

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH

Jaipur, this the 11<sup>th</sup> day of February, 2010

**CONTEMPT PETITION NO. 49/2009**  
**IN**  
**ORIGINAL APPLICATION NO. 210/2007**  
**WITH**  
**MISC. APPLICATION NO. 311/2009**

**CORAM:**

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER  
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Shiv Charan son of Shri Summera Ram aged about 61 years, resident of 1-B-17, Mahaveer Nagar -III, Kota. Retired as Post Master (HSG-I) Bundi Head Post Office, Bundi (Rajasthan)

.....APPLICANT

(By Advocate: Mr. C.B. Sharma)

VERSUS

1. Ms. Radhika Duraisamy, Secretary to the Government of India, Department of Posts, Ministry of Communication and Information Technology, Dak Bhawan, Sansad Marg, New Delhi.
2. Shri B.N.Tripathi, Post Master General, Rajasthan Southern Region, Ajmer.
3. Shri B.S. Meena, Senior Superintendent, of Post Offices, Kota Postal Division, Kota.

.....RESPONDENT

(By Advocate: Mr. Gaurav Jain)

**ORDER (ORAL)**

This Contempt Petition has been filed by the applicant for the alleged violation of the order dated 01.08.2008 passed in OA No. 210/2007 whereby this Tribunal has held that the applicant is entitled to the BCR benefits, being SC candidate, from the date when there was shortfall of vacancies against the reserved quota. It was further observed that respondents shall re-consider the matter again in the light of the observations made hereinabove and in case there is shortfall in the vacancies meant for reserved category prior to

01.07.1995, the applicant may be granted higher scale under BCR from such date. In case the date of grant of BCR comes prior to 01.07.1995, the respondents shall reconsider the matter as to whether pay of the applicant is required to be reduced and recovery to be made pursuant to Annexure A/1.

2. Pursuant to the order passed by this Tribunal, the respondents have issued the order dated 03.02.2009 (Annexure CP/3) whereby it was observed that after reconsideration of the matter, there was no sufficient shortfall of SC category vacancy during the BCR review period from 01.07.1994 to 31.12.1994, as such the applicant could not be placed under BCR Scheme w.e.f. 01.01.1995. Since the communication of this order was not given to the applicant, this Tribunal issued notices to the respondents as to why they should not be held responsible for the alleged violation of the order dated 01.08.2008.

3. Respondents have filed their reply thereby clarifying the position and circumstances under which this order has been passed. The respondents have also annexed copy of the order dated 31.12.2009 (Annexure R/2), which order has been passed on the representation of the applicant thereby reiterating that there was no short-fall of vacancies prior to 01.07.1995, as such the applicant was not placed under BCR Scheme prior to 01.07.1995.

4. Learned counsel for the applicant submits that the respondents have not examined the matter in the right perspective and have passed the order in violation of the direction given by this Tribunal. Learned counsel for the applicant further submits that the very fact that the applicant was granted BCR benefit with effect from 01.07.1995 pursuant to shortfall of vacancies in SC category pre-supposes that the date of the BCR has to be pre-poned prior to 01.07.1995 when this Tribunal as well as Hon'ble High Court had categorically held that the benefit of BCR Scheme has to be granted from the date of fulfilling the eligibility criteria and availability of the

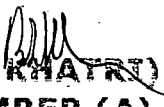
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vacancies. Thus according to the learned counsel for the applicant, the matter has not been examined in the right perspective.

5. Prima-facie, we are of the view that the contention so raised by the learned counsel for the applicant cannot be out right rejected and requires consideration. It appears that the matter has not been examined by the authority in the right perspective. Since we are in Contempt Proceedings and it is not permissible for us to go into the merit of the case, we leave the matter <sup>where</sup> with liberty reserved to the applicant to file substantive OA thereby raising all permissible objections and challenging the validity of the order passed by the respondents pursuant to the direction given by this Tribunal.

6. With these observations, the present Contempt Petition is disposed of. Notices issued to the respondents are hereby discharged.

7. In view of the order passed in the Contempt Petition, no order is required to be passed in Misc. Application No. 311/2009, which is also disposed of accordingly.

  
(B.L. KHATRI)  
MEMBER (A)

  
(M.L. CHAUHAN)  
MEMBER (J)

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