

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

C.P. NO.90/2002
in

O.A. NO.198/2002

This the 23rd day of May, 2002.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Amod Kumar S/O Inder Dev Paswan,
R/O 774, Sector 2, Sadiq Nagar,
New Delhi.

... Petitioner

(By Shri M.K.Bhardwaj, Advocate)

-versus-

1. Union of India through
Deepak Chatterji,
Secretary, Govt. of India,
Udyog Bhawan, New Delhi.
2. Dinesh Kumar,
Under Secretary,
Ministry of Commerce,
C-Wing, Nirman Bhawan,
New Delhi.
3. Arvind Nath Jha,
Section Officer,
Govt. of India,
Ministry of Commerce,
C-Wing, Nirman Bhawan,
New Delhi.

... Respondents

(By Shri S. Mohd. Arif, Advocate)

O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

OA No.198/2002 was disposed of by this Tribunal
vide order dated 23.1.2002 with the following directions:

"3. Having regard to the claims made in this OA, in the interest of justice respondents are directed to consider the claim of the applicant for conferral of temporary status upon him in terms of the DOPT Scheme of 10.9.93 and also the attendant benefits under the Scheme. In case the applicant is found eligible for grant of temporary status, respondents may also consider the applicant for regularisation of his services with consequential benefits. Respondents are

further directed not to dispense with the services of the applicant till they take a decision on his request for grant of temporary status."

2. Applicant has alleged that Court's orders were duly served upon the respondents on 23.1.2002 itself but the respondents deliberately violated the directions of this Court and disengaged him w.e.f. 23.1.1002 though they passed an order on 31.1.2002.

3. After taking into consideration the allegations and the material on record, respondents 2 and 3 were tried for the following charge :


"....that instead of considering the claim of applicant for conferral of temporary status upon him and also to consider regularisation of his services with consequential benefits in wilful and deliberate defiance and violation of Tribunal's orders. You disengaged the services of applicant with effect from 23.1.2002 and did not retain the applicant in service till 31.1.2002 when orders Annexure R-2 were passed rejecting the claim of applicant regarding grant of temporary status etc., and thereby committed contempt of this Tribunal under Section 12 of the Contempt of Courts Act, 1971, within our cognizance."

3. Respondents 2 and 3 did not pleaded guilty to the charge. Respondent No.2 stated as follows :

"I was not aware of the Court;s orders till 25.1.02. I am in charge of Security and General Section. On 28.1.02 I sent note to Reception to allow applicant to come, if he approaches."

Respondent No.3 stated as follows :

"Applicant came to me on 24.1.02 in morning



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at about 10.00 A.M. He did not tell me about Court's orders. I wrote letter to Reception under guidance of Respondent 2 on 24.1.02 not to allow applicant to come."

4. Learned counsel of applicant stated that applicant served a copy of this Court's orders dated 23.1.2002 (Annexure R-2) on respondents on 23.1.2002 itself. On 24.1.2002 vide Annexure R-1, respondent No.3 admitted that applicant appeared in his office but instructions were issued to the Reception that applicant was no longer working with the respondents and that he should not be permitted entry in the respondents' office. Learned counsel stated that despite receipt of orders of the Court, these respondents disengaged applicant from service and passed orders much later on 31.1.2002 denying engagement, grant of temporary status etc. The entire action is alleged to have been in wilful and deliberate violation of the orders of the Tribunal.

5. Learned counsel of respondents, on the other hand, stated that whereas Tribunal's orders dated 23.1.2002 were received in the Central Registry on 23.1.2002 at 5.10 P.M., and although the applicant appeared before respondent No.3 on 24.1.2002 in the morning, he did not tell about Court's orders to respondent No.3. Thus, respondent No.3 wrote a letter to Reception on 24.1.2002 not to allow applicant to enter respondents' office. Learned counsel also stated that respondent No.2 was not aware of Court's orders till 25.1.2002 and he informed the Reception on 28.1.2002 that if applicant approaches, he should be allowed to come. Learned counsel stated that respondents have not wilfully



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and deliberately violated the directions of this Court. He placed reliance on *Buralia H.S. v. Subhash Kumar Saksena*, 1974 (1) SLR 23 (Calcutta High Court) wherein it was held that every infraction of Court's order does not amount to contempt of Court. The Hon'ble Court had further observed that Court's power to punish for contempt must be sparingly used and with circumspection. Punishment for contempt of court is called for only in cases where there has been unequivocal, deliberate and wilful disobedience of the Court's order.

