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Central Administrative Tribunal
Principal Bench

C.P.No.290/2002 in
O.A.No.1816/2001

Hon'ble Shri M.P.Singh, Member(A)
Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 13th day of September, 2002

Anil Kumar s/o Dev Nath
r/o P-172 Purani Pullanji
Sarojani Nagar
New Delhi.

... Petitioner

(By Advocate: Sh. H.C.Sharma)

Vs.

Shri A.K.Bhatnagar
Secretary, Govt. of India
Ministry of Rural Development
Krishi Bhawan
New Delhi.

.. Respondent

(By Advocate: Sh. A.K.Bhardwaj)

O R D E R (Oral)

By Shri Shanker Raju, M(J):

Heard both the parties.

2. By an order dated 13.9.2001 the following
directions have been issued by this Court:

"In this view of the matter, I am inclined to dispose of the present OA with a direction to the respondents to consider the claim of the applicant for accord of temporary status in accordance with the instructions contained in DOPT's Scheme of 1993. The respondents are also directed that in case work of a casual nature is available with them, the applicant should be considered in accordance with the seniority and in preference over freshers/outsideers. The respondents shall also consider for accord of wages to the applicant from the date the status quo was obtained till today."

3. On 7.1.2002 CWP No.79/2002, filed by the respondents against the aforesaid order, was listed before the High Court of Delhi where Sh. A.K.Bhardwaj, learned counsel for the petitioners, i.e., learned counsel for the respondents in CP as well as Shri H.C.Sharma, learned counsel for the

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respondents, i.e., learned counsel for applicant in CP were present. After hearing both the parties Rule DB was issued and meanwhile operation of the Tribunal's order, impugned therein, was stayed.

4. This Contempt Petition was filed on 17.7.2002 wherein the fact of Writ Petition and stay of the order of the Tribunal has not been incorporated. Learned counsel appearing for the applicant, Shri H.C.Sharma, stated that the reply filed by the respondents is not in proper format as the affidavit filed, appears to be filed in Writ Petition. He places reliance on a decision of the Apex Court AIR 1970 SC 652, A.K.K.Nambiar v. Union of India, to contend that if the affidavit is not properly verified, cannot be admitted in evidence.

5. Shri H.C.Sharma further stated that in so far as the other directions of engagement of the applicant and payment of wages, the High Court has not dealt with and the respondents are guilty of wilful disobedience and have thus committed contempt for not implemented the directions of the Tribunal.

6. Shri A.K.Bhardwaj, learned counsel for respondents stated that the applicant has wilfully suppressed the fact of CWP No.79/2002 as well as stay of the order passed by the Tribunal despite the fact that Shri H.C.Sharma, learned counsel was present on the date of hearing before the High Court of Delhi. As regards the contention of the applicant's counsel that affidavit is not in proper format and is not permissible, in this conspectus, it is stated that the


respondents have inadvertently mentioned as CWP instead of CP. It is further stated that as the operation of the impugned order of the Tribunal has been stayed, no directions can be implemented till the CWP is finally disposed of. However, it is stated that in view of the decision of the Apex Court in Union of India & Others Vs. Mohan Pal, 2203 (4) Scale 216, some of the cases have been connected together and were disposed of by the High Court, set-aside the order of the Tribunal by holding that the Scheme of the DoPT is not an ongoing one.


7. It is further stated that as the above CWP has been left over and it was to be disposed of. Shri A.K.Bhardwaj further stated that on the day when the pronouncement made, a supplementary list was also issued, it appears that this matter might have also come in the supplementary list. However, it is pointed out that once the order of the Tribunal is stayed, directions cannot be complied with, and the Contempt Petition filed by the applicant is misuse of process of law for which heavy costs should be imposed against the applicant.

8. We have carefully considered the rival contentions of the parties. On resort of the applicant to the decision of the Apex Court in A.K.K.Nambia's case supra cannot be of any help to him. We have seen the affidavit. Inadvertently, Civil Writ Petition has been mentioned but this has been in support of the reply to the CP in OA 1816/2001.

9. We also find that on 7.1.2002 when the counsel for the applicant was present before the High Court, there Rule DB was made and has stayed the operation of the impugned order. Despite aware of this fact, Shri H.C.Sharma, learned counsel filed the Contempt Petition on 17.7.2002 has wilfully suppressed the fact of CWP. In this view of the matter, the applicant is guilty of suppression of the fact of CWP despite his knowledge. In this view of the matter, we find that this clearly shows the misuse of process of law for which the applicant is to be suitably punished. In the result, the CP is dismissed. Notices issued to the respondents are discharged.

10. However, keeping in view of the status of the applicant, cost of Rs.1000/- (Rupees One Thousand Only) is imposed upon the applicant, to be paid to the respondents, within one month from the date of receipt of a copy of this order.


(Shanker Raju)
Member(J)


(M.P.Singh)
Member(A)

/rao/