

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

CP 282/2000
IN
OA 554/99

New Delhi, this the 9th day of October, 2000.

(9)

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

Shri Amir Ali
C/o Shri Khalid Zaidi,
Subhash Vihar,
Gali No.1,
Near Zacharia Masjid,
Yamuna Vihar,
Delhi.

(Applicant in person)

....Applicant.

-: V E R S U S :-

1. Shri Anand Sharma,
Inspector (H.Q.)
Customs and Central Excise
Opposite University Road,
Meerut.

2. Shri B.K.Juneja,
Joint Commissioner (P&V)
Customs and Central Excise,
Meerut.

...Respondents/
Contemnors

(By Advocate : Sh. H.K.Gangwani)

O R D E R (ORAL)

By Hon'ble Mr. Justice V.Rajagopala Reddy, VC (J)

Heard the applicant and the counsel for the
respondents.

2. The following directions were given by the
Tribunal in the order dated 25-01-2000 in the above OA

(9)

"In the circumstances, the ends of justice will be met if the applicant within a week from the date of receipt of a copy of this order makes his claim in a representation before the competent authority, namely, respondent No.4 who will verify the claim of continuous work and if the applicant had worked for the requisite period shall within a period of two weeks from the date of receipt of the representation, convey to the applicant the decision of the respondent for conferment of temporary status. It is made very clear that short intermittent breaks which cannot be attributed to the applicant, like desertion or absconding, need not mean a break in service and would not necessarily disentitle him from the benefits of the claim. This is a case where the applicant reasserts that he has been working continuously. Applicant shall place the evidence before the competent about this fact. After the passing of the order of temporary status, the applicant shall be permitted to rejoin and he can only be disengaged after giving proper notice in accordance with scheme."

Complaining that the above directions have not been complied with, the present contempt petition has been filed.

3. The respondents filed their counter
stating as under :-

5. " that after the receipt of the Hon'ble Tribunal's judgment dated 25-01-2000, the respondents file a misc. application no. 1881/2000 and Review application no. 249/2000 before the Hon'ble Tribunal for the condonation of delay and for Review of the judgment dated 25-01-2000 which were dismissed by the Hon'ble Tribunal vide order dated 25-08-2000.

6. that on dismissal of the Misc. Application and the Review Application the Respondent approached the Ministry of Finance, Deptt. Revenue for the implementation of the judgment dated 25-01-2000 and in turn the Ministry directed the respondents that the decision regarding implementation of the judgment

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may be taken in consultation with the Chief Commissioner, Central Excise, Kanpur Zone.

7. that in pursuance to the Ministry orders the Respondent requested the Chief Commissioner to communicate the orders for the implementation of the judgment dated 25-01-2000.

8. that in pursuance of the directions given by the Chief Commissioner, Central Excise, Kanpur Zone, the Respondent has passed an order C.No.14/CE/Supdt./Hq/CAT Case/99/PT./8323 to 8328 dated 13-09-2000 for re-engagement of the Petitioners as also conferring temporary status of Gr. "D" to the applicant with immediate effect. (Annexure-I).

9. That the copy of the said order has been delivered to the petitioner on the same day i.e. 13-09-2000."

4. In the order dated 13-09-2000, it was stated that in compliance to the directions given in the order, the applicant has been conferred temporary status and was re-engaged with immediate effect and the applicant says that he joined on 14th September.

5. The applicant who now appears in person, complains that though the respondents were directed to comply with the order within two weeks from the date of the receipt of representation, he was given the temporary status and re-engaged only in September, 2000. Thus he was deprived of his pay for a period of seven months. The learned counsel for the respondents Sh. Gangwani, however, justifies the delay, stating that the respondents had filed a clarification petition as well as review petition and immediately after their dismissal in August, 2000, they complied with the directions given by the Tribunal.

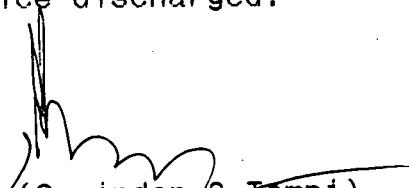
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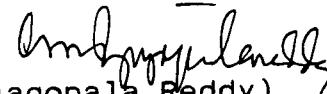
6. We are not convinced about the explanation given for the delay. As the Tribunal directed to re-engage the applicant within the period of two weeks from the dismissal of the representation, the respondents should have complied with the order as directed and thereafter they could have filed the clarification petition or the review. Litigating in Courts cannot be a justifiable reason for not complying with the order as directed. In view of this delay, the applicant was deprived of his pay for seven months which cannot be compensated by the respondents. However, in view of the facts of this case, we direct the respondents to pay the salary of seven months ~~of~~ ^{as} casual labour, within a period of 4 weeks from the date of the receipt of a copy of this order.

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7. With these directions, the CP is closed.

Notice discharged.


(Govindan S. Tampi)
Member (Admn)


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

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