6. We have considered the rival contentions of the parties. From Annexure R-2 it is established that Court's orders dated 23.1.2002 were received by the Central Registry of the respondents on 23.1.2002 by 5.10 P.M. From Annexure R-1 it is established that applicant had appeared before respondent No.3 on 24.1.2002. Respondent No.3 had admitted that applicant had appeared before him in the morning of 24.1.2002 at about 10.00 A.M. The contention of respondents that applicant did not disclose about the Court's orders passed on 23.1.2002 to respondent No.3 is not tenable. Having appeared before respondent No.3 in the morning of 24.1.2002, it was natural for applicant to have produced Court's orders before respondent No.3. It is not natural conduct on the part of an applicant who had been accorded favourable orders by a Court not to produce them before the concerned authorities at the first opportunity when he meets them. When applicant had met respondent No.3 at 10.00 A.M. on 24.1.2002, issuing Annexure R-1 dated 24.1.2002 to the Reception Officer not to allow applicant

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(M)

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to enter respondents' premises is certainly uncalled for and caused an obstruction in applicant's access to respondents' office and also towards implementation of the Court's orders. Issuing of Annexure R-3 dated 28.1.2002 by respondent No.2 to allow applicant to visit respondents' office if he approaches the Reception for the same is misleading. When respondents had received Court's orders on 23.1.2002, when applicant had met respondent No.3 on 24.1.2002 and Court's orders were not complied with and instructions were issued to the Reception Officer on 24.1.2002 not to allow applicant to enter respondents' premises, issuance of Annexure R-3 is meaningless. If indeed respondents had not received Court's orders and even on 28.1.2002 if they wanted to allow applicant to approach them, they should have sent a letter to him rather than to the Reception Officer. When applicant was turned out on 24.1.2002, he would not go again to the Reception of his own until he was called by respondents. Annexures R-1 and R-3 do not establish that respondents had intention of complying with the directions of this Court when respondents had received Court's orders on 23.1.2002. Even if an order is received in the Central Registry and if the Central Registry does not immediately place the Court orders before the concerned officers, no leniency can be shown to the concerned officers as the respondents have to organise the communication system in their organisation properly themselves. Applicant had appeared before respondent No.3 on the morning of 24.1.2002. He too must have spoken about the Court's orders to respondent No.3, but respondent No.3 went on to issue Annexure R-1 "under

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guidance of respondent No.2" on 24.1.2002 not to allow applicant to come to respondents' office. As stated earlier, issuance of Annexure R-3 on 28.1.2002 was meaningless when the applicant had been turned out from respondents' office on 24.1.2002 itself. Whereas we do not find fault with the orders dated 31.1.2002 passed by respondents, issuance of Annexure R-1 after having received Court's orders on 23.1.2002 and after the personal visit of applicant on 24.1.2002, is wilful and deliberate defiance and violation of the orders dated 23.1.2002 of this Tribunal. Similarly, after banning the entry of applicant in their office vide Annexure R-1, issuance of Annexure R-3 instead of informing applicant in case respondents wanted to allow access to applicant, was meaningless and deliberate obstruction in compliance of this Court's orders.

7. After taking into consideration the rival contentions of both sides and the reasons recorded above, we find that there has been a deliberate and wilful disobedience of the orders of this Court calling for punishment for contempt. Here has been a case where infraction of the Court's orders does amount to contempt of court, as respondents 2 and 3 indulged in wilful violation of Court's orders. Accordingly, we find respondents 2 and 3 guilty of contempt of this Tribunal under Section 12 of the Contempt of Courts Act, 1971 read with Section 17 of the Administrative Tribunals Act, 1985, having wilfully and deliberately violated the directions of this Court contained in order dated 23.1.2002 in OA No.198/2002. Accordingly, these

contemners are punished with a fine of Rs.1000/- (Rupees one thousand) each payable to the Registry, within ten days, from their salary, under Section 12 of the Contempt of Courts Act, 1971 and also a cost of Rs.1000/- (Rupees one thousand) each is also imposed on them which shall be payable to the applicant from their salary within ten days from today. In case they fail to pay the cost and fine within the aforesaid stipulated period as directed by this Court, they shall undergo a simple imprisonment for seven days.

8. The present contempt petition is disposed of in the above terms.

S. Raju

(Shanker Raju)
Member (J)

V.K. Majotra

(V.K. Majotra)
Member (A)

/as/