

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Decision : 05.05.03

C.P. No. 62/2002.

in

O.A. No. 180/2001.

Smt. Manju Nigam W/o Late Shri R. K. Nigam, A/a 40
years, 31, P&T Colony, Hatwara, Shanti Nagar, Jaipur.

... APPLICANT

v e r s u s

1. Shri Tej Ram Sharma, Chief Post Master General,
Rajasthan Circle, Jaipur.

... RESPONDENT.

Mr. Shailendra Srivastava counsel for the applicant.
Mr. Bharat Vyas counsel for the respondents.

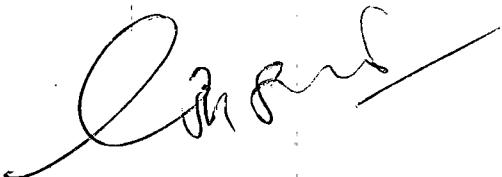
CORAM

Hon'ble Mr. Justice G. L. Gupta, Vice Chairman.
Hon'ble Mr. A. P. Nagrath, Administrative Member.

: O R D E R :
(per Hon'ble Mr. Justice G. L. Gupta)

The case has a chequered history.

2. Shri R.K.Nigam was Sr. Personal Assistant in
the office of the Chief Post Master General,
Rajasthan Circle, Jaipur. While in service he died
on 4.12.1999. His widow applicant Smt. Manju Nigam
made an application for providing employment on
compassionate ground. Since her prayer was not
accepted, she filed OA 567/2000 before this Tribunal.
The same was disposed of vide order dt. 8.12.2000



directing the respondents to consider the representation of the applicant. The respondents rejected the representation of the applicant vide communication dt. 7.2.2001. Therefore, the applicant filed OA No.180/2001. The same was decided vide order dt. 20.11.2001 directing the respondents to reconsider the case of the applicant. The competent authority reconsidered the case of the applicant, but rejected the same vide order dt. 1.11.2002 on the basis of the minutes of the Circle Selection Committee held on 31.12.2001.

3. The applicant's case in this Contempt Petition is that the respondents had challenged the order passed by the Tribunal before the High Court by filing Writ Petition and the same was rejected by the High Court vide order dt. 23.9.2002, yet the respondents have not implemented the order. It is averred that the respondent has wilfully disobeyed the directions of the Tribunal by not offering employment to the applicant and therefore, he should be punished.

4. In the reply filed by the respondent on 13.1.2003 it is stated that the respondent worked as Principal Chief Post Master General, Rajasthan Circle, Jaipur for a brief span i.e. from 26.4.2002 to 16.10.2002 and that he had sent the communication



dt. 1.11.2002 (Annexure CP-2) on the basis of the Minutes of the Meeting of the Circle Selection Committee held on 31.12.2001. It is the case for the respondent that he was bound by the decision of the Circle Selection Committee and he has not wilfully disobeyed the order of the Tribunal. The respondent has, however, tendered an unconditional apology if it is found that contempt is made out against him. An affidavit in support of the reply has been filed by Shri T.R.Sharma Respondent who has already retired from service.

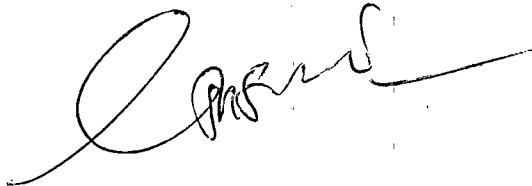
5. The contention of the learned counsel for the applicant was that once the Tribunal had directed the reconsideration of the case of the applicant, it amounted to positive direction to the respondents to give employment to the applicant, but the respondent has deliberately avoided the implementation of the order. According to him, respondents were bound to follow the directions of the Tribunal, instead he has followed the decision taken by the Circle Selection Committee in its meeting dt. 31.12.2001.

6. On the other hand, it was contended by Mr. Vyas that the respondent did not disobey the directions given by the Court. His contention was that as per the directions of the Tribunal, the committee examined the case of the applicant, but

A handwritten signature in black ink, appearing to read "T.R. Sharma".

could not offer appointment to him because the cases of other candidates seeking employment on compassionate grounds were more deserving. He pointed out that the Tribunal had not issued positive directions to give employment and had directed only to reconsider the case of the applicant which has been done. According to him, if the applicant was aggrieved of the communication dt. 1.11.2002 she should have challenged the said order by filing fresh O.A.

7. We have given the matter our thoughtful consideration. It has to be accepted that the Tribunal had not given positive direction to the respondents to give employment to the applicant. What was stated in the order dt. 20.11.2001 was that the respondents would reconsider the case of the applicant for appointment on compassionate ground on suitable post. It is true that in the order it was observed that the applicant could not be denied employment on the ground that she had received terminal benefits on the death of her husband, but it is seen that in the order (Annexure CP-2) it was not stated that the applicant was not entitled to employment on compassionate ground because she had received retiral benefits. What is stated in the communication is that in view of the Supreme Court

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Judgment in U.K.Nagpal's case, the only ground which can justify compassionate appointment is the penurious condition of the family and it should be offered as relief destitution. In the order there is a reference of the DOP & T O.M. dt. 22.6.2001 which stipulates that committee should take into consideration if vacancy for such appointment is available and it should limit its recommendations to appointment on compassionate grounds only in a really deserving case and only if vacancy meant for appointment on compassionate grounds is available within a year. It was stated in the letter that the committee after taking into account the financial condition, as well as, the availability of vacancy held than the applicant could not be given appointment.

8. It is manifest that the Circle Selection Committee had not rejected the claim of the applicant on the ground that she had received terminal benefits. The grounds taken by the Circle Selection Committee are the observations of the Judgment of the Supreme Court as also the stipulation made in the DOP & T letter dt. 22.6.2001.

9. Since the Tribunal had not given a positive direction of giving appointment to the applicant it cannot be said that the respondents in the OA, much

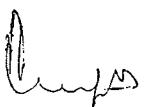


less, the respondent in the C.P. has wilfully avoided the implementation of the order of the Tribunal.

10. This fact also cannot be lost sight of that the respondent had joined as Principal Chief PMG on 26.4.2002 and had left the office on 16.10.2002. The Circle Selection Committee had already considered the case of the applicant in the meeting dt. 31.12.2001. Since there was no positive direction of the Court to give employment to the applicant vide order dt. 20.2.2001, it cannot be said that the respondent has committed contempt, when he issued communication dt. 1.11.2002 on the basis of the Minutes of the meeting of the Circle Selection Committee dt. 31.12.2001.

11. In our considered opinion, no case of contempt is made out and the petition is liable to be dismissed.

12. Consequently, the petition is dismissed. Notice issued vide order dt. 26.11.2002 stand discharged.


(A.P.NAGRATH)
MEMBER(A)

B.


(G.L.GUPTA)
VICE CHAIRMAN