



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA

CPC No. 350/00106/2015
OA No. 1028/2013

Date of Order: 03.09.2015

Present:

**The Hon'ble Mr. Justice G.Rajasuria, Judicial Member
The Hon'ble Ms. Jaya Das Gupta, Administrative Member**

Rajesh Kumar Tripathi, Son of Sri Umakant Tripathi, aged about 52 years, working as Senior Hindi Translator in the office of the ROC (WB), Ministry of Corporate Affairs, Eastern Region, 234/4 A.J.C.Bose Road, Nizam Palace, Kolkata-700020 and residing at Keshar Apartment, Jhautala Road, Tegharia, Kolkata-700157.

.....Applicant

For the Applicant: Mr.P.C.Das, Counsel

-Versus-

1. Smt. Anjuli Chib Duggal, the Secretary, Ministry of Corporate Affairs; Shastri Bhawan, A Wing, 5th floor, Dr. Rajendra Prasad Road, New Dehi-110001.
2. Mr. Narendra Kumar Bhola, the Regional Director, Eastern Region, Ministry of Corporate Affairs, 3rd Floor, 2nd MSO Building, Nizam Palace, 234/4 AJC Bose Road, Kolkata-700020.

.....Respondents

For the Respondents : Mr. B.B.Chaterjee, Counsel

ORDER

JUSTICE G.RAJASURIA, JM:

Heard both.

2. This CPC contained the following reliefs:

"A. In the premises aforesaid, your applicant most humbly and respectfully prays before this Hon'ble Tribunal that this Hon'ble Tribunal may graciously be pleased to issue a notice calling upon the respondents/contemnors herein to show cause as to why they should not be sentenced to jail and/or otherwise suitably be punished for gross wilful contempt of court under the Contempt of Courts Act, 1971 read with Section 17 of the Administrative Tribunal Act, 1985 for their deliberate and wilful non compliance and disobedience of the order passed by this Hon'ble Tribunal dated 03.06.2014 in OA No. 1028 of 2013 in respect of looking into the grievance of the applicant and to consider his prayer in accordance with law within four months from the date of communication of the order.

And

B. Your applicant most humbly and respectfully pray bore this Hon'ble Tribunal by directing upon the contemnors/ respondents to consider the representations of the applicant for promotion to the post of Senior Hindi Translator (with effect from 29.05.1994) and thereafter to the post of Hindi Officer (with effect from 26.04.2010) with retrospective effect or before S.R. Chavan, Junior to the applicant in service along with the pay scale and Grade Pay as per the implementation date of the 6th Central Pay Commission as the case may be with all consequential benefits like arrears including interest as per Rule. As such necessary correction should be made by correcting the seniority of the applicant from the date of his joining in the service as Junior Hindi Translator in the light of the decision of the Hon'ble Ernakulam Bench and Hon'ble High Court Kerala.

C. Costs.

D. Any other order or orders, direction/directions as Your Lordships may deem fit and proper."

(extracted as such).

3. The Learned Counsel for the Applicant invited the attention of this Court to the affidavit filed by the Regional Director, Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata and the OM dated 07.08.2015 issued by the Under Secretary, Govt. Of India, Ministry of Corporate Affairs A Wing, 5th floor, Shastri Bhawan,



Dr. R.P.Road, New Delhi-110001 would develop his argument The Paragraph 5 of the cited OM would run thus:

"5. It is further stated that the seniority list of Jr. Hindi Translator (JHT) was being maintained at the regional level during the relevant period i.e. 1994. A consolidated all India seniority list was finalized only in 2012. As Shri R.K.Tripathi and Sm.t S.R.Chavan were initially appointed in different regions through separate SSCs, Shri Tripathi cannot be presumed to be inter se senior to Smt. Chavan on the logic that he joined as JHT a day earlier than Smt. Chavan and the contention of Shri Tripathi to this effect is not tenable. In this context, it may be mentioned that it is a matter of record that there were officers such as Shri J.N.Mishra (date of appointment 6.7.1987), Ms. Rashmi Mathur (date of appointment 8.7.1987) and Shri D.K.Dwivedi (date of appointment 13.07.1987) in the JHT grade who were appointed as JHT in other regions on dates prior to the date of appointment of Shri Tripathi but continued to serve as JHT in their own respective regions even after Smt. Chavan was promoted as SHT in 1994 in the Western Region. Letter No. a-11013/8/88-Ad.II (IV) dated 16.10.1989 (attached for ready reference) issued by the Ministry regarding creation/abolition of Hindi posts shows that the single post of SHT at the relevant point of time in 1994 stood allocated to the Western Region. Even if the contention of Shri Tripathi that he was senior to Smt. S.R.Chavan is taken to be correct as in 1994 in all likelihood, he would not have had a chance of promotion to SHT because there were officers who had joined as JHT even earlier than him."

5. The Learned Counsel for the Applicant would describe the cited para 5 as wrong.

6. In fact the all India seniority list was prepared in the year 1987 and while so whenever any vacancy arises in the promotional post of Hindi Officer the date of appointment of the individual in the feeder post should be taken note of and the officials are considered for promotion. But in this case it was not done so. Smt. Chavan even



though junior to the applicant she was promoted as though in western region she was senior and that she was promoted. Such ratiocination is against service jurisprudence As such, the learned counsel for the applicant submits that the order of the CAT was not implemented in stricto sensu and as such the OM dated 07.08.2015 falls foul of the said direction and accordingly the contemnors should be punished.

Whereas, the learned counsel appearing for the respondent authorities would vehemently oppose the arguments of the learned counsel for the applicant and point out that absolutely there is no wrong in the OM dated 07.08.2015. Earlier, region wise seniority list was maintained upto 1994. Subsequently, in the year 2012 a consolidated all India seniority list was finalized. At the time of giving promotion, Hindi Officer post was available in Western Region and there Smt. Chavan was working as Senior Hindi Translator and hence, she was promoted in 1994 taking into account the then existing seniority list. There was no categorical direction in the order of the CAT to give promotion to the applicant with retrospective effect. Accordingly, the learned counsel for the respondent authorities would pray that strictly in accordance with the order of this CAT OM dated 07.08.2015 was issued. Accordingly he would pray for the dismissal of this CPC.

7. The point for consideration is as to whether the respondent authorities violated the order of the CAT, Calcutta Bench

8. Considering the factual matrix of the matter, we are of the considered view that the respondent authorities applied their mind, took a decision and passed the OM dated 07.08.2015. If the applicant

is dissatisfied with the said decision it is open for him to file a fresh OA as against the said OM dated 07.08.2015.

9. Here we have to see whether the respondent authorities committed any wilful contempt of the order of this CAT. The Learned Counsel for the Applicant would submit that in paragraph 5 of the OM there was wrong statement that in the year 1994 there was region wise seniority list but the RTI information which the applicant obtained would exemplify and demonstrate that even in the year 1986 itself there emerged an all India seniority list. The learned counsel appearing for the respondent authorities would stick to the version as found set out in the OM dated 7.8.2015. At this juncture in view of our findings that the applicant has to, if so advised, challenge the OM. As such we are of the opinion that there is no wilful violation of the order of this CAT and while closing this CPC we record that liberty is given to the applicant to file a fresh OA if so advised challenging the OM dated 07.08.2015 as per Law.

9. This CPC is accordingly closed and notices are recalled.
No costs.

(Jaya Das Gupta)
Admn. Member

(Justice G.Rajasuria)
Judicial Member

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