

Central Administrative Tribunal Principal Bench, New Delhi

C.P.No.279/2015 in O.A.No.1182/2012

Order reserved on 03rd November 2016

Order pronounced on 20th December 2016

**Hon'ble Mr. Raj Vir Sharma, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)**

1. Anmol Sharma S/o Mr. V. K. Sharma
B-20, Kendriya Vihar, Sector-6,
Jankipuram Extension, Lucknow, UP 226021.
CGWB, NR, Lucknow.
2. Sanjay Pandey S/o Late R. Pandey,
H. No.1172 F, Sector 7B,
Chandigarh 160019,
CGWB, NWR, Chandigarh.
3. Dhrubajyoti Khanikar S/o Mr. Likeshwar Khanikar
C/o Pushpanjali Sonowal, AEC Campus,
Guwahati 781013,
CGWB, NER, Guwahati.
4. Sambit Samanta Ray S/o Mr. Prakash Chandra Samatray
2479, Gobindeshwar Road,
Kunjapatna Sahi,
Bhubaneshwar 751002
CGWB, SER, Bhubaneshwar.
5. Ms. Priya Kanwar D/o Mr. Ram Alimchandani
336, Shastri Nagar, Jammu 180004,
CGWB, NWHR, Jammu.
6. Dr. S. Somarendro Singh S/o Mr. Meghachandra Singh
Q. No.14, Type-IV,
GPRA, Colonykatabari,
Guwahati 781035,
CGWB, NER, Guwahati.
7. Ms. Gargee M. Baruah Sharma D/o Mr. G. C. Baruah,
Flat No. 912, Block-C2 Belvedere Tower
Charmwood Village, Eros Garden,
Suraj Kund Road, Faridabad 121009,
CGWB, CHQ, Faridabad.
8. Ms. Rachana Bhatti D/o Mr. Ved Parkash
Village Gabli Dari PO Dari,
Tehsil Dharamshala, Dist. Kangra, HP
CGWB, NHR, Dharamshala.

9. Pramod Kumar Verma S/o Mr. N. R. Verma
H. No.25/2, Sanjay Nagar,
Jammu 180004, CGWB,
NWHR, Jammu.
10. Ashwin Kumar Atey S/o Mr. Madhukar Atey
Gandotra Niwas
H. No.134-D, Sec-8 H,
Nanak Nagar, Jammu,
CGWB, NWHR, Jammu.
11. Sanjay Kumar Naik S/o Mr. Padmalav Naik
E-409, M. S. Apartment,
K. G. Marg, New Delhi 110 001.
CGWB, SUO, New Delhi.

....Applicants

(By Advocate: Mr. Ajesh Luthra)

VERSUS

1. Anuj Kumar Bishnoi
The Secretary,
Union of India
Ministry of Water Resources,
Government of India,
New Delhi
2. K.B. Biswas
The Chairman
Central Ground Water Board,
Bhujal Bhawan, NH-IV,
Faridabad, Haryana,
3. The Secretary
Union Public Service Commission
Dholpur House, Shahjahan Road,
New Delhi

(impleaded vide order dated 10.03.2016)

..Respondents

(Mr. C. Bheemanna, Advocate for respondent Nos. 1 & 2 –
Mr. Ravinder Aggarwal, Advocate for respondent No.3)

O R D E R

Mr. K.N. Shrivastava:

These applicants, through the medium of this Contempt Petition (C.P.) filed under Section 12 of Contempt of Court Courts Act, 1971 read with Contempt of Courts (CAT) Rules, 1992, have prayed for initiating the contempt proceedings against respondent Nos. 1 & 2 for non-compliance of

this Tribunal's order dated 26.04.2014 in O.A. No.1182/2012. Initially the Union Public Service Commission (UPSC) was not arrayed as a party but during the course of hearing of the case, the Tribunal felt that UPSC is a necessary party to this case and accordingly it was arrayed as respondent No.3 in the C.P.

2. The factual matrix of this case are that the petitioners are Assistant Hydrogeologists (AHGs) working under the respondent-organization, i.e., Central Ground Water Board (CGWB), which comes under the Ministry of Water Resources. Respondent No.1 is the Secretary of the Ministry of Water Resources whereas respondent No.2 is the Chairman of CGWB. The applicants had filed O.A. No.1182/2012 in regard to fixation of their seniority in the grade of AHG. During the course of hearing of the O.A., the applicants submitted that the respondents have since issued revised seniority list wherein they had been given appropriately placed and they have no grievance as the placement in the seniority list. They had, however, sought a direction from the Tribunal to the respondents to extend all the consequential benefits to them as had already been done to their juniors. It was submitted on behalf of the private respondent Nos. 3 to 30 in the O.A. that they have no objection for the disposal of the matter, however, their right to challenge the revised seniority list may be kept open. In view thereof, the Tribunal disposed of the O.A. with the following directions:-

“4. In view of above, the OA is disposed of at this stage with directions to the respondents that claim of the applicants for grant of similar benefits as have been extended to persons junior to them in the promotional scale after revision of their seniority list, be considered and granted expeditiously in accordance with law. It would, however, be open for the private respondent Nos. 3 to 30 to assail the aforesaid revised seniority list in appropriate proceeding before appropriate forum, if they feel aggrieved.”

