

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1099/2003

New Delhi this the 4th day of August, 2003.

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S.K. Naik, Member(A)

1. R.S. Pathak,
S/o Sh. H.L. Pathak,
R/o 285-A, Gali No.10, **Maha Laxmi Encl. Karawal Ngr., Delhi-94.**
Welfare/Probation Officer,
(on ad hoc appointment as
Dy. Supdt.), working in F.A.S.
at Delhi Gate, Delhi.
2. Mohinder Singh,
S/o Sh. Revti Nandan,
R/o B-160, Avantika,
Sector-1, Rohini, Delhi,
Welfare/Probation Officer,
Ad hoc Dy. Supdt., working as
Insp. RGO, Curzon Road,
New Delhi.
3. G.S. Sirohi,
S/o Sh. M.S. Sirohi,
R/o R-61-D, Street No.16,
Swantantra Nagar, Narela,
Delhi, Welfare/Probation Officer,
(ad hoc Dy. Supdt. Poor House,
Narela), working at Beggar Home,
Lampur, Delhi.
4. D.S. Sharma,
S/o Sh. Ramesh Chander,
R/o B-1/221, Yamuna Vihar,
Delhi, Instructor, (ad hoc
Dy. Supdt.), RCC, Poor House
Complex, K.W. Camp, Delhi.

.... Applicants

.....All in the Department of Social
Welfare, Govt. of NCT of Delhi, Delhi.

(through Sh. G.S. Gupta, Advocate)

Versus

1. Govt. of NCT of Delhi through
the Lieutenant Governor of Delhi,
Raj Niwas, Delhi-7.
2. The Secretary, Deptt. of Social
Welfare, Govt. of NCT of Delhi,
New Secretariat Building,
I.P. Estate, New Delhi-2.
3. The Director, Deptt. of Social
Welfare, Govt. of NCT of Delhi,
1, Canning Lane, Kasturba Gandhi
Marg, New Delhi-1.

.... Respondents

(through Sh. Ashwani Bhardwaj, proxy for Sh. Rajan
Sharma, Advocate)

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ORDER (ORAL)
Shri Justice V.S. Aggarwal, Chairman

The applicant seeks quashing of the orders purported to have been passed by the respondents dated 22.4.2003 withdrawing the grant of the Assured Career Progression Scheme granted.

2. It becomes necessary to mention that persons other than the applicants had filed OA-2437/2003. This Tribunal on 19.9.2002 had passed the following order therein:-

"The applicants joined the Department of Social Welfare, Govt. of N.C.T. of Delhi as Welfare/Probation Officers more than 24 years back. None of them is alleged to have been promoted during this period. The grievance of the applicants is that they have not been even given the benefit of Assured Career Progression Scheme despite their eligibility and having represented to that effect.

2. At this stage, when the rights of the respondents are not likely to affect, we deem it unnecessary to show cause notice while deciding/disposing the present application. It is directed that the respondents will go into the representations (Annexures A-8 to A-21) and also the fact that the other similar persons specifically alleged to have been given the Assured Career Progression Scheme vide annexure A-6. Speaking order in this regard should be passed within a period of three months from the date of receipt of the certified copy of this order."

3. Those applicants in the above mentioned Original Application filed a Contempt Petition No.

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11/2003 which was disposed of by this Tribunal on
25.3.2003 holding:-

"Having regard to the orders of the Tribunal dated 19.9.2002 in OA-2437/2002 and the orders issued by the respondents in compliance thereof dated 3.2.2003 and 5.3.2003, we are unable to agree with the contentions of the learned counsel for petitioners that there is any contumacious or wilful disobedience of the Tribunal's order to the extent that they have done so far. However, we note the averments of the respondents in the order dated 5.3.2003, inter alia, that the Department has already started the process for reviewing the order dated 10.2.2001 and subsequent order dated 31.3.2002. Learned counsel for petitioners himself has submitted that this process of review is with regard to the ACP Scheme referred to in the aforesaid order of the Tribunal as Annexure A-6. He has submitted that certain other persons had been given the benefit of higher pay scale vide Annexure A-6 order, which has not been extended to the petitioners. However, we note that the respondents are in the process of reviewing these orders.

2. In the facts and circumstances of the case, we find no justification to punish the alleged contemnors for wilful or contumacious disobedience of the Tribunal's order, but we note that they have indeed delayed the process of implementation for which they have apologised. In the circumstances of the case, we accept the apology and dispose of this CP granting the respondents further two months to complete their review of the orders mentioned above in their own order dated 5.3.2003 and pass appropriate orders in the matter with intimation to the petitioners."

4. During the course of submissions we had after hearing the learned counsel for applicant put it to the respondents' counsel as to why before passing

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such an order the benefit that had accrued to the applicants has been withdrawn without issuing a show cause notice to the present applicants.

5. In answer the respondents' learned counsel had asserted (a) some other applicants referred to above had filed OA-2437/2002 wherein in compliance of the directions of this Tribunal a comprehensive order had to be passed. Therefore, no show cause notice was required to be issued; and (b) the clarifications had been received from the Ministry of Personnel, Public Grievances and Pensions on 18.2.2002 and in compliance thereto the order had to be issued that the applicants were not entitled to the Assured Career Progression Scheme which had been inadvertently given to them.

6. We have carefully considered the said submissions. The principle of law is not in dispute. The principle of natural justice cannot be ignored. When civil consequences flow from an order then ordinarily the benefit will not be withdrawn unless a show cause notice is issued in this case.

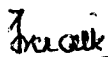
7. Can in the facts of the present case, the broad principle stated in (b) above be not applicable? The doctrine of idle formality will not be attracted herein. Reasons are obvious. In the earlier OA-2347/2002 in which the applicants were not a party

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directions were given to decide the said representation. Obviously it was confined to the applicants therein. It will not become an order passed in rem in the Contempt Petition that flowed therein. Thereafter, there is only a reference that decision is being taken to review the order. The scope of Contempt Petition is only to find out whether the order has been complied or dis-obeyed to prompt the Tribunal to Act. Therefore, the same cannot be read so as to hold that the department has been permitted to do so by this Tribunal by any stretch of imagination in not issuing a show cause notice to those who are not parties.

8. It is true that certain clarifications have been received from the Ministry of Personnel, Public Grievances and Pensions. However, while we are not expressing ourselves pertaining to the details of the same, we only make it clear that even if the same were to be looked into with the rights that had accrued to a person by virtue of any order, it should not have been withdrawn without issuing a show cause notice. Keeping in view the aforesaid, we for the present, do not find merit in the respondents' submissions.

9. For these reasons, we allow the present application and quash the impugned order. However, by way of abundant caution we make it clear that the respondents, if so advised, may issue a show cause notice and pass an appropriate order, in accordance with law.



(S.K. Naik)
Member(A)



(V.S. Aggarwal)
Chairman