

Central Administrative Tribunal
Principal Bench

CP-55/2004
with
CP-85/2004 In
OA-2442/2003

New Delhi this the 25th day of May, 2004

Hon'ble Shri V.K. Majotra, Vice Chairman (A)
Hon'ble Shri Kuldip Singh, Member (J)

CP-55/2004

O.N. Mathur
S/o Shri J.N. Mathur,
Resident of: A-141
Priyadarshini Vihar,
I.P. Extension,
Delhi-110092.

-Petitioner

(By Advocate: Shri B.B.Raval)

Versus

1. Shri Pradipto Ghosh,
Secretary,
Ministry of Environment and Forests,
Government of India,
Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi.
2. Dr. V. Rajagopal,
Chairman,
Central Pollution Control Board,
Parivesh Bhawan, East Arjun Nagar,
Shahdara, Delhi-110092.
3. Shri K.V. Swaminathan,
Administrative Officer (R),
Central Pollution Control Board,
Parivesh Bhawan, East Arjun Nagar,
Shahdara, Delhi-110092.

-Respondents

(By Advocate: Shri R. Venkatramani, sr.counsel with
Shri S.M.Arif, for R-2&3.
Shri Y.S. Chauhan, proxy counsel for
Shri M.M.Sudan, for R-1).

CP-85/2004

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4. Shri Ramesh Chand,
Administrative Officer (P)
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ORDER (Oral)

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

Both these CPs are being disposed of by this common order as in these CPs allegations have been made regarding disobedience of the directions of this court by consecutive actions on the part of the respondents.

2. In OA-2442/2003 applicant had challenged Circular dated 21.7.2003 whereby respondents had invited applications for filling up the post of Finance/Accounts Officer, Group 'A' in the Central Pollution Control Board on deputation basis (including short term contract) and sought his regularisation on



the post as he had been functioning on that post on ad hoc basis since 23.6.1995. On 3.10.2003, following directions were made:-

"Short notice be issued to the respondents on the prayer for interim relief which may be listed for consideration on 16.10.2003. In the meanwhile, respondents shall refrain from appointing another person on the post on deputation in pursuance of the circular dated 21.7.2003".

3. On 30.1.2004 respondents issued an Office Memorandum to the effect that since extension beyond 23.9.2003 has not been granted, applicant held his substantive post of Accounts Officer with effect from 24.9.2003 instead of Finance & Accounts Officer.

4. In CP-55/2004, it is alleged that respondents have deliberately committed contempt of court by issuing a Memorandum dated 30.1.2004. Subsequently, respondents have issued Office Order dated 26.2.2004 whereby applicant's pay has been reduced to the scale of pay in the post of Accounts Officer w.e.f. 24.9.2003.

5. Learned counsel of applicant submitted that the order dated 3.10.2003 in OA-2442/2003 not only prohibited the respondents from appointing another person on the post on deputation in pursuance of the Circular dated 21.7.2003 but the applicant could also not have been reduced to a lower position with lower pay. By doing so, respondents have committed contempt of the court.

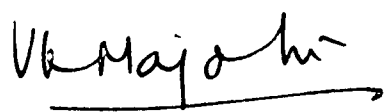
6. Learned counsel of respondents fairly admitted that applicant has been officiating on the post of Finance and Accounts Officer since 26.6.1995. No other person could be promoted on that post though three DPCs had been held. Applicant is still performing the same duties but his designation along with pay has been reduced. Learned counsel stated that the order dated 3.10.2003 could imply that applicant's rank and pay should not be reduced but there are no clear directions to this effect in Tribunal's orders dated 3.10.2003. Learned counsel conceded that applicant's pay could be protected as he is discharging the same functions as he had been doing earlier as officiating F&AO but there is no deliberate and contumacious contempt on the part of the respondents.

7. As there is no clear direction in order dated 3.10.2003 for continuing the applicant on the post of F&AO, there is no deliberate and contumacious contempt on the part of the respondents. However, in the light of order dated 3.10.2003 and assurance made on behalf of respondents that applicant's pay would not be reduced, respondents should continue officiation of the applicant on the post of F&AO till the disposal of OA-2442/2003, which is now stated to be listed on 6.7.2004.

8. Contempt Petitions are disposed of with the above observations. Notices to the respondents are discharged.


(Kuldip Singh)
Member (J)

cc.


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

25.5.04