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CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

C.P. No. 171/95 IN O.A. NO. 764/91.

Dated, this Friday the 12th day of July, 1996.

CORAM : HON'BLE SHRI B. S. HEGDE, MEMBER (J).
HON'BLE SHRI P. P. SRIVASTAVA, MEMBER (A).

Arvind Kumar Gupta,
Sr. Inspecting Officer,
Ministry of Food Processing Industry,
(Fruits and Vegetables Preservations),
Old C.G.O. Building, IIIrd floor,
New Marine Lines, Bombay. ... Applicant
(By Advocate Shri E. Ranganathan)

Versus

Shri N. Mohanti,
Secretary to the Government of India,
Ministry of Food Processing Industry,
Panch Sheel Bhavan,
Khelgaon Marg,
NEW DELHI - 110 049. ... Respondent.
(By Advocate Shri R. K. Shetty).

: ORDER :

1. Heard Shri B. Ranganathan for non-adhering the
directions issued by the Tribunal vide dated 28.09.1994
wherein it is observed as follows :-

"The Learned Counsel for the respondents stated that he does not have instructions as to the progress that has been made in the direction of amendment of rules. Since the written statement was filed on 20.04.1992, more than two years have passed. We have considered the prayer no. 1 i.e. seeking direction to the respondents to amend the Food and Nutrition Board (Non-Secretariat Gazetted posts) Recruitment Rules 1967 for providing 100% promotion by departmental candidates for the post of Dy. Director (Fruit and Vegetable Preservation) with retrospective effect from 26.02.1980. The applicant has received an adhoc promotion w.e.f. November, 1993 as Deputy Director it would be sufficient to direct the respondents to complete the process of consideration and take a decision within three months from the date of receipt of a copy of this order."

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It is submitted by the Learned Counsel for the respondents in their affidavit that they have received the copy of the order of this Tribunal on 11.10.1994 and as per the direction of the Tribunal, decision ought to have been taken by the respondents by 11.01.1995 whereas the competent authority had taken the decision not to amend the Recruitment Rules on 26.06.1995 and thus, there was a delay of about 5½ months.

2. The contempt petition is filed by the applicant on 08.12.1995. The Secretary to the Government of India, Ministry of Food Processing Industry, has been impleaded as a party in the Contempt Petition. However, the reply to C.P. has been filed by one Shri A.K. Goyal, Deputy Secretary to Government of India, Ministry of Food Processing Industries, New Delhi, in which he has stated that he has been authorised to file the affidavit by Shri N. Mohanti, Secretary to the Government of India, Ministry of Food Processing Industry, New Delhi, who is superior in the said Ministry. When we asked the Learned Counsel for the respondents how Shri A.K. Goyal, Deputy Secretary to the Government of India, could file an affidavit when he has not been impleaded as a party in the C.P. and if so, under which rules, he was not able to show us the rules. In the reply to C.P. it is stated that Shri A.K. Goyal, Deputy Secretary to the Government of India, Ministry of Food Processing Industry has been authorised to file the affidavit by Shri N. Mohanti, Secretary to the Government of India in the Ministry of Food Processing Industry. The Learned Counsel for the respondents was also unable to explain why he has not filed any miscellaneous petition seeking extension of time for

implementing the order of the Tribunal and no satisfactory explanation has been given by the respondents in not complying with the directions of the Tribunal within the specified time. The impression given at the time of hearing the O.A. was that the Recruitment Rules are being amended and it is under consideration, therefore, the Tribunal had passed xx xx the aforesaid order.

In the circumstances, We hereby direct the respondent who is impleaded in the contempt petition to file an affidavit, both on the decision taken by the respondents in not to amend the rules and also delay in filing the affidavit by 11.10.1996. Copy of the affidavit be given to the applicant's counsel in advance. List the case on 11.10.1996 for further hearing.

3. Copy of the order be given to the parties.

(P. P. SRIVASTAVA)
MEMBER (A).

(B. S. HEGDE)
MEMBER (J).

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order/12-18-96
to Applicant/12-18-96
on 19.7.96

22/7/96

Reply of Respondent to
C.P. No-171/95 recd.
on 30-9-96.

MS
10/10/96

Per Tribunal

Date: 11/10/96

As there will be no Division Bench, the matter fixed on 11/10/96 before the Tribunal is adjourned for Admission hearing / directions orders / final hearing on 29/11/96

Inform the advocates / Parties accordingly.

Dy. Registrar