

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

O.A. No. 3817/2014

M.A. No. 972/2017

The 11th day of April, 2019

HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MS. ARADHANA JOHRI, MEMBER (A)

Pramod Metrey

Sr. Technical Officer, Age 51 years,

S/o Shri Nanak Chand Sharma,

R/o A-23, Sector-3,

Hardev Puri Shahdara, Delhi-110093.

.. Applicant

(By Advocate : Shri D.K. Sharma)

Versus

1. The Secretary,
Textile Committee,
(Govt. of India, Ministry of Textiles)
P. Balu Road, Prabhadevi Chowk,
Prabhadevi, Mumbai-400025.

Regional Office:

40, Community Centre, Phase-I
Naraina, New Delhi-110028.

2. Shri O.P.J. Ram,
Textile Committee Laboratory,
P. Balu Road, Prabhadevi Chowk,
Prabhadevi, Mumbai-400025.
3. Shri M.S. Shyam Sunder,
Textile Committee Laboratory,
Raj Chambers 978-A,
Thadagam Road, Coimbatore-641002.
4. Shri K.C. Shakdwipee,
Textile Committee,
40, Community Centre, Phase-I
Naraina, New Delhi-110028.

5. Shri K.C. Majerkar,
Textile Committee Laboratory,
P. Balu Road, Prabhadevi Chowk,
Prabhadevi, Mumbai-400025.
6. Shri Kishore V. Torvi,
Textile Committee Laboratory,
P. Balu Road, Prabhadevi Chowk,
Prabhadevi, Mumbai-400025.
7. Shri P.N. Wasnik,
Textile Committee Laboratory,
P. Balu Road, Prabhadevi Chowk,
Prabhadevi, Mumbai-400025.
8. Ministry of Textiles,
Through its Secretary,
Udyog Bhawan, New Delhi. .. Respondents

(By Advocates : Shri Rajeev Kumar for R-1 & 8 and
Shri V.S.R. Krishna for R-2 to 7)

ORDER (ORAL)

By Mr. V. Ajay Kumar, Member (J)

The applicant, a Senior Technical Officer (Laboratory) under the 1st respondent filed the O.A. seeking the following relief(s):

- “(i) Direct the respondent No.1 to grant the promotion to the applicant from the date on which the respondents No.2 to 7 were promoted with all consequential benefits including back wages and seniority.
- (ii) Any other relief, this Hon’ble Tribunal deems fit and proper may also be granted in favour of the applicant in the interest of justice.”

2. The applicant earlier filed T.A. No.1110/2009 and this Tribunal by its order dated 25.01.2010 (Annexure A-3) disposed of the said T.A. as under:

“14. As per the settled legal position stated above, we find that the Applicant has been prejudiced by not getting an opportunity

to defend himself on the below bench mark ACRs. It is trite that non communicated below bench mark ACRs should not be considered but ignored. We, therefore, direct the Respondent-Textile Committee to ignore the ACRs which are below bench mark but not communicated to the Applicant and take up other relevant ACRs and conduct a Review Promotion Committee for consideration of the Applicant's case for promotion. In case the Applicant is found fit by the Review DPC, he would be promoted with effect from the date on which his juniors were promoted in the past. It goes without saying that the consequential benefits like seniority, arrears of pay and allowances that are admissible as per law should also be granted to the Applicant.

15. With the above directions, the Transfer Application is disposed of. No costs."

3. Against the said order, the respondents filed the WPC No.1639/2012 before the Hon'ble High Court of Delhi and the said WPC was disposed of vide order dated 20.03.2013 as under:

"1. With consent of parties the impugned order passed by the Central Administrative Tribunal on January 25, 2010 is set aside. The reason for the consent is that the Tribunal has not noted the applicable facts wherefrom law declared in the various judgments noted by the Tribunal stands attracted.

2. The decision of this Court pronounced on October 8, 2010 disposing of WP(C) 6013/2010 UOI v. K.N.Dixit would also be applicable, benefit whereof was not with the Tribunal inasmuch as the impugned decision is dated January 25, 2010.

3. Without reflecting any further lest prejudice is caused to either parties, since counsel concede as above, the petition stands disposed of setting aside the impugned order dated January 25, 2010.

