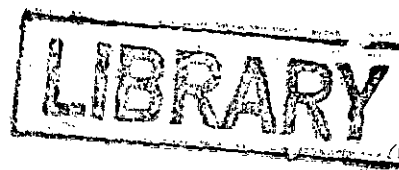


CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA



No. CPC. 351/00063/2018
(O.A. 351/744 of 2018)

Reserved on: 20.12.2019
Date of order: 10.01.2020

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

SUDEEP BANERJEE

VS.

MR. P.S. REDDY & ANR.

For the Applicant : Mr. B.K. Das, Counsel

For the Respondents : Mr. R. Halder, Counsel

ORDER

Per Dr. Nandita Chatterjee, Administrative Member:

This CPC has been filed alleging violation of orders dated 5.6.2018 in O.A. No. 351/00744/2018. The said O.A. was disposed of with the following orders:-

"5. Therefore, I dispose of this O.A. by directing the respondent No. 1 that, if any, such representation as claimed by the applicant has been preferred on 23.5.2018 and the same is still pending consideration, then the same may be considered and disposed of within a period of four weeks from the date of receipt of this order.

6. Though I have not entered into the merits of the case, still then I hope and trust that after such consideration, if the applicant's grievance is found to be genuine, then expeditious steps may be taken by the concerned respondent No. 1 within a further period of four weeks from the date of such consideration to include the name of the applicant in the provisional merit list. However, if in the meantime, the said representation stated to have been preferred on 23.5.2018 has already been disposed of then the result thereof be communicated to the applicant within a period of 2 weeks from the date of receipt of a copy of this order.

7. With the aforesaid observation and direction, the O.A. is disposed of."

2. Ld. Counsel for the petitioner would allege that although the order was duly communicated to the concerned respondents (alleged contemnors in the CPC), the same was not complied with by the said respondents in true spirit of the order and that the alleged

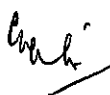
contemnors/respondents in O.A. disposed of the representation belatedly and beyond the timeline as directed by this Tribunal.

That, inspite of the directions by the concerned Ministry, the Secretary Education, Contemnor No. 1 did not take any action to comply with the order/direction dated 5.6.2018 passed by the Tribunal till date.

That, the action of the Secretary Education, A&N Administration is nothing but willful disobedience to comply with the order in its true spirit and form, which is a clear violation invoking action under the Central Administrative Tribunal (Contempt of Court) Rules, 1992.

3. The alleged contemnors have filed a compliance report on 1.3.2019 in which they have submitted that in compliance to the Tribunal's orders dated 5.6.2018 in O.A. No. 351/00744/2018, a reasoned and speaking order was issued on 12.10.2018, and, that, although the said reasoned and speaking order was communicated to the applicant on 17.10.2018 by Speed Post, it was returned by the Postal Department with the comments that the applicant/petitioner's address was insufficient to complete delivery. Another attempt was made on 24.12.2018 to transmit the speaking order to the applicant to the same address by Speed Post but the delivery of the said letter was frustrated as the delivery address was reported to be insufficient to complete the delivery. The said speaking order dated 12.10.2018 is annexed with the compliance report of the alleged contemnors.

4. Ld. Counsel for the petitioner would vociferously argue that the speaking order has not been issued in the spirit of the orders of the Tribunal, particularly, as because, the applicant in his representation had questioned the cut off marks in the trade test, which was not disclosed in the notification in response to which the applicant had applied for the post of Craft Instructor.




5. Ld. Counsel for the alleged contemnors, per contra, would contend that the same applicant has once again approached this Tribunal in O.A. No. 473 of 2019 in which he had sought for setting aside of the impugned merit list and had prayed for disposal of his representation dated 1.3.2019 in which he had once again questioned the qualifying cut off marks in the trade test.

The applicant has annexed the speaking order dated 12.10.2018 as Annexure A-6 to his O.A. No. 473 of 2019. He has also questioned through his representation dated 1.3.2019, contained in the said O.A., the action of the authorities in fixing cut off marks to be obtained in the trade test. Hence, the essence of the speaking order has been challenged in O.A. No. 473 of 2019.

6. Upon considering the rival contentions of both Ld. Counsel, we find that the Tribunal, while disposing of O.A. No. 473 of 2019, had not entered into the merits of the matter but had only directed the respondent authorities to consider his representation dated 23.5.2018 and to grant him benefits in case his grievance is found to be genuine. The respondent authorities in the said O.A. No. 744 of 2018 and alleged contemnors in the instant CPC have passed an order, the essence of which has been challenged in a fresh O.A. No. 351/00473/2019, which remains pending for adjudication.

7. Accordingly, the directions of the Tribunal having substantively been complied with, we drop the contempt proceedings and the notices herein are discharged. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

SP