

(RESERVED)

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH,
ALLAHABAD

(This is the 28th Day of JANUARY 2020)

Hon'ble Mr. Rakesh Sagar Jain-JM
Hon'ble Mr. Pradeep Kumar - AM

CCP No.115 of 2017
(Arising out of Original Application No. 1338 of 2016)

1. Sunil Kumar Jatav aged about 42 years, son of Shri Ram Das Jatav, Medically unfit Postal Assistant H.P.O. Jhansi, Presently residing at 952 – New Ram Nagar (Behind Eidgaah) Urai, District: Jalaun (U.P.).

.... **Applicant**

By Advocate: Shri S K Kushwaha

Versus

1. Ms Manisha Sinha, Post Master General, Agra Region, Agra.
2. Shri V K Singh, Senior Superintendent of Post Offices, Jhansi

... **Respondents**

By Advocate: Shri Praveen Shukla

O R D E R

Delivered by Hon'ble Mr. Pradeep Kumar -Member (A)

The instant Contempt Petition has been filed by the applicant alleging non compliance of the Tribunal's order dated 02.05.2017 passed in OA No. 1338 of 2016 wherein directions were issued to the respondents to pass a reasoned and speaking order, keeping in view the letter dated 30.06.2016 and the discussions and observations, made in Para-5 of Tribunal's order within a period of two months from the date of receipt of certified copy of the order.

2. In compliance, the respondents passed an order dated 03.07.2017 whereby the claim of the applicant was rejected. However, the applicant claimed that this order was not in full compliance of the order passed by this Tribunal as the same was a non-speaking order, and while passing the

aforesaid order, the letter dated 30.06.2016 was not considered which was written by Sr. Supdt. Post Office, Jhansi in favour of the applicant.

Thereafter, the matter was heard at length and vide order dated 13.02.2018, this Tribunal observed that the order dated 03.07.2017 passed by the respondents was not sufficient compliance and six weeks further time was given to the respondents to comply with the order dated 02.05.2017.

3. In compliance of the order dated 13.02.2018, the Post Master General, Agra Region, Agra passed an order dated 21.03.2018. This was again challenged by applicant. Vide order dated 13.11.2018, this Tribunal rejected this compliance also and directed the respondent no. 1 to reconsider the matter and pass a fresh order in compliance of the order dated 02.05.2017.

Thereafter, the Senior Superintendent of Post Offices, Jhansi Division, Jhansi passed another speaking order dated 14.12.2018. The applicant pleaded that even this order also cannot be taken to be compliance of Tribunal's directions dated 02.05.2017.

4. We have heard Shri S K Kushwaha, Advocate representing the applicant and Shri Praveen Shukla, Advocate representing the respondents at length.

5. This Tribunal considers it necessary to go through the order dated 02.05.2017 passed in OA No. 1338 of 2016, the order dated 13.02.2018 passed in CCP No. 115 of 2017 and the order dated 14.12.2018 passed by the respondents. The salient parts of these orders are reproduced below:-

Order dated 02.05.2017 passed by Tribunal in OA No. 1338 of 2016

"5. xxx

Accordingly, the impugned order dated 21.06.2016 has been issued to the applicant and a letter dated 30.06.2016 has been written to the Post Master

General, Agra Region, Agra for deciding the case of applicant, copy of which has been sent to the applicant.

6. From the above chronology of events, as stated by the applicant and admitted by the respondents, it reveals that the applicant continuously gave representations to the respondents about his illness and also requesting the respondents for constitution of Medical Board and also produced before the respondents various medical certificates which proves that the absence of applicant in the department was due to his illness and not intentional which cannot be termed as unauthorised absence. Hence, the respondents are directed to take a decision on the letter dated 30.06.2016 keeping in mind the discussions and observations, made specially in para-5 above, within a period of two months from the date of receipt of a certified copy of this order."

