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

+ W.P.(C) 10179/2009

UOI & ANR.

..... Petitioners

Through: Mr. Prasanta Varma, Sr. Central
Govt. Counsel with Ms. Shalu
Goswami, Advs.

versus

J.K. DANG

..... Respondent

Through: Mr. Sudarshan Rajan & Mr. Mahesh
Kumar, Advs.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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07.02.2019

1. The Union is aggrieved by the order dated 02.04.2009 of the Central Administrative Tribunal (hereinafter, 'CAT') directing it to antedate the promotion of the respondent/applicant in the cadre of LDC, UDC and Assistant level, as in the case of *Sher Singh & Ors. vs. Union of India & Anr*; who were being granted that benefit. It is urged on behalf of the Union that the impugned order passed in contempt proceedings, exceeds the direction given in the original judgment dated 07.08.2006 of the CAT. Learned counsel stressed upon the fact that the Tribunal had directed in the final judgment and order to record the parity to the petitioner, with another employee i.e. Sher Singh in the matter of antedating of appointment. It was

furthermore urged that Sher Singh was a reserved category candidate, and his consequential entitlement to accelerated promotion to a higher cadre has to be worked out differently, and therefore, the applicant's claim had to be dissimilarly treated. On the other hand, counsel for the applicant pointed out that the order of the CAT, directing complete parity with the case of *Sher Singh* has attained finality and since that order has not been challenged and set aside, no fault can be found with the impugned order.

2. The Applicant had approached the CAT based upon the earlier decision in *Sher Singh vs. Union of India*, which was dismissed by the CAT in O.A. No. 1590/1988, but was granted by the judgment of the Supreme Court in C.A. No. 7295/1996 dated 19.11.1998. The controversy was with respect to the treatment of employees who had worked prior to the order and the circular of 1998.

3. At that point in time, the entrant to the cadre of LDC had initially officiated in the post but was later confirmed having cleared the typing test. Sher Singh had similarly officiated for almost between 1964-74 but he approached the Court since the date of confirmation was reckoned before the date to which his regular service was counted. The Court had allowed his claim for antedating of date of entry to the regular category from the date of initially joining, in the light of the earlier decisions.

4. In the present applicant's case in the CAT, in her application i.e. [Smt. J.K. Dang vs. Union of India, OA No. 727/2004] held as follows:-

“3. On careful consideration of the rival contentions of the parties, we cannot deny from the fact that while implementing the directions of the Tribunal in OA-1770/99, a due regard has already been given to D.P. Sharma as well as Sher Singh's case

(supra). It has been advised in principle that where the applicant is identically situated with Sher Singh, taking final stock of the matter where it is observed that applicant would not get any consequential benefits when process is yet to be completed amounts to taking stock of finality, when it is to be attained. We accord to the respondents six months' time to take a final decision in the matter meticulously in true letter and spirit of the directions of the Tribunal (supra) with regard to antedating date of applicant's promotion at three levels viz. LDC, UDC and ACSO and in that event the consequential benefits of pay fixation etc. with arrears would be disbursed to applicant within two months from the date of receipt of a copy of this order."

5. The applicant thereafter approached the Tribunal yet again for invoking the contempt jurisdiction by filling CP No. 340/2007 which was disposed of on 02.04.2009. The CAT, in effect, directed as follows:-

"4. In our considered view, antedating the promotions as LDC, UDC and Assistant level, as done in the case of applicant cannot be differently treated with that of Sher Singh and admittedly when consequential benefits have been given to Sher Singh the import of the directions of this Tribunal is to give benefits to the applicant also at par with Sher Singh. Denial thereof is non-compliance. Accordingly, CP stands disposed of with a direction to the respondents to comply with our directions in true letter and spirit by according consequential benefits at three levels to the applicant, antedating his promotion with arrears at par with Sher Singh except at the level of ACSO for which liberty is accorded to the applicant, within a period of two months from the date of receipt of a copy of this order. No costs."

6. It is quite evident from juxtaposition of the original order dated 07.08.2006 [O.A. NO. 727/2004] and the impugned order dated 02.04.2009 [in contempt proceedings], that all the CAT did was to ensure effectuation of

its previous directions which had attained finality, no more no less. As a consequence we find no infirmity with the impugned order.

7. The writ petition is therefore dismissed.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

FEBRUARY 07, 2019

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