

(AS)
CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

CP NO. 267/2004
OA NO. 2218/2003

This the 28th day of September, 2004

HON'BLE MR. JUSTICE M.A.KHAN, VICE CHAIRMAN (J)
HON'BLE MR. S.K.MALHOTRA, MEMBER (A)

Rajender Chauhan,
S/o Late B.S.Chauhan,
R/o B-323, Saraswati Vihar,
Delhi-110034.

(By Advocate: Sh. Sumit Kumar)

Versus

Mr. J.P.Dixit,
Acting Director
National council of Educational
Research and Training (NCERT),
Sri Aurobindo Marg,
New Delhi-110016.

(By Advocate: Ms. Deepa Rai proxy for Sh. R.K.Singh)

ORDER (ORAL)

Hon'ble Mr. Justice M.A.Khan, Vice Chairman (J)

OA-2218/2203 was disposed of by this Tribunal on 26.2.2004 by making
the following orders:-

“However, parting with this case, we make it clear that the applicant has to be considered against regular promotion after completing necessary period and if no promotion be made after completion of the said period, he has also to be considered for ACP Scheme. No costs.”

2. The present application is filed by the applicant for initiating proceedings under Contempt of Court ^{Act} against the respondents for committing willful disobedience of the directions given by this Tribunal in the above order. In the reply, respondent has repudiated the contention of the applicant that the order of

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this Tribunal has not been implemented. It is submitted that the application is devoid of any merit and should be dismissed.

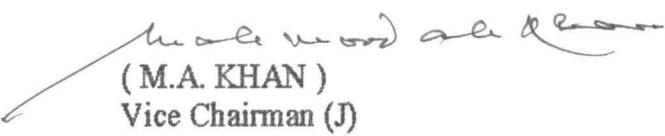
3. At the time of hearing, counsel for applicant has conceded that the respondents have considered the case of the applicant for grant of financial upgradation under ACP scheme in terms of the order of this Tribunal but they have rejected the claim of the applicant on the ground that he was not eligible in terms of clarification on the point of doubt No. 38 issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) OM No. F.3504/1/97-Estt.(D) (Vol.IV) dated 18.7.2001. Counsel has argued that this question whether the applicant was eligible to be considered for financial upgradation under ACP Scheme in view of OM No. F.3504/1/97-Estt.(D) (Vol.IV) dated 18.7.2001 came up for consideration of this Tribunal and it was dealt with in para 11 of the order and decided in favour of the applicant. The respondents by taking a contrary view have deliberately disobeyed the order of this Tribunal in not granting the upgradation under ACP Scheme in terms of the order of the Tribunal.

4. The bare perusal of the order of this Tribunal would disclose that this Tribunal had only asked the respondents to consider the case of applicant for regular promotion after he has completed the necessary period and in the event he was not promoted he would be considered for upgradation under the ACP Scheme. Respondents were required to consider the applicant for grant of benefit under ACP Scheme since he had not been given promotion. They have in fact considered his case but have rejected it. This Tribunal will not enter into the question whether the claim of the applicant for upgradation under ACP scheme was rightly or wrongly rejected by the respondents or even whether the applicability of OM No. F.3504/1/97-Estt.(D) (Vol.IV) dated 18.7.2001 was considered and was adjudicated upon in the order by which the OA was disposed of and whether the order of respondents dated 29.7.2004 (Annexure P-4) runs counter to any observation of this Tribunal made in the order. Applicant, if

unanimous decision



aggrieved by the order dated 29.7.2004 is free to seek redress of his grievance in any other appropriate legal proceeding. Contempt petition is not proper proceedings for it. For the reasons stated above, we do not find that the respondents have committed contempt of this court and are liable to be proceeded against under Contempt of Courts Act. Show cause notice is discharged. Application is dismissed. But, it will be open to the applicant to seek redressal of his grievance in any other proceedings in accordance with law.


(S.K. MALHOTRA)
Member (A)
(M.A. KHAN)
Vice Chairman (J)

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