, 1998 had held that reservation for SC & ST is not applicable in the upgradation of existing posts and Civil Appeal No.1481/1996 on the connected matters were decided against the Union of India. The effect of this is that where the total number of posts remained unaltered though in different scales of pay, as a result of re-grouping and the effect of which may be that some of the employees who were in the scale of pay of Rs. 560-700 will go into the higher scales. It would be a case of upgradation of posts and not a case of additional vacancy or post being created to which the reservation principle would apply. It is only if in addition to the total number of existing posts some additonal posts are created that in respect of those additional posts the reservation will apply, but with regard to those addtional posts the dispute does not arise in the present case. The present case is restricted to all existing employees who were re-distributed into different scales of pay as a result of the said upgradation.

The Union of India shall re-work the seniority in the light of the clarification made today and report within six weeks from today."

It is seen from the above that the view and orders of Court are clear and have to be followed. In this context we tried to



ascertain if we could seek guidance from any other judgment of the Hon'ble Supreme Court. The judgment of V.K.Sirothia (supra) is the relevantly important judgment. We reproduce it below:

" ORDER

CA No. 3622 of 1995

1. Heard counsel on both sides.
2. The finding of the Tribunal that " the so-called promotion as a result of redistribution of posts is not promotion attracting reservation" on the facts of the case, appears to be based on good reasoning. On facts, it is seen that it is a case of upgradation on account of restructuring of the cadres, therefore, the question of reservation will not arise. We do not find any ground to interfere with the order of the Tribunal.
3. The civil appeal is dismissed. No costs."

CA No. 9149 of 1995

4. In view of the order passed in Civil Appeal No.3622 of 1995 etc., this appeal has to be allowed as in the order under appeal the Tribunal has taken a contrary view. The appeal, is therefore, allowed. No costs."

It is clear from this judgment that no reservation could be made in the present case also. We are bound to follow the ratio decided by Hon'ble Supreme Court on the issue.

18. In the circumstances, the action of the respondents in the present case of promoting a person on the basis of considering the post being as reserved is clearly wrong. We will however have to consider as to how the relief will need to be

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moulded, considering the fact that the promotion has been made as early as in December, 1998 and in fact a further promotion of the same person has been made as detailed above. We therefore allow this OA and make the following orders -

ORDER

The respondent-department shall convene a special DPC, if necessary, as if convened in ~~Dec~~ December, 1998 i.e. when respondent no.3 was promoted, and, if the applicant is found fit for promotion thereat, then the orders promoting the applicant shall be issued from the day Shri Prakash Narain's promotion was made. All consequential benefits, including arrears of pay and seniority shall be available to the applicant. No interest. Since the respondent no.3 has

Bnb already worked in the post for nearly 3 1/2 years, we do not order quashing of his order of promotion. The applicant may be adjusted by any manner within the rules as deemed proper by respondents including creation of supernumerary post if necessary and relaxation of any rule if permissible. The applicant is also held to be eligible for consideration of further promotion as per rules. The order be implemented, within three months from date of receipt of its copy.

No costs.

B.N.Bahadur  
(B.N.Bahadur)  
Member (A)

06/5/02

B.Dikshit  
(Birendra Dikshit)  
Vice Chairman

'A' file

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 516/2001

TRIBUNAL'S ORDER

DATED: 10.1.2003

Smt. S.R. Sawant, counsel for the applicant. Shri R.R. Shetty for Shri R.K. Shetty counsel for the respondents.

2. Reply is filed across the Bar and the same is taken on record. The only point is that a Writ Petition has been filed challenging the order dated 6.5.2002 and hence there is no willful dis-obedience; they are only pursuing the remedy available. It is clear that there is no assurance to say that the respondents are going to implement the order or that they need a little more time to do so. This stand is not satisfactory nor legally feasible, nor the counsel is able to convince us by any case law that we cannot proceed further in the matter.

