

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 122 of 1991

Jabalpur, this the 17th day of November, 2003

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

Suresh Kumar Saxena,
Son of Late Sri Bhagwatiprasad
Saxena, I.P.S., A.I.G. of Police
(Planning), Police Head Qrs.,
M.P., Bhopal.

... Applicant

(By Advocate - Shri Lalit Joglekar on behalf of Shri
Prashant Singh)

V e r s u s

1. Union of India, Through : Secretary,
Ministry of Home Affairs (Police),
New Delhi.
2. The Chief Secretary to the Govt. of
Madhya Pradesh, Secretariate,
Ballabh Bhawan, Bhopal.
3. Sri S.S. Shukla, Supdt. of Police,
P.T.S., Indore.
4. Sri S.P. Gupta, S.P., S.P.E., Indore.
5. Sri S.K. Paswan, S.P., Bilaspur.
6. Sri R.C. Arora, (Deputation),
S.P., CBI., H-1, Hatmount, Lodhi
Road, New Delhi. Qr. 550, Sector-3,
R.K. Puram, New Delhi.
7. Sri H.S. Soni, S.R.P., Bhopal.
8. Sri Surender Singh, S.P., Durg.
9. Sri B.D. Singh, S.P., Rajnandgaon.
10. Sri P.L. Pandey, S.P., Khandawa.
11. Sri V.K. Sukal, S.P., Ujjain.
12. Sri A.K. Shrivastava, S.P.,
Balaghat.
13. Sri Anand Kumar, S.P., Ratlam.
14. Sri A.K. Dashamana, S.P., Indore. ... Respondents

(By Advocate - Shri B.da.Silva for the official
respondents)

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O R D E R (ORAL)

By G. Shanthappa, Judicial Member -

The applicant has filed the Original Application seeking the relief for direction to the official respondents to give the year of allotment to the applicant as 1978 and showing his name above the respondents Nos. 3 to 14 in the inter-se seniority list and also the consequential relief to hold the appointment of the applicant at Sagar and Bhopal as in the cadre post and even if it is not in cadre post the applicant may not be denied his rightful claim for treating as non-cadre post. He further prayed to quash the orders dated 03.02.1989 giving respondents Nos. 3 to 14 seniority over the applicant.

2. This Tribunal has earlier decided this Original
29.04.1997
Application with the following observations :

"Shri H.P. Singh, Officer in charge appears on behalf of respondent - State of Madhya Pradesh. No counsel is present on behalf of the State of M.P. The Officer-in charge produces Order dated 17.12.96 (copy of the same is placed on record) by virtue of which, the applicant has been assigned 1978 as the year of allotment.

2. The relief claimed by the applicant is as under-
"(i) issue a writ of mandamus to the respondents to give year of allotment to the petitioner as 1978 and showing him senior to respondents 3 to 14 and give him inter-se seniority
....."
....."

In view of the fact that respondent Union of India has already granted the relief as claimed by the applicant, no further direction is necessary in the matter. The application has become infructuous. It is accordingly disposed of. No costs."

3. The applicant had filed a W.P. No. 582/1998. The
28.06.2002
Hon'ble High Court has observed/as under :

"2. The relief claimed by the applicant is as under:-
"(i) Issue a writ of mandamus to the respondents to give year of allotment to the petitioner as 1978 and showing him senior to respondents 3 to 14 and give him inter se seniority....
....."

CGS

In view of the fact that respondent-Union of India has already granted the relief as claimed by the applicant no further direction is necessary in the matter. The application has become infructuous. It is accordingly disposed of. No costs."

An application for contempt was filed forming the subject-matter of C.C.P. No. 42/97 wherein the Tribunal after referring to the previous order observed as under :-

The petitioner, an I.P.S. officer, approached the Central Administrative Tribunal, Jabalpur (in short 'the Tribunal') in Original Application No. 122/91. In the said case the petitioner prayed for the following reliefs :-

"i/ issue a writ of mandamus to the respondents to give year of allotment to the petitioner as 1978 and showing him senior to respondents 3 to 14, and give him inter se seniority.

ii/ hold that the appointment of the petitioner at Sagar and Bhopal are in Cadre post and even if it is not in cadre post the petitioner may not be denied his rightful claim for treating as non-cadre post.

iii/ quash the orders dated 3.2.89 giving respondents 3 to 14 seniority over the petitioner.

iv/ to give any other direction, order, relief, as deemed fit and proper in the circumstances of the case along with cost of the proceedings."

The Tribunal by the impugned order dated 29.4.97 Annexure-P-2, passed the following order :-

"The applicant has been given year of allotment 1978. The grievance of the applicant is that he has not been shown senior to respondents 3 to 14. If the applicant is still aggrieved, he may approach the respondents authorities. We do not find any case for Contempt. The Contempt Petition is dismissed."

It is submitted by the learned counsel for the petitioner that though the Department has given the year of allotment to the petitioner as 1978 yet his seniority was not conferred on him declaring him senior above respondents Nos. 3 to 14.

Mr. S.K. Yadav, learned Government Advocate, fairly states that the petitioner was not conferred the benefit of seniority because he could not have been conferred such seniority. However, the learned counsel fairly states that the Tribunal has not adjudicated the aforesaid lis.


Regard being had to the factual scenario and upon perusal of the orders passed by the Tribunal on different occasions, we are of the considered view that though such relief was claimed the Tribunal has not adverted to the same. Hence, we quash the order dated 29.4.97 contained in Annexure-P-2 and order dated 14.10.97 contained in Annexure-P-3 and remit the matter to the Tribunal. As the matter has been continuing for considerable length of time the Tribunal would bestow its anxious consideration and dispose of the same in quite promptitude preferably, within a period of three months from the date of receipt of the order passed today.

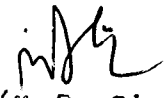
The writ petition is accordingly disposed of. However, there shall be no order as to costs."

4. The Hon'ble High Court of Madhya Pradesh has remanded the matter for consideration of the relief as prayed in the OA.

5. After hearing the learned counsel for the applicant and respondents in the said Original Application we come to the conclusion that though the respondents have granted the relief for year of allotment but the consequential reliefs have not been granted.

6. In this view of the matter we find that the applicant is entitled for the consequential relief in pursuance to the application allowing for relief of year of allotment as 1978. Accordingly, the respondents are directed to consider the case of the applicant for the seniority above the respondents Nos. 3 to 14, with all consequential benefits as prayed in the O.A. The respondents are directed to pass a speaking and reasoned order by considering the case of the applicant within a period of two months from the date of receipt of a copy of this order. Accordingly, the Original Application is disposed of. No costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

"SA"

Issued
on
25/11/73

पृष्ठान्कन सं ओ/ज्या.....जबलपुर, दि.....
पलिसिपि कलोलिसिपि

- (1) सचिव, राज्य सरकार, धार एवं किराणा, जबलपुर
- (2) आचार्य श्री/जी.पी.ओ. के काउंसल P. Singh, Adv.
- (3) प्रवर्तनी श्री/जी.पी.ओ. के काउंसल B. dailuar, Adv.
- (4) कार्यपालक, पी.एम. के.पी.ओ. वर्यपीठ
सुचना एवं आवश्यक कार्यवाही हेतु

25-11-03
उप रजिस्ट्रार