

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

**C.P.No.45/2019 in
OA No.533/2019**

**C.P.No.46/2019 in
O.A.No.534/2019**

Reserved on: 02.03.2020
Pronounced on:11.03.2020

**Hon'ble Mr. Suresh Kumar Monga, Member (J)
Hon'ble Mr. A. Mukhopadhaya, Member (A)**

C.P.No.45/2019 in OA No.533/2019

Jagdish Prasad Mahawar Son of Shri Kanhiya Lal Mahawar, aged about 51 years, resident of 2601, Pipal Ka Kua, Ward No.43, Ajmer-305007 and presently working as Multi Tasking Staff (MTS) in Archaeological Department, Ajmer Sub Division, Ajmer-305004.

...Petitioner

(By Advocate: Shri C.B.Sharma)

Versus

1. Dr.V.S.Badiger, Superintending Archaeologist, Archaeological Survey of India, Jodhpur Circle, Arid Forest Research Campus, Krishi Upaj Mandi, New Pali Road, Jodhpur-342005.
2. Mahindra Pratap Singh Bhati, Assistant Conservator of Archaeological Survey of India, Archaeological Department, Ajmer Sub Division, Aana Sagar, Baradari, Ajmer-305004.

...Respondents.

(By Advocate: Shri Anand Sharma)

C.P.No.46/2019 in OA No.534/2019

Jagjeet Singh Son of Late Shri Sunder Singh, aged about 56 years, resident of C-1033, Panchsheel, C-Block, Ajmer-305004 and presently working as Multi Tasking Staff (MTS) in Archaeological Department, Ajmer Sub Division, Ajmer-305004.

...Petitioner

(By Advocate: Shri C.B.Sharma)

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Versus

1. Dr.V.S.Badiger, Superintending Archaeologist, Archaeological Survey of India, Jodhpur Circle, Arid Forest Research Campus, Krishi Upaj Mandi, New Pali Road, Jodhpur-342005.
2. Mahindra Pratap Singh Bhati, Assistant Conservator of Archaeological Survey of India, Archaeological Department, Ajmer Sub Division, Aana Sagar, Baradari, Ajmer-305004.

...Respondents.

(By Advocate: Shri Anand Sharma)

ORDER

Per: A.Mukhopadhyaya, Member (A):

With the assent of learned counsels for the parties, both these Contempt Petitions, (CPs), are being disposed of by a single order as the respondents/alleged contemnors in both cases are the same and the impugned order, of which contempt has allegedly been committed, dated 11.09.2019 in both cases has same operative portion which reads as under:

Accordingly, the Original Application is disposed of with a direction to respondent No.3 to take a decision over the applicant's pending representation dated 04.09.2019 (Annexure-A/2) and pass a reasoned and speaking order in accordance with policy guidelines in vogue. Needless to observe that the applicant shall also be afforded an opportunity of hearing before taking such a decision. The whole exercise shall be undertaken within a period of 15 days from the date of receipt of a certified copy of this order. Till such time, a decision is taken over the applicant's representation, status

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quo with regard to his posting shall be maintained."

2. Briefly, it is the contention of the petitioners that despite the aforementioned order of 11.09.2019 being served upon the respondents/alleged contemnors during working hours on 16.09.2019, Respondent No.1, (who was Respondent No.3 in the connected OA), issued orders on the same date, (Annexure CP/4 in both cases), relieving the petitioners from their posts in Ajmer Sub Division and directing them to join duties at their new places of posting. Thus, the petitioners state that there was a wilful disobedience on the part of the non-petitioners/respondents of the order of this Tribunal dated 11.09.2019; (Annexure CP/1 in both cases).

3. In reply, the respondents have denied receiving the order dated 11.09.2019 of this Tribunal, (Annexure CP/1), during working/office hours on 16.09.2019 and have averred that the order dated 11.09.2019 of this Tribunal was effectively received by their respective offices only on 17.09.2019; (para 1 of reply submitted in both cases).

