

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

CP No. 114/2003 in
OA 1177/2001

New Delhi this the 25th day of July, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri S.K.Naik, Member (A)

Shri Rajiv Sharma,
C/O Director Panchayat,
Room No.12, Old Civil Supplies
Building, Tis Hazari, Delhi-110054
S/O Shri Krishan Shanker Sharma,
R/O D-220-B, Sector-IV, Lajpat Ngr.,
Sahibabad (UP)

..Petitioner

(By Advocate Shri Mukul Sharma)

VERSUS

1. Smt. Shailja Chandra,
Chief Secretary,
The Govt. of NCT of Delhi
Delhi Govt. Secretariat,
Players Building, I.P. Estate,
New Delhi.

2. Shri G.S.Pattnaik,
The Development Commissioner,
the Govt. of NCT of Delhi
5/0 Underhill Road, Delhi-7

..Respondents

(By Advocate Shri Rishi Prakash)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J))

We have heard both the learned counsel for the parties in
CP 114/2003 in OA 1177/2001.

2. The Tribunal by its order dated 18.9.2002 in the
aforesaid OA had passed the following directions:-

In view of the above, we find that the OA has
become partly infructuous. It is also allowed partly
with the following directions:-

The respondents shall pass further appropriate
orders following their order dated 19.3.2002 with
regard to the claim of the applicant for consequential
benefits and reinstatement from the date he was
suspended in accordance with the relevant rules and

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instructions. This shall be done within two months from the date of receipt of a copy of this order, with intimation to the applicant. No order as to costs".

3. Learned counsel for the petitioner submits that the respondents have done nothing by way of implementation of Tribunal's order within the period mentioned in that order i.e. two months. Petitioner, therefore, made representation to the respondents for implementing the order of the Tribunal to which the respondents have issued letter dated 11.2.2003. The relevant portion of this letter reads as follows:-

"With reference to his representation for implementing the judgement of Hon'ble C.A.T. it is intimated that his representation has been considered and was put up before the Disciplinary Authority, who is of the opinion that Shri Rajeev Sharma should make good the shortage of 07 Colour Televisions in first instance.

Shri Rajeev Sharma is accordingly directed to do needful".

4. In the Contempt Petition the petitioner has alleged, inter-alia, that he was informed in the aforesaid letter by the respondents that "unless he deposits the cost of seven Television sets, his representation cannot be considered". Learned counsel has submitted that apart from having passed this order very belatedly, the respondents have also placed certain conditions i.e. for making good the shortage of seven colour Televisions in the first instance.

5. On the other hand, Shri Rishi Prakash, learned counsel for the respondents has read the relevant portion of the reply affidavit filed by the respondents dated

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13.5.2003 and in particular, replies to Paragraphs 2(23) to 2 (25) of the CP. They have very categorically denied that they had not communicated at all the letter dated 11.2.2003 that unless the applicant deposits the cost of seven Television sets, his representation cannot be considered and according to him this allegation of the petitioner is malafide and false. Learned counsel has explained that what the disciplinary authority has meant is also reflected in the compliance affidavit that an opportunity was granted to the petitioner to make good the loss suffered by the Govt. in the process of passing an appropriate order in compliance of the Tribunal's order dated 18.9.2002, before taking any decision to initiate the Departmental proceedings. He has also explained the delay in taking appropriate action, in terms of the aforesaid order of the Tribunal stating that it was due to administrative exigencies, including shifting of the Office of Development Commissioner to another location as ordered by the Hon'ble Supreme Court. We have also seen the rejoinder filed by the petitioner to the reply affidavit filed on behalf of the respondents and heard Shri Mukul Sharma, learned counsel in reply.

6. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

7. Taking into account the facts and circumstances of the case, we consider it appropriate to condone the delay on the part of the respondents in issuing the aforesaid order in compliance of Tribunal's order dated

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18.9.2002 which they had to do in accordance with the relevant rules and instructions.

8. No doubt, from a first reading of the reply affidavit filed by the respondents dated 13.5.2003 and in particular the paragraphs referred to above, it would appear that the respondents have not communicated any such letter dated 11.2.2003 to the petitioner but as seen in the context of the averments made by the petitioner in the CP, reference is to the fact that unless the petitioner deposits the cost of seven Television sets, his representation will not be considered is incorrect. The language used in the reply affidavit leaves much to be desired but that can only be taken as shortcomings with the actual words and language used by the respondents and not their intention, in the context of the allegations and understanding of Shri Mukul Sharma, learned counsel, it would appear as if the respondents have committed contumacious or wilful disobedience of the order of the Tribunal and much of this litigation could have been avoided if only the respondents had not used the kind of language they had used in that letter and were more precise in their expressions. We further note that the respondents have issued the order dated 28.4.2003 in "furthernance" to Tribunal's order dated 18.9.2002 in OA.

9. Learned counsel for the petitioner had submitted that the applicant had been acquitted by the

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competent criminal Court as far back as 1999 and it is only now that the respondents have applied their mind and taken a decision to initiate Departmental proceedings against the petitioner in accordance with Rule 14 of the CCS (CCA) Rules, 1965. He has also contended that the applicant had been placed under suspension for a long period which has been revoked which has also been brought to the attention of the Tribunal during the pendency of OA 1171/2001. What is relevant to note is that the Tribunal had noted these facts and directed the respondents to pass further appropriate orders following their order dated 19.3.2002, regarding consequential benefits and reinstatement from the date he was suspended. In this connection, it is relevant to note that by the order dated 28.4.2003 the respondents have clearly stated that the order regarding consequential benefits and reinstatement from the date of suspension of the official will be considered after receipt of the report of the disciplinary enquiry proceedings. In the circumstances we find no case is made out of wilfully disobeying Tribunal's orders.

10. In the result, for the reasons given above, we find no justification to continue with this CP. Accordingly, CP 114/2003 is dismissed. Notices issued to the alleged contemners are discharged. File be consigned to the record room.

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(S.K.Naik)
Member (A)

Lakshmi Swaminathan
(Smt.Lakshmi Swaminathan)
Vice Chairman (J)

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