3. The grievance of the applicants in C.P. (applicants in O.A.) is that during the pendency of O.A. No.1182/2012, respondent Nos. 1 & 2 have given two *in situ* promotions to their juniors, i.e., promoting them from the grade of AHG to Scientist 'B' and later from Scientist 'B' to Scientist 'C' under the Flexible Complementing Scheme (FCS) vide orders dated 22.01.2013 and 31.01.2014 (Annexure CP-3 (colly.)). It was further submitted that respondent No.2 has also initiated the process to grant third *in situ* promotion to the grade of Scientist 'D' under FCS to the juniors of the applicants. They have argued that in terms of the revised seniority list, they are entitled for getting all these promotions but the same has not been given to them despite the orders of the Tribunal dated 26.04.2012 in O.A. No.1182/2012. The applicants have, therefore, sought to initiate contempt proceedings against the respondent Nos. 1 & 2 for willful disobedience of the aforementioned order of the Tribunal.

4. Pursuant to the notices issued, the respondents entered appearance and filed their separate replies. With the completion of pleadings, the C.P. was taken up for hearing the arguments of learned counsel for the parties on 03.11.2016. Mr. Ajesh Luthra, learned counsel for applicants, Mr. C. Bheemanna, learned counsel for respondent Nos. 1 & 2 and Mr. Ravinder Aggawal, learned counsel for respondent No.3 argued the case.

5. Learned counsel for applicants, besides narrating the factual matrix, submitted that the respondents have promoted several juniors of the applicants overlooking their cases for promotion and, thus they have committed contempt of this Tribunal's order dated 26.04.2014 in O.A.

No.1182/2012. Accordingly, contempt proceedings against them should be ordered.

6. Learned counsel for respondent Nos. 1 & 2 admitted that there is some delay in the implementation of the Tribunal's aforementioned order. It was further submitted that after the order of the Tribunal, the respondents took the advice of Department of Personnel & Training (DoPT) and Ministry of Law, who recommended to challenge the order in the Delhi High Court by way of a writ petition. However, on advice of Additional Solicitor General, DoPT and Ministry of Law agreed for the implementation of the order. In all these correspondences, some time got consumed and hence there is delay in implementation of the order. The proposal to promote the applicants was discussed by respondent No.1 with the UPSC (respondent No.3), who pointed out certain discrepancies. The said discrepancies were communicated by respondent No.1 to respondent No.2. In this regard, the learned counsel drew our attention to paragraph 8 of the reply, which is extracted below:-

“8. It is humbly submitted that for implementation of the Tribunal's order dated 26.4.2014, the petitioners have to be initially considered for granting antedated in-situ promotion to the grade of Scientist 'B'. Therefore, a proposal for considering petitioners for grant of antedated in-situ promotion to the grade of Scientist 'B' has been initiated by Central Ground Water Board vide their letter dated 14.7.2015. This proposal was discussed with UPSC through Single Window System but UPSC have pointed out some deficiencies in the proposal and the said deficiencies are now being made-up by Central Ground Water Board after UPSC's observations regarding carrying out modifications were conveyed to CGWB vide Ministry's letter dated 28.8.2015. Copy of the communication under which the proposal has been initiated by Central Ground Water Board is annexed and marked as Annexure- R/2. After modifications, this proposal will be discussed again with the UPSC for submission through Single Window System. Once the recommendations for antedated promotions of the petitioners, to the grade of Scientist-B are received from UPSC, the proposal for further antedated

promotions of the petitioners to the grade of Scientist-C, will be initiated by Central Ground Water Board, as per extant Recruitment Rules and will thereafter be submitted to UPSC through Single Window System, which means that the DPC/BOA proposals will be accepted by the UPSC only after a scrutiny and discussion in Single Window System. In this connection, it is also humbly submitted that the Respondents are entrusted with the responsibility regarding submission of proposal only and further process regarding consideration and recommendation of the candidates by the Board of Assessment is completed by UPSC only.”

Concluding his arguments, the learned counsel submitted that a proper proposal to the UPSC, complete in all respects, will be submitted to the UPSC at the earliest and earnest action will be taken to comply with the order.

7. Learned counsel for respondent No.3 – UPSC submitted that no proposal received from respondent Nos. 1 & 2 is presently pending in UPSC. As such, respondent No.3 has been wrongly impleaded as a party respondent in the contempt proceedings. The learned counsel stated that the DPC meeting could be convened by the UPSC only after the proposal is received, complete in all respects. Detailed examination of the earlier proposal submitted by respondent No.1 had revealed that it was suffering with three major deficiencies; viz. (i) vigilance clearance certificates were not enclosed, (ii) orders regarding abolition / creation of posts stated to have been issued on 23.05.2003, 07.01.2009 and 06.07.2009 were not placed, and (iii) the proposal pertained only to *in situ* promotions of the officers to the grade of Scientist ‘B’. Even a copy of letter No.22/21/96-GW.I dated 12.06.2010 issued by respondent No.1 to the effect that FCS is an *in situ* promotion and it has no linkage with the vacancies, was not provided.

Concluding his arguments, the learned counsel submitted that the UPSC will convene the DPC on the receipt of proposal, complete in all respects.

8. We have considered the arguments of learned counsel for the parties and perused the material placed on record. We are satisfied that the respondents are in the process of complying with the order of this Tribunal dated 26.04.2014 in O.A. No.1182/2012. Taking into consideration the process involved, we grant respondent Nos. 1 & 2 three months' time to comply with the order.

9. Accordingly, we consider it appropriate to close the C.P. at this stage with liberty to the applicants to revive it at the appropriate time in the event of respondents failing to implement the order dated 26.04.2014 within the prescribed period. Notices issued to the respondents are discharged.

With the aforesaid order, all other ancillary M.As. are disposed of.

(K.N. Shrivastava)
Member (A)

(Raj Vir Sharma)
Member (J)

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