

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
(CIRCUIT AT PORT BLAIR)**

No. O.A. 31/AN/2013

Date of order: 13.02.2018

**Present: Hon'ble Mr. V. Ajay Kumar, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

**Smt. A.P. Jonamma,
W/o Late A.P. Francis,
106/1 Coorg Niwas,
Delanipur,
Port Blair, South Andaman – 744102,
Retired Programme Officer under Directorate of
Social Welfare, Port Blair.**

.. Applicant

-Versus-

- 1. The Union of India,
Represented by the Secretary, Govt. of India,
Ministry of Women and Child Development,
Shastri Bhawan,
New Delhi – 110001.**
- 2. The A & N Administration through
Lt. Governor, (Administration) A & N Islands,
Raj Niwas, Port Blair – 744101.**
- 3. The Chief Secretary,
Andaman and Nicobar Administration,
Secretariat, Port Blair – 744101.**
- 4. The Secretary (Social Welfare),
Andaman and Nicobar Administration,
Secretariat, Port Blair – 744101.**
- 5. The Deputy Commissioner,
South Andaman District,
Port Blair.**
- 6. The Director (Social Welfare),
Directorate of Social Welfare,
Andaman and Nicobar Administration,
Port Blair.**

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For the Applicant : Mr. G.B. Kumar, Counsel

For the Respondents : Mr. N.A. Khan, Counsel

O R D E R (Oral)

Per Mr. V. Ajay Kumar, Judicial Member:

Heard Ld. Counsel for both sides.

2. The applicant has filed O.A. No. 155 of 2007 impugning an order dated 30.10.2006 of the respondents wherein she has been reverted to the post of Child Development Project Officer from the post of Programme Officer pending finalization of disciplinary proceedings. The said O.A. was disposed of by this Tribunal vide order dated 10.12.2008 as under:-

"15. Confining ourselves, therefore, to the above relief viz. relief No.1 quoted above the recommendation of the DPC in so far as it relates to the applicant and the consequential office order of 30.10.2006 by which the applicant has been reverted as CDPPO is hereby quashed. Since there is no other regular incumbent who has been promoted as PO, we further direct that the applicant should not be disturbed from her present position of ad hoc PO, the position she was holding prior to the DPC of 10.10.2006 till completion of her disciplinary proceedings, i.e. till completion of all administrative remedies available under Section 20 of the Administrative Tribunals Act.

16. We are constrained to direct that there is full and complete justification for the DPC of 10.10.2006 to be set aside (in so far as it relates to the applicant) and a review DPC convened to consider the case of the applicant for regular promotion to the post of PO based on the vacancy of July 2000. This DPC should be convened and should consider records, qualifications etc. as per existing RR upto the period July 2000 only and not for the period beyond it and should not be trammelled by matters such as charge sheet etc. which took place at a much later in time i.e. on 30.8.2004. The Apex Court has held in the case of Union of India and Ors. Vs. N.R Banerjee and Ors, reported in 1997 (9) SCC 287 and again in another case Syed Khalid Rizvi and Ors. Vs. Union of India and Ors., 1993 Supp (3) SCC 575 that select committees DPC are required to meet regularly every year and not doing so amounts to dereliction of administrative duty.

17. Although the applicant had not prayed for a review DPC to consider her case, it is in the power of this Tribunal to mould relief to suit the requirements of justice. In coming to this consideration we have also kept in mind the fact that the applicant is now nearly 58 years old and would be shortly superannuating. This exercise should be completed within a period of three months from the date of communication of this order considering the fact that all the members of the DPC are local members from the A&N Islands. The O.A is, therefore partly allowed and disposed of accordingly. No costs."

V. V. Kumar

3. In pursuance of the aforesaid order, the respondents have conducted a review DPC and passed an order No. 50 dated 21.1.2009 and accordingly promoted the applicant to the post of Programme Officer (ICDS) on regular basis. Thereafter the applicant retired from service on attaining the age of superannuation w.e.f. 31.5.2010.

4. However, the applicant alleging that the order dated 21.1.2009 was not passed in accordance with the directions of this Tribunal in O.A. No. 155/2007 dated 10.12.2008, filed CPC No. 2 of 2013 and the said CPC was dismissed on 4.3.2013 in view of Section 20 of the Contempt of Courts Act, 1971, as the same was filed beyond the limitation period of one year.

5. Thereafter the applicant filed the instant O.A. seeking the following reliefs:-

"8. (a) An order be passed directing the respondent authorities to comply with the order dated 10/12/2008 passed by this Hon'ble Court in OA No. 155/A&N/2007 whereby directed the respondent authorities to conduct review DPC within a span of three months from the date of communication of the order based on the vacancy of July, 2000.

(b) An order be passed directing the respondent authorities to transmit the original records of the case before this Hon'ble court, so that after perusing the same conceivable justice may be rendered to the applicant.

(c) Any other relief or relief's order or orders, direction or directions as your Honor deem fit and proper."

6. It is seen that the applicant has filed the instant O.A. seeking a direction upon the respondents to comply with the order dated 10.12.2008 passed in O.A. 155 of 2007. No second O.A. is maintainable for seeking a direction to comply with the orders of this Tribunal in an earlier O.A. and the remedy for the same is in a different form under different provisions of law.

7. When the CPC filed for the said purpose, was already dismissed, the remaining remedy for the applicant is only to question the latest orders of the respondents i.e. dated 21.1.2009, if she is still aggrieved.

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8. In the circumstances, we do not find any merit in this O.A. and, accordingly the same is dismissed. However, the applicant is at liberty to question the order dated 21.1.2009, if she is still aggrieved, in accordance with law. No costs.

(Nandita Chatterjee)
Administrative Member

(V. Ajay Kumar)
Judicial Member

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