

(6)

25.2.2005

31.  
MA 267/2005  
MA 2119/2004  
OA 2326/2003

Present: Shri B.S.Jain, counsel for applicant in MA.  
Shri B.B.Raval, counsel for respondent in MA.

MA 267/2005

Respondents have filed this application to extend the time limit by at least four months instead of two months earlier granted to get the judgement fully implemented. They have sought four months' time including the time, which has already been granted for implementing the order of the Tribunal in OA 2336/2003 vide order dated 8.7.2004.

The Tribunal by order dated 8.7.2004 had directed the respondents to finalize the related recruitment rules expeditiously and preferably within a period of three months from the date of communication of the order. They were further directed to consider according benefit of second financial up gradation to the applicants within a period of two months after the finalization of the recruitment rules as above.

It is submitted that respondents had filed MA 2219/2004 for extension of time for implementing the order of this Tribunal by six months. The MA was disposed of by order dated 6.12.2005 and the time was extended upto 31.1.2005. It was made clear that no further extension of time would be granted.

Present MA is for further extension of time for implementing the order. Learned counsel for applicant has submitted that he does not wish to file reply to the MA and he wanted to argue the matter on the basis of available material.

Learned counsel for respondents (applicants in MA) has stated that the recruitment rules have now been finalized and have been sent to the Government of India Press for issuing Notification. He further submitted that <sup>of</sup> in printing the recruitment rules will take at least six weeks <sup>^</sup> in printing the recruitment rules. It is also submitted that after the recruitment rules are notified, it will take some more time to implement the second direction of this Tribunal as contained in the order dated 8.7.2004, i.e. direction regarding grant of second financial upgradation for the applicant <sup>for</sup> which two months' time was

granted by the Tribunal. He, therefore, submitted that the time may be granted for four months, which included the time for printing the recruitment rules, and thereafter two months' time which was granted for implementing the second part of the order.

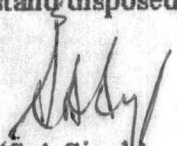
Conversely the arguments of the counsel for original applicant is that the present application is not maintainable. The Tribunal had already granted time upto 31.1.2005. It was specifically <sup>stated</sup> in the order that further extension would not be granted. It is submitted that any further extension of time as prayed in the present application would amount to review of the order. He further stated that this matter may be referred to the Larger Bench for consideration of this question.

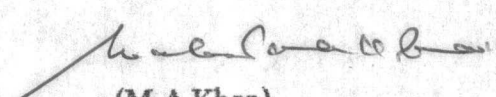
We are unable to agree with this contention made by the learned counsel for original applicant that question raised required consideration by a Large Bench. The Tribunal had observed that further time will not be granted but that would not debar the Tribunal from the exercising the power for extension of time. No contrary view was taken in any of the judgement which may require further consideration whether matter is referred to a Larger Bench of the Tribunal.

The applicants (original respondents) in the application have given good and sufficient reason for according him further time to implement the order. It is also to be noted here that this Tribunal in its order-dated 8.7.2004 has directed the respondents to finalize the recruitment rules as expeditiously and preferably within a period of three months from the date of communication of the order. The Tribunal has not given a firm date by which the order was to be implemented. Time granted was flexible <sup>at</sup> but the same time the respondents <sup>have</sup> ~~have not~~ expected to adhere to the time fixed by the Tribunal as far as possible. <sup>respondents have</sup> the Recruitment Rules could not be finalized, they approached the Tribunal for further extension of time. The recruitment rules have now been finalized on 25.1.2005 and have been sent to the Government of India Press for publication. It is stated that at the Bar that the process of printing and issuing the Notification will take at least six <sup>weeks</sup> ~~months~~. This Tribunal granted two months time to the respondents after the Rules were finalized to consider for granting the benefits of second financial upgradation of the applicant. In the totality of the facts and circumstances of the case, we accept the

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prayer made in the application and grant four months time to the respondents, which included the time, that had been granted by order dated 6.12.2004. The application is stand disposed of.

  
(S.A. Singh)  
Member (A)

  
(M.A. Khan)  
Vice-Chairman (J)

/kdr/