4. In their rejoinders to the aforementioned replies, the petitioners have submitted the tracking report of the Postal Department, (Annexure CP/5 in both cases), which indicates delivery of the order in question on 16.09.2019 with confirmation of delivery being recorded at 18:20:59

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hours, i.e. around 6.20 PM, (after office hours), in the case of Respondent No.1 at Jodhpur and at 17:27:49 hours in the case of Respondent No.2 at Ajmer.

5. Learned counsels for the petitioners and the alleged contemnors/respondents were heard and the material available on record was perused.

6. Learned counsel for the petitioners pointed out that in both cases that the tracking report concerned shows that the package containing the order was sent out for delivery between 12.00 PM and 1.00 PM on 16.09.2019 and argued that given the size of the town/city in question, the respondents would have received the order before close of working hours as also evidenced by Annexure CP/5 in the rejoinders to the replies that the delivery on respondent No.2 stood confirmed at 17:27:49 hours, i.e. within working hours. As regards the issue of the relieving order in question, (Annexure CP/4 in both cases), he argued that while confirmation of the delivery is recorded as being after office hours, the actual delivery would have preceded the report of the same and would have been within office hours.

7. Per contra, learned counsel for the respondents, in his arguments, pointed out that the relieving order allegedly in contempt of this Tribunal's order of 11.09.2019, (Annexure CP/4 read with Annexure CP/1), was issued in both cases

by respondent No.1, and as the record produced by the petitioners themselves clearly shows, the delivery of this order on Respondent No.1 was confirmed by the Postal Department only at 18:20:59 hours in both cases, i.e. after office hours. He further argued that since the allegedly contempting order was issued by Respondent No.1 at Jodhpur and not by Respondent No.2 at Ajmer, there could be no doubt from the record of delivery itself that Respondent No.1 could not have known of the Tribunal's order of 11.09.2019, (Annexure A/1), during working hours on 16.09.2019 when he issued the relieving orders in question. Since the petitioners were on leave for the period immediately preceding the day of delivery, (i.e. between 06.09.2019 and 15.09.2019 and 06.09.2019 and 13.09.2019 respectively – paras 2 and 1 respectively of the parawise reply of Respondent No.1 refer), and did not bring the Tribunal order to their attention even after rejoining duties, relieving orders, (Annexure CP/4), were issued by respondent No.1 on 16.09.2019 itself well before the receipt of the Tribunal's order of 11.09.2019; (Annexure CP/1). Thus, he argued that since these orders were issued prior to knowledge of the Tribunal's orders which were received only after working hours had ended, no contempt is made out against the Tribunal's orders.

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8. A perusal of the record available in this case clearly indicates that confirmation of the delivery/service of the Tribunal's order dated 11.09.2019, (Annexure CP/1), on Respondent No.1 was recorded only after close of working hours on 16.09.2019 as per the tracking report of the Postal Department. Thereafter, as orders dated 04.10.2019 clearly show, the transfer committee of the respondents duly heard the representations of the petitioners and rejected the same with speaking orders citing the reasons for rejection. Thus, in substantive terms, the order of this Tribunal dated 11.09.2019 appears to have been complied with in letter and spirit.

9. Given these facts and circumstances, we find that no case of wilful disobedience of the Tribunal's order is proved in either of these two cases as there is no reason to disbelieve either the official record of the Postal Department or the averments of the alleged contemnors/respondents that the relieving orders in question, (Annexure CP/4), were indeed issued during working hours on 16.09.2019 prior to the receipt of the orders of status quo from this Tribunal; (Annexure CP/1). As such therefore, nothing survives in both these Contempt Petitions which are accordingly dismissed.

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10. Rule of the court is discharged in both cases.

(A.Mukhopadhaya)
Member (A)

(Suresh Kumar Monga)
Member (J)

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