3. The learned counsel for the respondents have further brought to our notice the order in case of Suresh Chandra Poddar V/s Dhani Ram reported on 2002 SCC (L&S) 240. This case law also does not help him in the argument that we are bound to hold our hand in the matter pending the decision in Writ Petition. Nevertheless, in consonance with para 11 of this judgement of Hon'ble Supreme Court we, certainly proceed with the matter as



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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

CONTEMPT PETITION NO: 107/2002 IN  
ORIGINAL APPLICATION NO: 516/2001

TRIBUNAL'S ORDERS  
(Per Govindan S.Tampi, Member (A)}

DATED: 7.3.2003

It is found that the Tribunal while disposing of the OA 516/2001 on 6.5.2002 directed as below:

The respondent-department shall convene a special DPC, if necessary, as if convened in December 1998 i.e. when respondent No.3 was promoted, and, if the applicant is found fit for promotion treat, then the orders promoting the applicant shall be issued from the day Shri Prakash Narain's promotion was made. All consequential benefits, including arrears of pay and seniority shall be available to the applicant. No interest. Since the respondent No.3 has already worked in the post for nearly 3 1/2 years, we do not order quashing of his order of promotion. The applicant may be adjusted by any manner within the rules as deemed proper by respondents including creation of supernumerary post if necessary and relaxation of any rule if permissible. The applicant is also held to be eligible for consideration of further promotion as per Rules. The order be implemented, within three months from the date of receipt of its copy.

2. The respondents have filed affidavit dated 25.2.2003 and enclosed a copy of the order passed by them on 6.2.2003 which reads as below:

In compliance to Hon'ble CAT's Mumbai order dated 6.5.2002 in OA No. 516 of 2001 the following orders are issued for implementation with immediate effect:

Shri S.B. Mandve is found suitable for promotion as Chief Pharmacist Gr. II in scale Rs. 6500-10500 (RPS) and placed on select list at Sr. No. 07 below Shri A.A. Khan notified vide this office order No. E/MD/1025/2/3 dt. 23.12.98.

On being found suitable for promotion of Chief Pharmacist / II in scale Rs. 6500 - 10500 (RPS) Shri Mandve, Pharmacist / I in scale Rs. 5500 - 9000 (RPS) is promoted to Chief Pharmacist / II in scale Rs. 6500 - 10500 (RPS) w.e.f. 24.12.1998 i.e. from the date his junior Shri Prakash Narain, SC candidate was promoted against supernumerary post created. He is eligible for proforma fixation from the date 24.12.98 and actual payment from the date of his resumption to the post.

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On being found suitable for promotion as Chief Pharmacist Gr.I in scale Rs. 7450 -11500 (RPS) Shri Mandve is promoted as Chief Pharmacist Gr.I in scale Rs. 7450 -1150 (RPS and posted at ST w.e.f. 29.6.2001 from the date his junior Shri Prakash Narain SC candidate was promoted against supernumerary post created. He is eligible for promorma fixation from 29.6.2001 and actual payment from the date of his resumption to the post.

The date of his resumption be advised to this office.

The Competent Authority has accorded sanction for creation of supernumerary post of Chief Pharmacist Gr. II in scale Rs. 6500 - 1150 (RPS) from 24.12.98 to 28.6.2001 and Chief Pharmacist Gr. I in scale Rs. 7450 - 11500 (RPS) w.e.f. 29.6.2001.

The above promotional orders are on provisional basis subject to the final outcome of Writ Petition No.228/03 before Hon'ble High Court Mumbai.

3. Perusal of the above makes it clear that the respondents have granted the individual only notional promotion and while consequential benefits like arrears of pay and allowances directed to be given have not been paid. In para 3 of the affidavit filed on behalf of respondents is indicated as below:

The respondents therefore most respectfully submit that they have implemented the orders of the Hon'ble Tribunal by granting him promotion to the post of Chief Pharmacist Gr.II w.e.f. 24.12.98 and further to the post of Chief Pharmacist Gr.I w.e.f. 29.6.2001. The actual wages are to be paid to him from the date of resumption of the post in keeping with the Railway Board's circular dated 2.7.98. A copy of order issued is enclosed herewith and marked as CPT-1.

