

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

...

Contempt Petition No. 290/00027/2017
(OA No. 290/00138/2016)

RESERVED ON : 04.02.2020
PRONOUNCED ON: 13.02.2020

CORAM:

HON'BLE MRS. HINA P.SHAH, MEMBER (J)
HON'BLE MS. ARCHANA NIGAM, MEMBER (A)

Ram Chandar son of Shri Gordhan Ram aged about 26 years, resident of Alai, Tehsil & District-Nagour (Rajasthan).

...Petitioner

(By Advocate: Shri J K Mishra)

Versus

1. Shri V.C.Roy, Post Master General, Western Region, Rajasthan, Jodhpur.
2. Shri K.K.Bunkar, Superintendent of Post Offices, Nagour (Raj.).
3. Sh. Guman Singh Shekhawat, Superintendent of Post Offices, Nagour (Raj.).

...Respondents

(By Advocate: Shri K S Yadav)

ORDER

Per Mrs. Hina P.Shah

The present Contempt Petition has been filed for alleged non-compliance of the common order dated 25.01.2017 passed in OA No.138/2016 with other similar

OAs. The said OAs were disposed of with following directions:-

“In view of the ad idem between the parties, this O.A. is disposed of with direction to the respondents to carry out an enquiry in accordance with due principles of natural justice and after determining the validity of their certificate, pass necessary orders. The needful be done within a period of 3 months from the date of receipt of a certified copy of this order. No costs .”

2. It is the contention of the petitioner that respondent No.2 did not conduct any enquiry but issued a letter dated 30.03.2017 to the petitioner informing about the decision that the examination conducted by the Uttar Pradesh State Open School, Lucknow (herein referred as Board) is not equivalent to examination conducted by the Madhyamik Shiksha Parishad, Uttar Pradesh (herein referred as Parishad) (Annexure CP-2). As per the said letter the petitioner was required to submit his representation and accordingly, the petitioner submitted his representation with 20 annexures to show that the Board from which the petitioner has obtained his 10th class qualification is a recognized one(Annexure CP-3).

3. The petitioner submitted that thereafter the respondents passed the order dated 21.04.2017 (Annexure CP-4) by which it is stated that persons with educational certificates issued by the Board are not eligible for

appointment on any post in the Postal Department and that the petitioner has not produced any document regarding recognition of the Board.

4. The petitioner further states that number of candidates who acquired their educational qualification from the Board have been appointed in the Government Service of State of Rajasthan as well as Postal Department itself. It is only the candidature of the petitioner which is not considered. No enquiry has been conducted by the respondents and his documents/proof has not been taken into consideration. The order of this Tribunal has not been considered in true sense so far as per the directions given by the Hon'ble Tribunal and the respondents are deliberately and intentionally flouting the orders of this Tribunal. Therefore, the respondents are liable to be punished for contempt of court.

5. The respondents vide their reply submitted that they have highest regard to the orders and directions of this Hon'ble Tribunal and that they never intended to commit any wilful disobedience of any of the orders and directions given by this Hon'ble Tribunal. They further added that if this Hon'ble Tribunal ultimately reaches to a conclusion that

any disobedience or contempt has been committed by the Humble Non-Petitioners, they tender their unconditional apology for the same.

6. As per para 10 of the Judgement, it is clear that the respondents were required to carry out an inquiry and to take appropriate decision regarding validity of the certificate and to pass necessary orders by affording opportunity of being heard to the petitioner.

7. The respondents further stated that in pursuance of the said directions of this Hon'ble Tribunal, a Committee was constituted consisting of Assistant Superintendent of Post, Sub-Division, Nagour; Assistant Superintendent of Post (OD), Nagour and Inspector of Posts (Sub-Division), Merta vide order dated 23.03.2017.(Annexure R-1). Accordingly, a show cause notice dated 30.03.2017 was given to the petitioner and he was called upon to make his exhaustive representation within 7 days along with material to be relied upon. The petitioner submitted representation on 10.04.2017. The Committee conducted an inquiry as per the material available on record and documents submitted. It was found that such Board is not recognized and thus the petitioner is not eligible for appointment to the post of

GDSBPM. After considering the representation in detail along with the record and other relevant aspects of the matter, the same was rejected vide order dated 21.04.2017 (Annexure CP-4). It was also stated that on further enquiry it was found that as per the Deputy Secretary, Madhyamik Siksha Parishad, Govt. of U.P., Allahabad letter dated 5.05.2017 it has been clarified that U.P. State Open School Lucknow, Jaunpur is not recognized with Madhyamik Shiksha Parishad (Annexure R-2).

8. Therefore, the respondents stated that as per the directions issued by the Hon'ble Tribunal, a proper inquiry has been conducted by the respondents for the purpose of determining the validity of the educational certificate produced by the petitioner by affording an opportunity of being heard in writing and after considering representation of the applicant and the material available on record, the claim of the petitioner has been rejected vide exhaustive order dated 10.04.2017. The petitioner has challenged the said order by filing a separate OA, which is pending consideration before this Hon'ble Tribunal.

9. Accordingly, the respondents have stated that they have not flouted the orders of this Hon'ble Tribunal

intentionally or deliberately as claimed in the present Contempt Petition. The directions of this Tribunal have already been complied in its true spirit and there is no question of any contempt and the present Contempt Petition deserves to be dismissed and notices are required to be discharged.

10. Heard the learned counsel for both the parties.

11. After considering the matter of alleged disobedience of the order of this Tribunal, we are of the view that the order of this Tribunal has been complied with by the respondents and we do not find wilful or deliberate disobedience on the part of the respondents. Pursuant to the directions issued vide order dated 25.01.2017, the respondents have passed order dated 21.04.2017 rejecting the claim of the petitioner.

12. In this regard, we may refer to the judgement of the Hon'ble Supreme Court in the case of **J.S.Parihar vs. Ganpat Duggar**, reported in (1996)6 SCC 291, wherein it has been held that :

".....The question is whether seniority list is open to review in the contempt proceedings to find out whether it is in conformity with the directions issued

by the earlier Benches. It is seen that once there is an order passed by the Government on the basis of the directions issued by the Court, there arises a fresh cause of action to seek redressal in an appropriate forum. The preparation of the seniority list may be wrong or may be right or may or may not be in conformity with the directions. But that would be a fresh cause of action for the aggrieved party to avail of the opportunity of judicial review. But that cannot be considered to be a willful violation of the order...."

13. It will also be useful to refer to the judgment of the Hon'ble Calcutta High Court in the case of **Dr. Tapas Kumar Mandal vs. Dr. Sekhar Basu and Ors.** in C.P.A.N. No. 119 of 2018 decided on 29th March, 2019 wherein the Hon'ble High Court in para 13 observed as under:-

"13..... The non-compliance of an order has to be wilful and deliberate and not mere accidental or unintentional. It is well settled that once an order is passed by a party to a proceeding on the basis of the direction issued by the Court, there arises a fresh cause of action to seek redressal in an appropriate forum. The court in exercise of contempt jurisdiction cannot test the correctness of the order passed or to give any additional direction or to delete any direction."

14. In view of above discussions, we do not find any wilful or deliberate disobedience on the part of the respondents and the Contempt Petition is liable to be dismissed, which is accordingly dismissed. Notices issued are discharged.

(ARCHANA NIGAM)
ADMV. MEMBER

(HINA P.SHAH)
JUDL. MEMBER

R/