

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
C.P.NO. 381 OF 2017
(In OA No 2506 of 2011)

New Delhi, this the 6th day of July, 2017

CORAM:

HON^{BLE} SHRI SHEKHAR AGARWAL, ADMINISTRATIVE MEMBER
AND
HON^{BLE} SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

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Dr.Rama Kant Singh,
s/o late Sh.Ishwari Singh,
r/o 369, Kanena Agrahara,
Airport Exists Road, Vima
Bangalore 560017
(By Advocate: Shri Yoges
Vs.

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1. Sh.Rajiv Nayan Chaudhary,
Secretary,
Ministry of Civil Aviation,
Government of India,
Rajiv Gandhi Bhawan,
New Delhi.
2. Sh.B.S.Bhullar,
Director General of Civil Aviation,
Technical Centre, Govt. of India,
Rajiv Gandhi Bhawan,
New Delhi.
3. Sh.T.Jacob,
Union Public Service Commission,
Through the Secretary, Shahjahan F
New Delhi

Applicant

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Respondents

ORDER

Per Raj Vir Sharma, Member(J):

Applicant Dr.Ramakant Singh has filed the present Contempt Petition with the following prayers:

ð(i) That the Hon'ble Tribunal may graciously be pleased to pass an order of initiating the contempt of court proceedings against the respondents, particularly respondent No.2 for not granting the notional

promotion to the applicant to the post of Director from the vacancy year as directed by the Hon'ble Delhi High Court in judgment dated 11.8.2016 in W.P. (C) No. 5802/2015.

(ii) That the Hon'ble Tribunal may graciously be pleased to pass an order declaring to the effect that the order dated 1.5.2017 is not a compliance of the direction given by the High Court in judgment dt.11.8.2016 in true and letter and spirit of the judgment and therefore, the respondents have committed the contempt of court.

(iii) That the Hon'ble Tribunal pass an order awarding suitable punishment on the respondents along with heavy cost in favour of the applicant.ö

2. We have perused the records and have heard Shri Yogesh Sharma, the learned counsel appearing for the applicant.

3. OA No.2506 of 2011 was filed by the applicant Dr.Ramakant Singh praying for the following reliefs:

ö(i) That the Hon'ble Tribunal may graciously be pleased to pass an order directing the respondents to consider the case of the applicant for his promotion to the post of Deputy Director (AE) from the due date i.e. from the date when the applicant became eligible for consideration for promotion to the post of Dy. Director, with all the consequential benefits including the arrears of difference of pay and allowances.

(ii) That the Hon'ble Tribunal may graciously be pleased to pass an order directing the respondent no. 2 to withdraw or defer their decision to fill up the post of Deputy Director (Aircraft Engineering) through UPSC in respect of Advertisement NO.16 in Employment News 28.8.10-3.9.10 till conducting the regular DPC for promotion to the post of Dy. Director (AE).

(iii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicants.ö

During pendency of OA No.2506 of 2011, the respondents issued an order dated 20.12.2013 by which the applicant was promoted as Deputy Director against vacancy of 2009-10 with effect from the date of assumption of charge. Thus, the Tribunal only considered the applicant's claim for promotion from the due date, i.e., from the date when he became eligible for

consideration for promotion to the post of Deputy Director. After considering the materials available on record, and upon hearing the learned counsel appearing for the parties, the Tribunal dismissed OA No.2506 of 2011, vide order dated 5.9.2014, holding that since the applicant had already been granted promotion to the post of Deputy Director against vacancy year of 2009-10, no further relief could be granted to him.

4. Being aggrieved, the applicant filed W.P. (C) No. 5802 of 2015 before the Hon'ble High Court of Delhi challenging the Tribunal's order dated 5.9.2014(ibid). The Hon'ble High Court allowed W.P. (C) No.5802 of 2015, vide judgment dated 11.8.2016, the relevant part of which is reproduced below:

15. For the reasons aforesaid, we are unable to convince ourselves that the delay in holding the DPC was for any justifiable reasons. Taking into considerations the submissions made and for the reasons stated herein, the writ petition is allowed. **The petitioner will be granted notional promotion from the date when the vacancy arose, i.e., in the year 2009-2010.**

16. We are informed that during the pendency of this writ petition, a DPC was held in 2015. This Court while issuing notice in the matter, in CMAPPL 13301/2015 directed that any appointment made shall be subject to the outcome in this writ petition. **Accordingly, the review DPC will be held within a period of three weeks from today and the petitioner will be considered for promotion in accordance with law and the rules.**

5. In compliance of the Hon'ble High Court's judgment dated 11.8.2016(ibid), the respondent-Department, vide order dated 22.9.2016, granted promotion to the applicant to the post of Deputy Director with effect from 1.5.2009 on notional basis. Review DPC was held to consider the applicant, along with others, for promotion to the post of Director against the vacancy for the year 2013-14. On the basis of the recommendation of the

Review DPC, the respondent-Department, vide order dated 29.12.2016, promoted the applicant to the post of Director w.e.f. 24.9.2015.

6. In the above view of the matter, we do not find any substance in the statement made by the applicant that the respondents have failed to comply with the directions contained in the judgment dated 11.8.2016 (ibid) passed by the Hon'ble High Court.

7. Contempt jurisdiction is exercised for the purpose of upholding the majesty of law and dignity of judicial system as also of the Courts and Tribunals entrusted with the task of administering delivery of justice. Power of contempt is invoked as a step in that direction for enforcing compliance of orders of Courts and punishing for lapses in the matter of compliance. Availability of jurisdiction to punish for contempt provides efficacy to functioning of the judicial forum and enables the enforcement of the orders on account of its deterrent effect on avoidance.

8. The power vested in the Courts/Tribunals to punish for contempt is a special and rare power available both under the Constitution as well as the Contempt of Courts Act, 1971. It is a drastic power which, if misdirected, could even curb the liberty of the individual charged with commission of contempt. The very nature of the power casts a sacred duty in the Courts/Tribunals to exercise the same with the greatest of care and caution. This is also necessary as, more often than not, adjudication of a contempt plea involves a process of self-determination of the sweep, meaning and effect of the order in respect of which disobedience is alleged.

Courts/Tribunals must not, therefore, travel beyond the four corners of the judgment/order which is alleged to have been flouted or enter into questions that have not been dealt with or decided in the judgment or the order violation of which is alleged. Only such directions which are explicit in a judgment or order or are plainly self evident ought to be taken into account for the purpose of consideration as to whether there has been any disobedience or willful violation of the same. Courts/Tribunals must also ensure that while considering a contempt plea the power available to the Tribunals/Courts in other corrective jurisdictions like review or appeal is not trespassed upon. No order or direction supplemental to what has been already expressed should be issued by the Courts/Tribunals while exercising jurisdiction in the domain of the contempt law.

9. In the light of our above observations, we are of the view that this is not a fit case where proceedings for contempt should be initiated against the respondents. Accordingly, the Contempt Petition is dismissed.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SHEKHAR AGARWAL)
ADMINISTRATIVE MEMBER

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