

Party Name : DIBEYENDU DAS Vs SAUMITRA BANDHOPADHYAY & ANR

THE HONBLE MR. JUSTICE S.TALAPATRA

None appears for the petitioner when the matter is taken up. Mr. T.D. Majumdar, learned counsel appears for the respondents

Mr. Majumdar, learned counsel has categorically submitted that the judgment dated 11.07.2014 delivered in WP(C) 364 of 2008, has been substantially complied with, except the promotion of the petitioner to the post of Chief Inspector (Food).

At present, there is no vacancy in that post but for purpose of complying the direction as issued by the said judgment and order dated 11.07.2014, delivered in WP(C) No. 364 of 2008, the Finance Department has been approached for permitting the Food & Civil Supplies and Consumer Affairs Department for creating supernumerary post so that the petitioner can be promoted to the post of Chief Inspector(Food) with effect from the date when his junior had been appointed to the said post.

Mr. Majumdar, learned counsel has referred the paragraph 8 of the additional counter affidavit, filed on 16.05.2015. For the purpose of reference, the paragraph-8 of the additional counter affidavit in its entirety is reproduced thereunder:

"That, as the petitioner has already been promoted to the post of Inspector (Food) w.e.f. 06.12.2007, all consequential service benefits, which were kept withheld in connection with Departmental Proceeding drawn against him, has been given to the petitioner complying the directions of Hon'ble High court.

So far as promotion of the petitioner to any next higher post of chief Inspector (Food) is concerned, I submit that since promotion from the post of Inspector to Chief Inspector, as per Recruitment Rules three years in the feeder post will make one eligible for consideration, appropriate authority has been directed to hold Review DPC, as applicable, and place the case of the petitioner before the said DPC for consideration, if eligible. Accordingly, the case of the petitioner has been placed before a meeting of Review DPC held on 15.05.2015. The said DPC found him fit for promotion to the post of Chief Inspector (Food) from the date when his junior was promoted subject to concurrence of TPSC. On getting concurrence from TPSC, the administrative department will move the government in Finance Department for creating a supernumerary post of Chief Inspector (Food) as such vacant post is not available with the department during the material period. I submit that said process requires some more time and as such the Hon'ble Court permit the respondents some more time to complete the process.

In view of the above, I submit that the present petition may kindly be disposed of as being substantially complied with."

Mr. Majumdar, learned counsel has further clarified that in the paragraph-8 of the said counter affidavit, there is no reference as to approaching the Finance Department for according sanction of creating a supernumerary post of Chief Inspector (Food) as that has taken place after filing of the additional reply.

Be that as it may, it appears from the paragraph- 8 that the petitioner has been found suitable for promotion to the post of Chief Inspector (Food) and the department has taken positive initiative to create a supernumerary post for appointment of the petitioner in the post of Chief Inspector (Food).

The respondents have stated that some more time will be required to complete the process. The respondents shall complete the process as expeditiously as possible but not beyond three months from today by any rate. On scrutinizing the records and the statements made by the respondents, this Court is of the view there is no wilful disobedience. As such, no contempt proceeding is required to be initiated under Section 12 of the Contempt of Courts Act, 1971. Accordingly, the notice issued on the respondents are discharged.

However, the petitioner may approach this Court if he is not appointed to the post of Chief Inspector (Food) within the stipulated time.

Having observed thus, this reference stands closed.