

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

C.P. No. 434/2014
O.A. No. 4466/2013

New Delhi, this the 6th day of January, 2016

**HON'BLE MR. JUSTICE SYED RAFAT ALAM, CHAIRMAN
HON'BLE MR. P.K. BASU, MEMBER (A)**

Tejinder Singh
S/o Shri S. Harbhajan Singh
R/o D-1/Tower 8,
New Moti Bagh,
New Delhi . .. Applicant

(By Advocate : Shri Ajesh Luthra)

Versus

1. Ms. Anita Agnihotri,
Secretary,
Union of India,
Ministry of Urban Development
Nirman Bhawan,
New Delhi.
2. Shri V.K. Gupta,
Director General,
Central Public Works Department
Nirman Bhawan,
New Delhi. .. Respondents

(By Advocate : Shri R.N. Singh)

ORDER (ORAL)

By Mr. Justice Syed Rafat Alam

This is an application for initiating contempt proceedings against the respondents for the alleged disobedience of the order of the Tribunal dated 30.04.2014 in O.A. No.4466/2013.

2. We have heard Shri Ajesh Luthra, learned counsel for the applicant and Shri R.N. Singh, counsel appearing for the respondents.

3. Shri Ajesh Luthra, learned counsel for the applicant, submitted that the respondents have not followed the directions of this Court in its true letter and spirit in as much as there appears to be no consideration about promotion of the applicant pursuant to the recommendation of the DPC referring to the order dated 03.09.2015 of the Under Secretary to the Govt. of India enclosed with the compliance affidavit filed on behalf of the respondents. It is pointed out that the respondents have simply declined the proposal for empanelment of the applicant to the grade of ADG (Civil) without showing any consideration for such promotion pursuant to the recommendation of the DPC. He, therefore, submits that though the respondents have taken final decision on the reports submitted by the Enquiry Officer and have also exonerated the applicant, yet the direction to consider him for promotion in the light of the recommendation of the DPC has not been complied with.

4. On the other hand, Shri R.N. Singh, learned counsel for the respondents, vehemently argued that there was no direction that the DPC is required to consider the claim of the applicant for promotion. The recommendation of the DPC was

placed before the ACC and since the ACC did not approve the recommendation, therefore, that part is only communicated to the respondents. He further, relying on the judgment of the Hon'ble Supreme Court in **J.S. Parihar V. Ganpat Duggar & Ors., (1996) 6 SCC 291**, submitted that it is not a case of deliberate or willful disobedience of the court's order and, therefore, the Tribunal cannot proceed in the contempt petition.

5. We have considered his submission and are of the view that the respondents, *prima facie*, have complied with the order passed by the Tribunal. Besides that, if the applicant is still aggrieved by the decision of not approving the recommendation of the DPC by giving him promotion, that gives him fresh cause of action and he can challenge the same by availing appropriate remedy under law.

6. Therefore, the contempt petition is disposed of with the aforesaid liberty to the applicant. The respondents/contemnors are discharged from notices.

(P.K. Basu)
Member (A)

(Syed Rafat Alam)
Chairman

/Jyoti/