

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

C.P.NO. 6/96 in OA.NO. 1023/93

Prorogues this the 20th day of January 1998

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble Shri P.P.Srivastava, Member (A)

P.M.Haridas & Ors.

By Advocate Shri S.P.Saxena

... Applicants

V/S.

Union of India & Ors.

By Advocate Shri R.K.Shetty

... Respondents

ORDER

(Per: Shri P.P.Srivastava, Member(A))

The applicant in the OA.NO.1023/93 has filed this C.P. for non implementation of the judgement of the Tribunal dated 8.8.1995. The applicants had filed the OA. for seeking the relief that the benefit of letter dated 6.2.1989 for upgradation for the post of Stenographer should be made applicable to them. The Tribunal vide their order dated 8.8.1995 disposed of the OA. and directed as under :-

"We direct that the respondents shall extend the benefit of letter dt.6.2.89 to the applicants and upgrade them to the higher scale on the basis of those instructions with effect from 1.1.86 together with consequential benefits. Actual monetary benefits in view of bar of limitation u/s. 21 of Administrative Tribunals Act, shall be restricted to the period of one year from the date of filing of O.A., in this case 27.9.92 onwards. The monetary entitlements of the applicants shall be calculated and paid to them within four months from the date of receipt of copy of this order by the respondents."

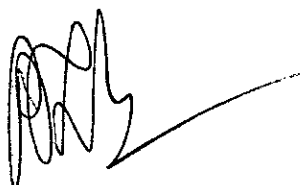


2. A notice was issued on the C.P. The respondents have filed reply. The matter came for hearing before the Tribunal on many occasions in the past and the last it was heard on 25.7.1997 wherein the respondents were directed to file an affidavit stating therein why the applicants could not be given the promotion with effect from 1.1.86 as per the order of the Tribunal. The respondents have filed an affidavit dated 5.12.1997 explaining the position of the promotions granted to the applicants. The respondents have brought out that 69 vacancies were identified for Steno Grade II and sanctioned by the Ministry. As on 1.1.1986, 14 Stenos Grade II were already in position in Southern Command. Therefore, the vacancies available were 55. The break-up of 55 vacancies were, 42 for general candidates, 7 for SC and 6 for ST. The respondents have further brought out that they have conducted DPC for 42 Stenos Grade III against the general posts from 1.1.1986. The respondents have further brought out that the other applicants have, therefore, been promoted based on the actual occurrence of vacancies in subsequent years. The respondents have further brought out that the further promotions are being made for 8 applicants and they will be paid arrears within a period of two months from 27.9.1992. They have further submitted that 25 applicants have already been paid their arrears and receipts of acknowledgement by them is enclosed.



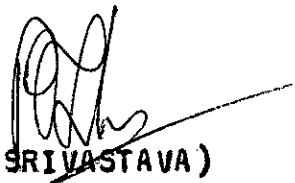
3. Learned counsel for the applicant has argued that the respondent administration has not complied with the orders as all the posts which were available from 1.1.1986 were required to be upgraded in terms of the Circular of 6th February, 1989. The respondents have reduced the number of vacancies by resorting the process of work study which is in contravention of judgement rendered by the Tribunal. Respondent administration has brought out that the letter dated 6.2.1989 has been modified by the letter dated 9.2.1990 and DOP&T letter dated 25.6.1991, copy of which is enclosed along with the affidavit dated 5.12.1997. Therefore, the respondent administration is duty bound to implement the orders of 1989 as modified by the Government. They have further mentioned that there was no challenge to these orders and respondent administration has no other alternative but to comply with the judgement in terms of the various modifications issued by the Government of India which they have ^{faith} fully complied with.

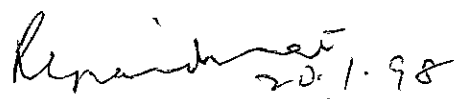
4. After hearing both the counsels, we are of the view that the respondent administration has substantially complied with the judgement of the Tribunal. The question whether the modification issued by the Government of India in their letters dated 9.2.1990 and 25.6.1991 for modifying the instructions of 1989 can be pressed into service for calculating the posts can be a issue for challenge



in the modification. The action of the respondent administration in complying with the 1989 instructions as modified by the other two letters cannot be considered as an act of wilful disobedience.

5. We are, therefore, of the view that there is no wilful disobedience on the part of the respondent administration in complying with the Tribunal's orders in view of the position explained by the respondent administration in their affidavit dated 5.12.1997. The C.P. is accordingly dismissed.


(P.P. SRIVASTAVA)
MEMBER (A)


(R.G. VAIDYANATHA)
VICE CHAIRMAN

mrj.

del 20/1/98
order/Judgement despatched
to Applicant/Respondent (s)
on 21/1/98


28/1/98