

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

C.P. NO.222/2006

in

O.A. NO.3185/2003

This the 31st day of August, 2006

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J)

1. All India Narcotics Executive Officers Association (an Association recognized vide Ministry's F.No.B-12017/95-AD IV-A Dated 28.8.2001) through its President, 19 The Mall, Morar, Gwalior-474006 (MP).

2. S. S. Dewangan, working as Superintendent, Govt. Opium & Alkaloid Factories, 27 Saraswati House, 5th Floor, Nehru Place, New Delhi-110019.

... Applicants

(By Shri Pradeep Dahiya, Advocate)

versus

1. Shri K. M. Chandrashekhar, Revenue Secretary, Ministry of finance, Department of Revenue, North Block, New Delhi.
2. Shri Rakesh Singh, Joint Secretary (Revenue), Ministry of Finance, Department of Revenue, North Block, New Delhi.
3. Shri V. P. Singh, Chairman, Central Board of Excise & Customs, Ministry of Finance, Department of Revenue, North Block, New Delhi.
4. Shri Deepak Khandekar, Joint Secretary (Administration), Central Board of Excise and Customs, Ministry of Finance, Department of Revenue, North Block, New Delhi.



5. Dr. Adarsh Kishore,
secretary (Expenditure),
Department of Expenditure,
Ministry of Finance,
North Block, New Delhi.

6. Smt. Jagjeet Pavadia,
Narcotics Commissioner,
Central Bureau of Narcotics,
19, The Mall, Morar,
Gwalior-474006.

... Respondents

(By Shri R. R. Bharti, Advocate)

ORDER

Hon'ble Shri V. K. Majotra, Vice-Chairman (A):

By this application has been alleged deliberate and wilful non-compliance of Tribunal's directions contained in order dated 30.8.2005 in OA No.3185/2003. The OA was disposed of with the following observations directions to respondents:

"17. If one has regard to the above analysis of facts and law, the present is a case in which in the case of Inspectors (Narcotics) the 5th CPC had denied parity to them with other similarly situate Inspectors merely on the basis of one factor; the recommendations of the Narcotics Commissioner and the Chairman, CBEC were not considered in detail, the demands of applicants in regard to disparity of pay scales were not considered by the Fast Track Committee. It could also not be ascertained whether the Departmental Anomaly Committee considered the demands in question. Here is a fit case in which though we are not ourselves interfering to adjudicate the issues, in the interest of justice find it necessary to direct respondents to reconsider the matter in the following terms:

- i) Impugned orders dated 27.10.2003 are quashed and set aside.
- ii) Present OA shall be considered as a representation to respondents.
- iii) Respondents shall constitute a Committee comprising Joint Secretaries of the Department of Expenditure, the Department of Personnel and Training and the Department of Revenue, who shall afford a hearing to a group of five members of the applicant Association, and



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make its recommendations on the claims made in the OA. These recommendations shall be made within three months of the communication of these orders.

- iv) The Department of Revenue/competent authority shall pass orders on the claims of applicants within a period of one month from the date of submission of the report of the above Committee.

18. The OA stands disposed of in the above terms.”

2. It has been stated in the petition that while originally respondents were provided four months' time for submission of the report by the Committee as also for taking final decision by the Department of Revenue/competent authority, however, later on this period was extended up to 12.7.2006 by the Tribunal.

3. On the other hand, respondents have filed a copy of their order dated 10.7.2006 (Annexure R-I) passed in pursuance of Tribunal's directions as also on the basis of recommendations of the Committee of Joint Secretaries in consultation with the Department of Expenditure (IC) rejecting the claim of applicants as the next Pay commission would examine applicant's case and make specific recommendations thereon.

4. The learned counsel of applicants stated that while the Committee was required to make recommendations treating the OA as representation of applicants and the Department of Revenue was required to pass orders on such recommendations, the Committee and the Department of Revenue have circumvented the Tribunal's directions vide Annexure R-I and denied applicants' claims. The learned counsel further stated that the Tribunal had not directed the Department of Revenue to have consultation with the Department of Expenditure, but the Department of Expenditure was consulted. He further took exception to the observation of the



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Committee that any change in the pay scale of the concerned post^s at this stage could lead to avoidable repercussions as the same would result in disturbance of the horizontal and vertical relativities with other similarly placed/analogous posts (emphasis added). The learned counsel stated that respondents have not specified the "other similarly placed/analogous posts" whose horizontal and vertical relativities could be disturbed in case applicants' claims are allowed.

5. On the other hand, respondents have stated that they have complied with directions of this Court fully inasmuch as a Committee of Joint Secretaries was constituted to examine applicants' OA as their representation which made its recommendations, which were considered by the respondent authorities in consultation with the Department of Expenditure. The Committee had recommended that applicants should continue in their existing pay scale till the time the next Pay Commission examines their case and makes a special recommendation thereon.

6. We have considered the contentions made on behalf of parties as also perused the material available on record. It is observed that though initially respondents were accorded four months' time for compliance with the directions of the Court, later on the time limit was extended up to 12.7.2006. Respondents have passed orders in pursuance of Tribunal's directions on 10.7.2006. Annexure R-5 dated 7.7.2006 is the report of the Committee of Joint Secretaries constituted in pursuance of Tribunal's directions. A group of five members of the applicant association was accorded a hearing by the Committee on 4.1.2006. Their submissions had been recorded in Annexure R-5. The Committee's observations/recommendations are as follows:

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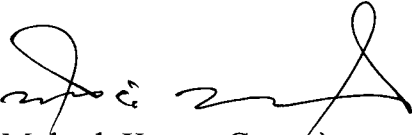
“4. After careful consideration of all the points put forth by the representatives of the Association, the Committee was of the considered view that the pay scales for these posts were in accordance with the recommendations of the Fifth CPC or subsequently modified by the Government in respect of the post of Superintendents. The Committee also observed that any change in the pay scale of the concerned posts at this stage could lead to avoidable repercussions as the same would result in disturbance of the horizontal and vertical relativities with other similarly placed/analogous posts. The Committee accordingly had a view that the claim of the applicants for grant of higher pay scales to the concerned posts is devoid of merits and the posts should be operated in the existing pay scales only. A Pay commission would be best placed to take a considered view on the issue.”

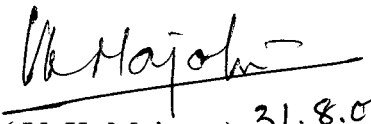
7. True that the report of the committee does not state the horizontal and vertical relativities of which similarly placed/analogous posts would be disturbed in the event of acceptance of applicants' claims, however, no exception can be had to consultation with the Department of Expenditure (IC) as the Tribunal itself had directed that the “Department of Revenue/competent authority shall pass orders”. It is well known that final clearance on financial matters such as upgrading of pay scales etc. has to be approved by the Department of Expenditure.

8. In view of *J. S. Parihar v Ganpat Duggar* [1997 (1) SLJ 236 (SC)], it is trite law that once there is an order passed by the Government in pursuance of directions of the Court, there arises a fresh cause of action to seek redressal in an appropriate forum. As such a contempt petition is not the remedy in such circumstances. Respondents have given their reasons for non-acceptance of applicants' claims. We do not find any wilful disobedience of Tribunal's directions. Accordingly, this contempt petition

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is dismissed, however, with liberty to applicants to assail Annexure R-1 dated 10.7.2006, i.e., respondents' orders in implementation of Tribunal's directions, by resorting to appropriate proceedings, as per law.


(Mukesh Kumar Gupta)
Member (J)


(V. K. Majotra) 31.8.06
Vice-Chairman (A)

/as/