Order dated 13.02.2018 passed by Tribunal in CCP No. 115 of 2017

5. In this case, the respondents were directed in the order dated 02.05.2017 to take a decision on the letter dated 30.06.2016 which was written by respondent No. 5 in the OA, i.e., Sr. Supdt. Post Offices, Jhansi where it was suggested that the period of absence of the applicant would be treated as dies-non. But in the order dated 03.07.2017 stated by the respondents to be in compliance of the order dated 02.05.2017 vide para 15 of the affidavit filed by the respondents (sic).

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7. In view of the above, we are not inclined to accept the contention of the respondents that the order dated 03.07.2017 is sufficient compliance of the order dated 02.05.2017 of this Tribunal in OA No. 1338/2016. However, an opportunity is given to the respondents of this contempt petition to comply the order dated 02.05.2017 within further six weeks time and file a brief compliance affidavit enclosing any fresh order, if passed in this case in compliance of the order dated 02.05.2017, failing which the respondent No. 2 is directed to remain personally present in the Court on the next date of hearing."

Order dated 14.12.2018 passed by the respondents in compliance of order dated 02.05.2017 and 13.02.2018 in CCP No. 115 of 2017

"In Compliance of Hon'ble CAT Allahabad order dated 13.02.2018 in CP No. 115/2017 in OA No. 1338/2016 (Sunil Kr. Jatav Vs UOI & Others). The Representation of Sri Sunil Kumar Jatav PA for invalid retirement on medical ground was considered by the competent authority. After considering the representation and discussion in para 05 of Hon'ble CAT order dated 02.05.2017, issues raised with reference to SSPOs Jhansi letter dated 30.06.2016 addressed to PMG Agra and copy marked to the applicant the competent authority has discussed as under:

Sri Sunil Kumar Jatav whose date of Birth is 13.12.1975 and date of Joining in the department as Postal Assistant is 09.07.1996 was on two day casual leave on 08.03.2011 and 09.03.2011 during Casual leave Sri Sunil Kumar Jatav submitted medical certificate and thereafter he did not return on duty and continuously submitted medical certificate till 27.09.2013 with details as under:-

"xx

.....it is also observed that Shri Sunil Kumar Jatav requested for invalid retirement on medical ground in his letter received in DO Jhansi on 27.09.2013 and prescribed format of medical certificate was sent by the SSPOs Jhansi to the official on 17.04.2014 asking him to submit after getting filled by competent medical authority. Although this is liability of the official to obtain Medical Unfit Certificate to apply for Invalid Retirement on medical ground, however, the Chief Medical Officer Jhansi was addressed by SSPOs Jhansi on 03.09.2015 as per request of the official for medical examination of the official and issuing medical unfit certificate in the case. Hence, the postal administration can not be held responsible for delay in issue Medical Unfit Certificate in favour Shri Sunil Kumar Jatav by State Health Authorities.

In the light of judgement dated 13.11.2018 of Hon'ble CAT Allahabad, the leave due & admissible to the applicant may be sanctioned taking into account the SR-1 (Application for Leave) for the period 09.03.2011 to 30.09.2013 & medical certificate submitted by the official and for remaining period extra ordinary leave may be considered. Since the official did not submit any medical certificate for the period from 01.10.2013 to 17.03.2016 till the date of medical unfit certificate, this period may be treated as dies-non.

In this light of provision contained in Rule-12 (1) & 12(2) of CCS Leave Rules 1972 (FR SR Part-III) the official will be deemed to have resigned from government service w.e.f., 17.03.2016.

Therefore in view of foregoing discussion, the competent authority has decided the issue accordingly.

The official may be informed accordingly and fresh affidavit in compliance of Hon'ble CAT order dated 02.05.2017 and 13.11.2018 may be filed before 20.12.2018.

These issues with the approval of competent authority."
(Emphasis supplied)

6. From the above, this Tribunal is of considered view that the respondents have substantially complied with the order dated 02.05.2017 passed in OA No.1338 of 2016 and order dated 13.02.2018 passed in CCP No. 115 of 2017. Accordingly, nothing survives in CCP No. 115/2017. The Contempt Petition is closed and notices are discharged.

(Pradeep Kumar)
Member (A)

Arun

(Rakesh Sagar Jain)
Member (J)