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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment delivered on: 18th May, 2015

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CONT.CAS(C) 308/2015

BEENA ANAND

..... Petitioner

Represented by: Mr.R.V.Sinha and Mr.R.N.
Singh, Advocates.

Versus

ANUJ KUMAR BISHNOI & ORS.

..... Respondents

Represented by: Mr. Rahul Sharma and
Ms.Namisha Gupta,
Advocates.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. Vide the present petition, the petitioner seeks directions thereby to initiate contempt proceedings against the respondents for wilful and deliberate disobedience of the order dated 02.08.2011 passed in W.P.(C) No.1483/2005.

2. While disposing of the aforesaid writ petition, in para 19, the Double Bench of this Court passed the following directions:-

“19. The writ petition stands disposed of noting that the direction issued by the Tribunal has been complied with by amending the Recruitment Rules; but would commend to the

department to consider treating ad-hoc promotion of Assistant Research Officers to the post of Scientist 'B' as service rendered as Scientist 'B' for purposes of acquiring 3 years' qualifying service as Scientist 'B' to further move up to the ladder to Scientist 'C'."

3. It is pertinent to note here that vide order dated 28.09.2010 passed in W.P.(C) No.1483/2005, the respondents were directed to sort out the issue and bring before the Court the agreed Recruitment Rules, which were intended to be put in place.

4. Consequent thereto, the respondents brought the Agreed Recruitment Rules notified with effect from 27.11.2010.

5. It is further pertinent to note that in para 14 of the order dated 02.08.2011, the Division Bench of this Court recorded that problem of stagnation has been overcome under the new Recruitment Rules brought in place, therefore, directed the respondents to consider treating *ad hoc* promotion of Assistant Research Officers to the post of Scientist 'B' as service rendered as Scientist 'B' for purposes of acquiring 3 years' qualifying service as Scientist 'B' to further move up to the ladder to Scientist 'C'.

6. It is not disputed that *ad hoc* promotion of the Assistant Research Officers has been considered for the post of Scientist 'B', however, vide order dated 28.08.2014, the respondents passed the order as under:-

" Ministry of Water Resources may kindly refer to their proposal on pre-pages.

2. *The proposal has been examined. In this context it is intimated that as per extant instructions in DoPT OM No.28036/1/2001-Estt(D) dated 23.7.2011, the ad-hoc promotion does not bestow on the person a claim for regular appointment and the service rendered on ad-hoc basis in the grade concerned also does not count for the purpose of seniority in that grade and for eligibility for promotion to the next higher grade. Accordingly, the period of adhoc service as Scientist 'B' would, therefore, not count as eligibility service for promotion to Scientist 'C'.*

*Sd/-
(Jitendra R. Gaikwad)
Under Secretary (RR)''*

7. Learned counsel appearing on behalf of the petitioner submits that vide order dated 02.08.2011, this Court directed the respondents to consider *ad hoc* promotion of the petitioner in Scientist 'B' for the post of Scientist 'C', however, vide order dated 28.08.2014 noted above, the respondents have decided contrary thereto.

8. He further submits that even if the directions passed by the Courts are contrary to the Recruitment Rules, then also the respondents are supposed to comply with the said directions.

9. To strengthen his submissions, learned counsel for the respondents has relied upon a case of ***Chandrabhaga Bai Vs. B.S. Patil, (2004) 13 SCC 698***, wherein the Apex Court held as under:-

“7. The only reason given to us for not complying with the High Court order is that the Rules of the State Government and the subsequent judgment of this Court in the case of *State of M.P. v. Dekinanda Maheshwari* (2003) 3 SCC 183 provide that pension is payable only from the date of the order and not from the date of the application.

8. In our view, it is not open to the respondent to act contrary to a specific direction of a court. At the highest, the respondent can apply for a variation or a clarification of the order. If the clarification/variation is refused, then the only remedy would be to file an appeal. If ultimately the Court decided against the respondent, the respondent is bound to comply with the order of this Court.”

10. It is not in dispute that the Recruitment Rules 2010 had been approved by the Division Bench of this Court in W.P.(C) No. 1483/2005 and the respondents were directed to consider *ad hoc* period of three years of the Assistant Research Officers as qualifying service for purposes of promotion to the post of Scientist ‘B’.

11. Keeping in view the facts and circumstances of the case, in my considered opinion, there was no direction that further *ad hoc* service as Scientist ‘B’ would be treated qualifying service for promotion to the post of Scientist ‘C’. Therefore, case of ***Chandrabhaga Bai*** (*supra*) is not applicable to the present case.

12. In view of the above noted facts, I am not inclined to pass further orders in this petition against the respondents.

13. The petition is accordingly dismissed. However, liberty is granted to the petitioner, if aggrieved with the order dated 28.08.2014 passed by the respondents, to approach the appropriate Forum.

**SURESH KAIT
(JUDGE)**

MAY 18, 2015

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