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Central Administrative Tribunal, Principal Bench

Original Application No.132 of 2003

New Delhi, this the 29th day of May, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. Govindan S. Tampi, Member(A)

Binay Kumar Thakur
S/o Shri Prahlad Thakur
R/o Noida
Working as Engineer
India Government Mint
Sector 1, D-2
Noida-201 301

.... Applicant

(By Advocate: Shri B.B. Khari)

Versus

1. General Manager
India Government MINT
Department of Economic Affairs,
Ministry of Finance,
Sector 1, D-2
Noida - 201 301 (UP)
2. Secretary
Ministry of Finance,
Government of India,
North Block,
New Delhi-110001
3. Shri D.K. Dhillon
Engineer
India Government MINT
Sector 1, D-2
Noida - 201 301 (UP)

.... Respondents

(By Advocate: Shri R.N. Singh, for official respondents
Shri S.C. Soren, for private respondent)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The controversy is brief. Shri D.K. Dhillon had preferred O.A. 2446/99. This Tribunal had disposed of the same directing the respondents to hold a review DPC to consider the case of Shri D.K. Dhillon for regular promotion but the Tribunal further held:

"The applicant, however, cannot claim seniority over S/Shri K.R. Ralli and B.K. Thakur though they have been promoted in 1998. The O.A. is accordingly allowed with costs of Rs.5,000/-

/s/Ag

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(Rupees five thousand only)."

2. In this process, though some relief had been granted but this Tribunal had categorically stated that Shri D.K. Dhillon cannot claim seniority over two persons namely K.R. Ralli and B.K. Thakur.

3. B.K. Thakur is the applicant in the present case. He is aggrieved by the order of 29/30.10.2002 as a result of which the seniority has been changed and despite the directions of this Tribunal, the applicant has been shown junior to Shri D.K.Dhillon.

4. Learned counsel for the applicant contends that by an administrative order passed which is under challenge, once the Tribunal has concluded that the applicant has to remain senior to Shri D.K. Dhillon, he could not be made junior.

5. In their reply filed, reliance is being placed on the fact that because of 85th constitutional amendment and in pursuance of the directions that have been issued on the basis of the said constitutional amendment dated 21.1.2002, the seniority has been disturbed.

6. The said plea necessarily has to be stated to be rejected. Once a matter has been adjudicated as has been referred to above and it has been directed that Shri D.K. Dhillon has to remain junior to the applicant and when the constitutional amendment had already been passed, the only remedy available with the respondents, if any, could be to challenge the order passed by this Tribunal. If any

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provision of law has been ignored, the remedy referred to above could be resorted to. But once the order attained finality, subject to the preceding facts, the same must be obeyed. Resultantly, by the said order the seniority of the applicant necessarily could not be disturbed.

7. Resultantly we allow the present application and quash the impugned order. However, nothing would restrain any of the respondents from taking recourse in accordance with law.

(Govindan S. Tampi)
Member (A)

/dkm/

(V.S. Aggarwal)
Chairman.