

7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

\* \* \*

Date of Decision: 23.4.96.

CP 58/95 (TA 135/92)

Smt. P.D. Mulley

... Petitioner

Versus

Shri M.Ravindra and others

... Respondents

CORAM:

HON'BLE MR. GOPAL KISHNIA, VICE CHAIRMAN

HON'BLE MR. O.P. SHAFMA, MEMBER (A)

For the Petitioner

... Mr. S.R. Chourasia

For the Respondents

... Mr. H.K. Kapoor, CLA,

departmental representative

O R D E R

PER HON'BLE MR. GOPAL KISHNIA, VICE CHAIRMAN

Smt. P.D. Mulley has filed this Contempt Petition u/s 17 of the Administrative Tribunals Act, 1985, stating therein that the respondents, by not complying with the order of the Hon'ble Tribunal in TA 135/92, decided on 7.12.93, and by not granting seniority in the Grain Shop Department w.e.f. 1.7.43, have committed contempt of court.

2. We have heard the learned counsel for the petitioner and Shri H.K. Kapoor, CLA, departmental representative for the respondents, and have carefully considered the records.

3. The directions of the Tribunal, as contained in para 10 of the decision in the aforesaid TA, may be extracted as follows :-

"We do not have enough material before us to come to the conclusion that promotion of this nature can be granted merely on the basis of seniority and that no other considerations are relevant. We cannot conclude from the order passed in the case of Shri Fulshreshtha that no other factors or considerations have been taken into consideration for granting promotion to higher grades to Shri Fulshreshtha. However, if the Department's rules and regulations permit promotions being granted to higher grades merely on the basis of seniority, in the circumstances of the present case, the applicant's case should be examined by the Department and necessary promotions/higher grades granted to him to the extent he is entitled to these in the light of the orders/instructions etc. of the Railway Board. The respondents shall examine the case of the applicant within a period of four

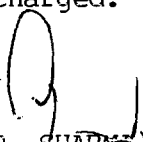
GKishn


months from the date of the receipt of this order and take necessary action thereafter and also send a communication to Smt. P.D. Mulley who is widow of the deceased applicant."

4. The contention of the learned counsel for the petitioner is that by denying seniority to the original petitioner in the Grain Shop Department w.e.f. 1.7.43, the respondents have wilfully disobeyed the order of the Tribunal. The original petitioner was called for selection to the post of Senior Clerk. Since the post of Senior Clerk is a selection post, the promotion to the post could not be granted merely on the basis of seniority. The respondents have already examined the petitioner's case in the light of the decision, referred to above, and with reference to the Railway Board's letter dated 1.2.75. The original petitioner was called for suitability test for the post of Senior Clerk on 18.12.62 but he could not succeed in the test. He was again called for the said test on 17.8.63 and thereafter he was promoted to the post of Senior Clerk after he had qualified the test. In the circumstances, we find that the directions of the Tribunal have been substantially complied with.

5. The departmental representative has produced before us a copy of the notings in the relevant file, which have been taken on record, which indicates that subsequently in terms of Railway Board's letter No.E(NG)57 RE 1/17 dated 13.1.61, circulated under GM(E)COG's letter No.E 1030/13 dated 3.2.61, the seniority of staff who were recruited for a regular department but were initially posted to the Grain Shop Department will count from the date they joined the Grain Shop Department provided that on their release from the Grain Shop Department they were absorbed in the same category for which they were appointed. Accordingly, the seniority of the above staff was reassigned in the office from the date of appointment in the Grain Shop Department. The original petitioner was appointed in the Grain Shop Department on 1.7.43. He is deemed to have been granted seniority w.e.f. 1.7.43.

6. In view of this fact, this Contempt Petition has, therefore, no force. The Contempt Petition is dismissed. Notices issued are discharged.

  
(O.P. SHARMA)  
MEMBER (A)

  
(GOPAL KRISHNA)  
VICE CHAIRMAN

VK