

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

CP NO. 119/2003 IN
OA NO. 162/2002

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This the 3rd day of February, 2004

HON'BLE SH. KULDIP SINGH, MEMBER (J)
HON'BLE SH. S.K. NAIK, MEMBER (A)

Sh. Sanjay Kumar
(Staff Car Driver)
S/o Sh. Shakti Chand
1488/13, Govind Puri, Kalkaji,
Delhi-110019.

(By Advocate: Sh. M.L.Chawla)

Versus

Sh. Bhim Sain
Officer on Special Duty
Office of the Custodian
The Special Court (Trial of Offences Relating
to Transaction in Securities) Act, 1992
Banking Division (Department of Economic Affairs)
Ministry of Finance
3rd Floor, Bank of Baroda, Bhawan,
18, Parliament Street,
New Delhi-110001.

(By Advocate: Sh. Sunil Tyagi)

O R D E R (ORAL)

By Sh. Kuldip Singh, Member (J)

This is a CP filed by the applicant as applicant submitted that respondents have disobeyed the order passed by the Tribunal.

2. Facts in brief are that applicant had filed an OA-162/2002 which was allowed by this Court on 28.2.2003 with the following directions:-

"Counsel for respondents has pointed out that though applicant has sought a relief of regularisation of the applicant as the Staff Car Driver, but the same cannot be allowed. Since the applicant has been engaged in a project which has a fixed tenure under Special Court (Trial of Offences Relating of Transactions in Securities) Act, 1992. But as regards the apprehension of the applicant that respondents are going to engage another driver, is concerned while disposing of the OA, I

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direct that respondents shall not engage any other person as Staff Car Driver in place of applicant so long they require the Staff Car Driver. However, it will not be an impediment to terminate his services in accordance with law."

3. Applicant submits that the post of Staff Car Driver still exist but the respondents have engaged some other person and have not re-engaged the applicant as a Staff Car Driver. Thus, the respondents are in wilful disobedience of the order passed by this Tribunal. The respondents who are contesting the CP submitted that vide letter dated 28.2.2003, department has been conveyed that the post of Staff Car Driver is no more available as the sanction for the same has not been received from the Ministry of Finance under which the respondents are working.

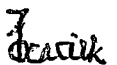
4. The post of Staff Car Driver has to be surrendered by the office of the respondents. Thus, it is submitted that the post of Staff Car Driver is not available at all with the respondents. So there was no question of re-engagement of the applicant as a Staff Car Driver. In order to rebut the same, counsel for applicant submit that when the staff cars are still available at the disposal of the respondents so somebody has to drive the same and some casual labour or some daftry who is driving the vehicle so it amounts to engaging of Staff Car Driver in another nomenclature. So post is available and non-engaging of the applicant by the department is wilful disobedience.

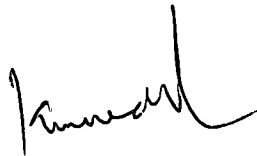
5. We have considered this aspect. From the perusal of the letter dated 28.2.2003, we find that the respondents have been given a specific direction to surrender the post of Staff Car Driver as no sanction of the President is coming forward for

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continuing with the post of Staff Car Driver. So question of re-engaging the applicant as a Staff Car Driver does not arise and it cannot be said at all that the respondents are wilfully disobeying the directions given by this Court.

6. We are of the considered opinion that no case for contempt is made out. CP is accordingly dismissed.


(S.K. NATK)
Member (A)


(KULDIP SINGH)
Member (J)

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