

Central Administrative Tribunal
Principal Bench

CP 168/2001

in

O.A. 837/1999

New Delhi this the 21st day of September, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).
Hon'ble Shri S.A.T. Rizvi, Member (A).

G.S. Chattree,
S/o late Shri R.R. Chattree,
Retired Senior Civil Engineer (Const.) in
Chief Administrative Officer (Const)'s Office,
Northern Railway, Kashmiri Gate,
Delhi-6.

R/o 1926, Gali Majestic Cinema,
Chandni Chowk, Delhi-6. Applicant.

(By Advocate Shri M.L. Sharma)

Versus

1. Shri S.P. Mehta,
General Manager,
Northern Railway,
Headquarters Office,
Baroda House,
New Delhi.
2. Shri S.A. Ujjalayan,
Chief Administrative Officer (Const.),
Northern Railway Construction,
Headquarters Office,
Kashmirigate, Delhi. Respondents.

(By Advocate Mrs. Meera Chibber)

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

We have heard Shri M.L. Sharma, learned counsel for the petitioner, at length and also Mrs. Meera Chibber, learned counsel for the respondents in CP 168/2001.

2. Shri M.L. Sharma, learned counsel, has very vehemently submitted that the respondents have not complied with the Tribunal's order dated 13.9.2000 in OA 837/99. According to him, the respondents have delayed

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in implementing the order, apart from not giving the petitioner the consequential benefits which includes the revision in pensionary amounts resulting from the O.A. being allowed. He has emphasised on the directions given in paragraph 11 of the order. He has also submitted that the respondents ought to pay the compound interest on the withheld/delayed amounts for which he relies on the order issued by the respondents dated 1.11.1994.

3. The above claim of the petitioner's counsel that the respondents have not complied with the Tribunal's order has been refuted by Mrs. Meera Chibber, learned counsel. The respondents have filed compliance affidavits, one of which has been verified on 18.5.2001 and the second filed on 2.7.2001. Learned counsel has submitted that in the present case, the respondents have filed Writ Petition in the Hon'ble High Court of Delhi which is now listed on 17.10.2001. While Mrs. Meera Chibber, learned counsel, has submitted on the basis of the Advocate's letter dated 19.7.2001 (copy placed on record) that notice has been issued by the Hon'ble Delhi High Court, learned counsel for petitioner was harping on the fact that no such notice has been received by him till date. Learned counsel has also relied on the order of the Tribunal dated 18.4.2001 in CP 20/2001 in OA 2730/93 which has relied on the judgement of the Supreme Court in Modern Food Industries (India) Ltd. and Anr. Vs. Sachidanand Dass and Anr. (1995 Supp (4) SCC 465), copy placed on record. She has submitted that the respondents have complied with

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the order of the Tribunal in giving to the petitioner the amounts which have been referred to in paragraph 5 of the compliance affidavit dated 2.7.2001. Shri M.L. Sharma, learned counsel, has, during the hearing, submitted that the petitioner has received this amount. The respondents have submitted that there is no wilful disobedience of the Tribunal's order and the delay was not intentional as they were hoping to get stay order from the Hon'ble High Court. In any case, learned counsel has submitted that the petitioner had written that his pay has not been properly fixed and on verification it was seen that this was so and, hence, it was refixed. She has submitted that the revised pension orders have also been issued to the petitioner which is not denied by the petitioner's counsel, excepting that the amount so calculated is erroneous. In the circumstances, Mrs. Meera Chibber, learned counsel, has submitted that while the respondents have complied with the directions of the Tribunal in the order dated 13.9.2000, CP 168/2001 may be dismissed or alternatively as the Hon'ble High Court has fixed the next date of hearing of the aforesaid WP on 17.10.2001, it may be postponed thereafter.

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

5. The main contention of Shri M.L. Sharma, learned counsel, is that the calculation of the amounts due to the petitioner is wrong, including the revised pension due to him. He has very vehemently submitted

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that the petitioner has submitted the correct calculation sheet which shows that the balance amount of Rs.38,024/- is still due to be paid to the petitioner, apart from revision of pension, taking into account the correct pay of the petitioner. From the documents on record, we are unable to come to the conclusion that the respondents have wilfully or contumaciously disobeyed the Tribunal's order when in the circumstances of the case, we also accept the unconditional apology for the delay that has occurred in implementing the Tribunal's order.

6. Shri M.L. Sharma, learned counsel, has very vehemently argued that the revision of pension which is part of the consequential reliefs granted by the Tribunal has not been done nor has the applicant been given the due amounts as per his own calculations. Having regard to the judgement of the Hon'ble Supreme Court in **J.S. Parihar Vs. Ganpat Duggar & Ors.** (JT 1996 (9) SC 611), as we do not find any intentional disobedience of the Tribunal's order by the respondents, it is not necessary to continue the contempt petition against the respondents.

7. In the above circumstances, CP 168/2001 is dismissed. Notices issued to the alleged contemners are discharged, leaving it open to the petitioner if he is still aggrieved to pursue his remedies, in accordance with law.



(S.A.T. Rizvi)
Member (A)



(Smt. Lakshmi Swaminathan)
Vice Chairman (J)