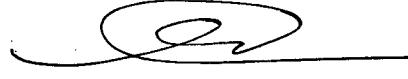
4. We are not satisfied, the respondents are attempting to circumvent the directions of the Tribunal by resorting to a certain circular of the Railway Board, that too after their move before the Hon'ble High Court has failed. Obviously their action amounts to contempt, action to deal with which is warranted.

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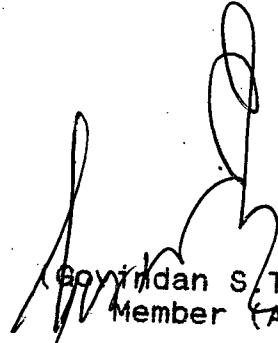
5. In the circumstance we direct that the respondents shall give effect to the order of the Tribunal in full both in letter and spirit within 5 days from today, and grant to the applicants the full consequential benefits of arrears of pay and allowances. If by any chance the same is not done the contemner Shri Sanjay Singh, Senior DPO, Western Railway shall personally be present in the court on the next day - 13.3.2003, to explain his conduct and face the charge and conduct.

List the case on 13.3.2003.

DASTI.



(K.V. Sachidanandan)  
Member (J)



Govindan S. Tampli  
Member (A)

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7.3.03  
Order/Judgement despatched  
to Applicant/Respondent(s)  
on 10.3.03

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

C.P.NO. 107/2002 IN O.A.NO. 516/2001

Thursday, this the 13th day of March, 2003

Hon'ble Shri Govindan S. Tampi, Member (A)  
Hon'ble Shri K.V.Sachidanandan, Member (J)

S.B. Mandve  
Pharmacist Grade I, Medical Superintendent,  
Divisional Railway Hospital,  
Valsad - 396 001, Gujarat  
r/o Flat No.405, Krishna Complex  
Near White Church  
Dharampur Road, Valsad

...Applicant  
(By Advocate: Shri R.S. Tulaskar)

Versus

1. Union of India through the Secretary  
in the General Manager, Head Quarter Office,  
Churchgate, Mumbai 400 020

2. Mr. Kaushal Kishor  
Divisional Railway Manager  
DRM's Office, Mumbai Central  
Mumbai

3. Mr. Sanjay Singh  
Senior OPO  
Mumbai Central, Mumbai

...Respondents  
(By Advocate: Shri Ravi R.Shetty)

O R D E R (ORAL)

Shri Govindan S. Tampi:

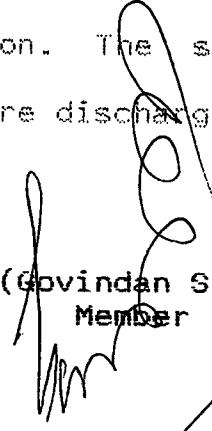
Heard Shri R.S.Tulaskar, learned counsel for  
applicant/petitioner and Shri Ravi R. Shetty, learned  
counsel for respondents/contemnors.

2. On 7.3.2003, when the CP had come up for hearing,  
we had observed that the affidavit filed by the  
respondents on 25.2.2003 enclosing a copy of the order  
passed by them on 6.2.2003 was not satisfactory and that  
the respondents were attempting to circumvent the  
directions of the Tribunal by taking resort to a Circular  
of the Railway Board, which was not correct. The  
respondents were, therefore, directed to give effect to

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the Tribunal's order both in letter and spirit within five days from 7.3.2003. Today, when the matter came up for hearing, Shri Ravi R. Shetty, Central Govt. Standing Counsel filed an affidavit stating that the respondents have fully implemented the Tribunal's order and has also unconditionally apologized for the genuine misapprehension in the matter, which had led to the issuance of the earlier order dated 6.2.2003. Shri Tulaskar, learned counsel for applicant/petitioner states that he is fully satisfied with the action taken by the respondents. In the circumstances, nothing further survives in the Contempt Petition. The same is accordingly dismissed and the notices are discharged.

  
(K.V. Sachidanandan)  
Member (J)

  
(Govindan S. Tampi)  
Member (A)

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