

(14)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

CP 196/2000
OA 1615/99

New Delhi, this the 11th day of August, 2000

Hon'ble Mr. Justice V.Rajagopala Reddy, VC (J)
Hon'ble Sh. Govindan S.Tampi, Member (A)

Sh. Rajendra Prasad Sharma,
s/o Sh. Shish Ram,
Aged about 51 years
R/o House No. 64, Basant Gaon,
P.O. - Vasant Vihar,
New Delhi - 110057

....Petitioner

(By Advocate Sh. A.K.Behera)

VERSUS

Smt. Smita Nagaraj,
Executive Director
Central Social Welfare Board,
B-12, Tara Crescent, Institutional Area,
South of IIT, New Delhi - 110016.

.....Respondents

(By Advocate Sh. E.X.Joseph,
Sr. Counsel with Shri S.S. Sabharwal
and Shri V.S.R. Krishna)

ORDER

By Hon'ble Sh. Govindan S.Tampi, Member (A)

Shri Rajendra Prasad Sharma, applicant in OA No. 1615/99, has filed this Contempt Petition, for non-implementation of this Tribunal's order dt. 20-08-99. Contempner is Smt. Smita Nagraj, formerly Executive Director in Central Social Welfare Board (C.S.W.B.) (presently Director in Deptt. of Personnel, Government of India).

2. The applicant's plea in the OA against his reversion from the post of Dy. Director in C.S.W.B. to that of Asstt. Director on the basis of a review DPC was disposed of by this Tribunal on 20-08-99 with following directions :

'The OA is accordingly allowed. The order dated 20-07-99, reverting the applicant is quashed. No order to Costs'.

3. As nothing apparently was done to ensure the implementation of the order, the applicant has come up with this petition, seeking its enforcement. It was also indicated that the respondents were still dragging their feet, inspite of their C.W.P. filed before the Delhi High Court against the Tribunal's order, having been dismissed, upholding the Tribunal's order. Replying to the petition, Smt. Nagaraj has averred that she was concerned only with the action taken up to 30-04-2000, when she demitted the office of the Executive Director in CSWB, which was under the administrative control of Deptt. of Women and Child Development in Ministry of Human Resource Development. According to her, on receipt of the Tribunal's order on 9-9-1999, the matter was taken up with the Ministry, under whose advice the decision was challenged before the Delhi High Court on 31-01-2000, which was disposed of on 10-02-2000, upholding the Tribunal's order. They received it on 6-3-2000. The Ex. Committee, in their meeting dated 22-03-2000, decided to re-instate Sh. Sharma as Dy. Director, to hold a review DPC, and move the Ministry in respect of a few other related reversions. The reference made on 5-4-2000 to DOPT in this connection, was responded by the letter on 25-04-2000, with the advice to file a SLP before the apex Court. The same was brought to the notice of the Chairperson of C.S.W.B. on 27-04-2000. She is not aware officially as to what has happened thereafter though it was learnt that SLP

has been filed and that the minutes of the meeting dt. 22-03-2000 have been confirmed. In view of the above, she says that she had taken all the necessary steps, she should have taken in this regard, as the Ex. Director of CSWB, had not in any way committed any wilful disobedience, but was tendering her apology, if the Tribunal felt there was any failure in implementing the judgment.

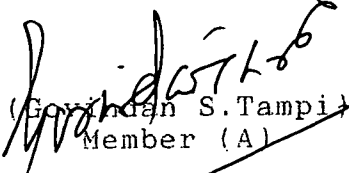
4. On 4-8-2000, when the matter came up before us the respondent-contemner-Smt.Smita Nagaraj appeared before us, along with the counsel, Sh. E.X. Joseph. She denied that she was guilty of any contempt and filed an additional affidavit. Reiterating her earlier plea she says that what remained to be implemented in terms of the Tribunal's order, was holding of the review DPC, for which no time frame was fixed by the Tribunal and the applicant was continuing to draw the salary of the Dy.Director, the post from which he was reverted. It was only on the specific advice of the administrative ministry, the matter was taken to the High Court, and on its being dismissed, the decision was taken to move the apex Court in SLP. It would thus be clear that she had taken only proper steps, in her capacity as Ex. Director of CSWB, till she laid down office at the end of April, 2000. Therefore, she had not in any way committed any contempt. She added that if the Tribunal, however, holds that there was some lapse or unintended fault on her part she was tendering her unqualified and unconditional apology for the same.


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5. We have carefully deliberated on the matter. The only direction which was issued by this Tribunal on 20-08-99 was to quash the reversion order of the applicant. The fact remains that it has not been done even today. Holding of a review DPC, reversion of other persons, are issues on which the Tribunal had not passed any operative directions and, therefore, what the respondent has done or omitted to do in their regard is not our immediate concern. There was no justification whatsoever for not giving effect to the order, at least after it has become final with the dismissal of the C.W.P. filed by them before the Hon'ble Delhi High Court. There is no excuse for it. If there was any genuine difficulty in implementing the order or if any more directions were required, what prevented the respondent from seeking some more time from this Tribunal, for giving effect to the order, atleast after the CWP was dismissed ? The respondent seeks to take protection from the fact that the Tribunal did not indicate any specific time frame for implementation and argues that it was for the applicant to have the time frame fixed. We are unable to appreciate it. Even in the reply to the CP or during the hearing before us any pleading for any extra time is urged. The respondent cannot escape her responsibility by stating that she was no longer in the Seat, since April, 2000, as the Tribunal had not been advised as to the steps she had taken to implement the order or to explain the difficulty, if any, she had in implementing it. In the above view of the matter we are convinced that the alleged contempt

has taken place. Still, keeping in view the constraints of her office, we take a lenient view while fixing the sentence.

6. In the result of the CP is allowed. The respondent is found to be guilty of the contempt of the court and a fine of Rs. 2,000 (Rupees Two Thousand) is imposed on her in terms of Section-12 of the Contempt of Courts Act. r/w Section 17 of the A.T. Act, 1985.


(E. V. S. Tampi)
Member (A)


(V. Rajagopala Reddy)
Vice-Chairman (J)

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