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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

C.P.No.92/95 (O.A.No.1117/92)

Date of order: 25.4.96

K.L.Sharma

: Petitioner

Vs.

Shri R.K.Takkar & Anr. : Respondents

Mr.R.U.Mathur : Counsel for the petitioner.

Mr.U.D.Sharma : Counsel for respondents

CORAM:

Hon'ble Mr.Gopal Krishna, Vice Chairman

Hon'ble Mr.O.P.Sharma, Administrative Member.

PER HON'BLE MR.O.P.SHARMA, ADMINISTRATIVE MEMBER.

In this contempt petition Shri K.L.Sharma, petitioner has stated that despite the directions of the Tribunal, the petitioner has not been granted promotion from the date when the person junior to the petitioner namely Shri D.P.Misra was granted promotion. He has prayed that since the respondents have deliberately disobeyed the order of the Tribunal, they may be punished for contempt of court under the Contempt of Court Act, 1971.

2. In para 5 of the Tribunal's order dated 25.11.93 passed in O.A.No.1117/92, K.L.Sharma Vs. Union of India & Anr, the Tribunal had observed as follows:

"Once the disciplinary proceedings against the applicant have been quashed, it has to be taken that no disciplinary proceedings were deemed to be pending against him on the date when he was eligible for consideration for promotion to the Junior Administrative Grade. In other words, he should also have been considered for promotion at the time or on the date on which his juniors were considered for promotion. If in view of the pendency of the disciplinary proceedings against him, the sealed cover procedure was adopted, the sealed cover should be opened and the result of the deliberation of the DPC should be taken into account for the purpose of his promotion. If,

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however, the sealed cover procedure was not adopted, a review DPC should be convened for considering the name of the applicant for promotion on the relevant dates referred to above. If the APARs for the period from 1988-89 to 1991-92 were not available, the respondents shall take all necessary steps to obtain complete APARs of the applicant for the above period for the purpose of convening the review DPC. If after a review of the case of the applicant by the DPC, he is found fit for promotion, he should be granted promotion w.e.f. the date from which persons junior to him were granted promotion, with consequential benefits. The respondents shall take necessary action in the light of the above directions within a period of four months from the date of receipt of a copy of this order."

3. The respondents in their reply have stated that Shri D.P.Misra was granted promotion only on ad hoc basis on local officiating arrangement and it was a promotion for short period only. The petitioner has been given regular promotion from 22.6.92 i.e. the date on which Shri Misra was also granted promotion on a regular basis. Therefore, the respondents have not committed any contempt of court. The respondents have added that the petitioner has filed this contempt petition claiming promotion from 22.9.91 although there was no such prayer in the O.A. Therefore, this contempt petition is misconceived and should be dismissed after awarding exemplary costs in favour of the respondents.

4. During the arguments the learned counsel for the petitioner has stated that the petitioner was also available locally for grant of promotion on ad hoc basis from an earlier date and this promotion was not granted to him only because disciplinary proceedings were pending against him. Therefore, he is entitled to promotion from the date from which Shri Misra was granted promotion, although on an ad hoc basis.

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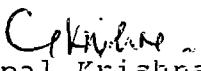


5. We have carefully considered the matter. In para 5 of the Tribunal's order what has been talked about is ~~to~~ grant of promotion on regular and substantive basis. In ~~another~~ words, the direction is to grant promotion to the applicant on regular and substantive basis from the date from which his junior may have been granted promotion. Since there is no dispute that the petitioner was granted promotion on regular basis from the date from which his junior Shri D.P.Misra was also granted promotion on regular basis, we are of the view that the order of the Tribunal has been complied with. No case of contempt has therefore been made out. We do not however consider it proper to award any costs in favour of the respondents.

6. In the result, the contempt petition is dismissed. The notices issued are discharged.


(O.P.Sharma)

Member (Adm).


(Gopal Krishna)

Vice Chairman.