

Central Administrative Tribunal, Principal Bench
New Delhi

CP 33/97, MA 821/97
in
OA 2317/95

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New Delhi, this the 1st day of May, 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman (J)
Hon'ble Shri S.P. Biswas, Member (A)

Mohinder Singh s/o
Shri Bharat Singh,
R/o village & P.O. Mundaka,
Delhi.

....Petitioner

(By Mrs. Meera Chhibber, Advocate)

Versus

1. Lt. General S.K. Bhatnagar,
Director General of Ordnance Service,
M.G.O.'s Branch, Army Hqr.
PHQ, P.O., New Delhi.

2. Col. Gulshan Rai,
Officer incharge, AOC Records,
Secunderabad,
Andhra Pradesh.

...Respondents

(By Shri VSR Krishna, Advocate)

O R D E R (Oral)

(By Hon'ble Dr. Jose P. Verghese, V.C.(J))

These contempt of courts proceedings initiated against the respondents on a complaint that the orders of this court dated 8.7.1996 have not been implemented. Respondents in their reply state that the directions given by this court has a bearing on the implementation of the directions issued by the Allahabad Bench of this Tribunal previously and in fact if they implement these orders it would be amounting to undoing the implementation done in the contempt of courts proceedings before Allahabad Bench that itself would amount to a further contempt of that court. To avoid a contempt of courts proceedings in one court respondents cannot incur or commit contempt of another

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court. Therefore, the present directions of this court dated 8.7.1996 are in that limited sense unimplementable in the present form. The inevitable conclusion is that there is no deliberate intention amounting to violation of our orders exist in this case.

The orders of this court were passed on 8.7.96 while in accordance with the contempt of courts proceedings before Allahabad Bench the orders in furtherance to that judgement was implemented sometime in September, 1996. While passing the final order in OA No. 2317/95, the decision of the Allahabad Bench was brought to the notice of this Court and this court disagreed with the finding of the Allahabad Bench and the matter was not referred to a Larger Bench. Under what circumstances it was not done is not seen on the face of the order.

Learned counsel for the respondents stated that this court may refer these two cases to resolve the conflict before Large Bench. We are reluctant to do so since no application is pending before us with such a relief sought nor we think it proper to do so in a contempt of court proceedings. On the other hand we find the power in such circumstances will have to be exercised by the Hon'ble Chairman himself. No clause IV (d) of Section 5, it is provided that the Chairman may, for the purpose of securing that any case which, having regard to the nature of the questions involved require in his opinion, to be decided by a Bench composed of more than two members, issue such general or special orders as he may deem fit. Under these provisions the power in circumstances as it is available today can be exercised only by the Hon'ble Chairman. This provision was interpreted by the Full Bench of this court in Vijay Kumar Srivastava vs. UOI vide Full Bench decision Vol. I P. 102 at page 110 wherein an objection from the parties that once a final order is passed by this Tribunal, that cannot be further subject to any revision/reversal by the Full Bench.

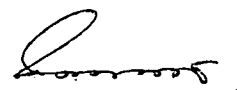
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This objection was rightly repelled in the said decision. And in view of the said interpretation we are of the opinion that this matter may be brought to the notice of the Hon'ble Chairman through an appropriate application.

Under these circumstances the respondents are now undertaking to file an application before the Hon'ble Chairman to refer both these cases for a decision of larger bench to resolve this conflict situation.

In the circumstances, these contempt of courts proceedings cannot continue as it is and we accept the undertaking of the counsel appearing on behalf of the respondents that he would take steps to refer the matter to a larger bench by making appropriate application before the Hon'ble Chairman, within a period of two weeks from today.

On the basis of the above said undertakings, no further order is required to be passed in the present Contempt P tition. Notices issued to the respondents are discharged and C.P. alongwith connected M.As are disposed of accordingly,


(S.P. Biswas)
Member (A)


(Dr. Jose P. Verghese)
Vice-Chairman(J)

/na/