4. T.A.No.1110/2009 is restored for fresh adjudication before the Tribunal.

5. Parties shall appear before the Registrar of the Tribunal on April 12, 2013 who shall thereafter list the T.A.No.1110/2009 before the appropriate Bench.

6. No costs."

4. In terms of the orders of the Hon'ble High Court, the T.A. No.1110/2009 was remanded back and again re-heard and finally disposed of on 30.08.2013 (Annexure A-2) as under:

"3. In view of the aforementioned, TA is disposed of with direction to respondents to communicate such of his ACRs which are graded below bench mark to applicant within a period of eight weeks from the date of receipt of a copy of this order. The applicant would have an opportunity to file response thereto within 8 weeks thereafter. The Superior Authority above the Reviewing Authority shall consider the representation and pass appropriate order. In case of improvement of any of the gradings of the applicant, respondent would convene review DPC and if the applicant is found fit for promotion, he would be promoted on notional basis with effect from the date his immediate junior was so promoted. In such event, he would not be entitled to any backwages. No costs."

5. The applicant thereafter filed WPC No.4361/2014 before the Hon'ble High Court of Delhi complaining non-implementation of the aforesaid orders and the said WPC was dismissed as withdrawn with liberty to the applicant to avail his remedies, in accordance with law, and the said order dated 18.07.2014 is as under:

"The petitioner claims to be aggrieved by the action of the respondents in not implementing the order of the Central Administrative Tribunal (CAT) dated 30.08.2013. By the order of the CAT, the respondents were directed to consider the petitioner's representation in respect of the adverse remarks in the ACR, which had impeded his promotion. The petitioner's complaint in these proceedings is that despite representation, the respondents are silent as to the correct grading. It is evident that the present writ petition is based on the alleged inaction of the respondents after the CAT's order which required consideration of the petitioner's representation. Clearly that cannot be a ground for this Court to examine the correctness of the reasoning of the impugned order. If the petitioner feels aggrieved that the order of the CAT has not been complied with, the other avenues for the enforcement of the directions of the CAT, including contempt proceedings or filing fresh Original Application are available to him. In view of these circumstances, learned counsel for the petitioner seeks liberty to withdraw the writ petition and avail all such remedies as are available in law."

Liberty granted. The writ petition is accordingly dismissed as withdrawn.”

Thereafter, the applicant filed the instant O.A.

6. Heard Shri D.K. Sharma, learned counsel for the applicant, Shri Rajeev Kumar, learned counsel for the official respondents No.1 and 8 and Shri V.S.R. Krishna, learned counsel for the private respondents No.2 to 7 and perused the pleadings on record.

7. When this matter taken up for hearing, the learned counsel for the applicant admitted that the respondents have complied with the aforesaid orders of this Tribunal by issuing an Office Order dated 08.08.2014 (Annexure R-2) promoting the applicant notionally as Quality Assurance Officer (Laboratory) w.e.f. 25.08.1999 and also placed him in the seniority list above Shri O.P.J. Ram, i.e. the 2nd respondent in the instant O.A., and below Shri K. Gourishankar and Shri S.B. Shetty, and not granted the back wages. The applicant, having satisfied with the said order and the said compliance of the above referred order of this Tribunal, has not challenged the said order in any respect. However, the applicant filed the instant O.A. seeking a direction to respondent No.1 to grant the promotion to the applicant from the date from which the private respondents no.2 to 7 were promoted, with all consequential benefits.

8. Though the applicant prayed that he should be promoted with effect from the date on which the private respondents No.2 to 7 were promoted, but not filed any proceedings or order under which the private respondents No.2 to 7 were promoted. It is his admitted case that his identical grievance against private respondent No.2 was already redressed, in pursuance of earlier orders of this Tribunal. The applicant failed to justify why he made the same 2nd respondent as party to this O.A. when the applicant was promoted w.e.f. 25.08.1999 and was placed above the said 2nd respondent. The applicant also failed to file any seniority list whereunder he was shown senior to any of the remaining private respondents No.3 to 7 and failed to show any valid reason why he should be promoted from the date of their promotion.

9. In the circumstances, we do not find any merit in the O.A. and, accordingly, the same is dismissed. Pending MAs, if any, also stand disposed of. No order as to costs.

(ARADHANA JOHRI)
Member (A)

(V. AJAY KUMAR)
Member (J)

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