

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

CP No.106/2000 in
OA No.983/1995

New Delhi this the 19th day of December, 2000.

Hon'ble Mr. Justice V. Rajagopala Reddy, Vice-Chairman
Hon'ble Mr. Govindan S. Tampi, Member (Admny)

Mukesh Prakash

...Petitioner

(By Advocate Mr. S.K. Gupta)

-Versus-

P.S. Bhatnagar & Others

...Respondents

(By Advocate Mr. Rajinder Pandita)

1. To be referred to the Reporter or not? YES/NO

2. To be circulated to other Benches of
the Tribunal?

YES/NO


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

(18)
(47)

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HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE-CHAIRMAN
HON'BLE MR. GOVINDAN S. TAMPI, MEMBER (ADMNV)

Mukesh Prakash,
S/o late Sh. Ramchander Sharma,
R/o V & P.O. Dhankot,
Distt. Gurgaon (Haryana).

...Petitioner

(By Advocate Shri S.K. Gupta)

-Versus-

1. P.S. Bhatnagar,
Chief Secretary,
Govt. of NCT of Delhi,
5, Sham Nath Marg,
Delhi.

2. S.R. Sharma,
Secretary (Home),
Govt. of NCT of Delhi,
5, Sham Nath marg,
Delhi.

3. S.K. Dheri,
Chief Fire Officer,
Delhi Fire Service,
Fire Headquarters,
Connaught Place,
New Delhi.

...Respondents

(By Advocate Sh. Rajinder Pandita with Respondent No.3
in person)

O R D E R

By Justice V. Rajagopala Reddy, Vice-Chairman (J):

The petitioner along with other Radio Telephone Operators filed the above OA, claiming the parity of pay scales with Radio Operators who were in the higher pay scales of Rs.380-560 and the OA was allowed by order dated 6.10.99, giving the following directions:

"i) That the applicants shall be entitled for grant of scale of pay of R.Os., now being given to R.T.Os. i.e. Rs.380-560 (pre-revised), w.e.f. 1984 from the date which the applicants were converted into the post of R.T.Os., whichever is later.

ii) Our orders in respect of the above shall be complied with within a period of three

(2)

months from the date of receipt of a copy of this order."

2. Thereafter on 15.10.99 the petitioner and others appraised the Chief Fire Officer, R-3 herein, seeking compliance of Tribunal, as the demands were pending since a long time. That, was followed by a reminder dated 18.1.2000. Since respondents did not move, a final reminder was sent on 24.3.2000, warning that the failure to comply would compel them to file a Contempt Petition. Since nothing happened, even after the expiry of three months, the petitioner filed the present CP. Notices have been ordered and served upon them and in pursuance of the notices R-3 filed reply dated 21.8.2000. Subsequently, a charge has also been served upon R-3 and in pursuance of a direction R-3 appeared before the Court in person. Subsequently, R-2 also filed his reply.

3. The learned counsel for the petitioner contends that though the order was passed in October, 1999 and nearly one year had expired the order was not complied with. It is his case that though the third respondent was apprised of the order of the Court as early as on 15.10.99 and thereafter more than three reminders have been issued, the respondents have not moved into the matter, which should render them liable for punishment under the Contempt of Courts Act (Act, for short).

4. The third respondent in his reply has, however, resorted to a very peculiar stand which is wholly unsustainable. The entire counter dwelt upon the merits of the OA. He seeks to re-argue the OA to contend that the order passed by the Tribunal was not valid inasmuch as the petitioner could not be equated with Radio Operators who



(3)

are technical personnel. It was also sought to be contended that the OA was not maintainable as barred by limitation, as the Delhi Fire Service was totally under the control of the Delhi Municipal Corporation, though it was taken over by the Government of NCT Delhi w.e.f. 10.11.94. The reply seems to convey that the order being thus illegal, it need not be complied with at all! Learned counsel requests that as the Writ Petition filed in the High Court of Delhi challenging the order of the Tribunal is pending, the CP be adjourned. On the last occasion when the case was heard R-3 as well as his counsel submitted that R-3 was not empowered to implement the order but the Government of India alone was empowered to do so but it was not a party to the OA.

5. Having heard the learned counsel on either side and going through the pleadings, we find ourselves unable to see any justification in the total defiance of R-3 in not complying with the order. It is seen from the letter addressed to R-3 dated 15.10.99 the petitioner apprised him of the order and requested him to comply with the order within 3 months, as directed. As is evident from Annexures C-4 and C-5 dated 18.1.2000 and 24.3.2000, that the representatives of the Staff (petitioners and others) held meetings in his chamber for implementation of the order. On the Contempt Petition, notices were issued on 3.4.2000. In our order dated 4.7.2000 again three months time was granted for compliance. It was only after several opportunities the R-3 filed his reply in August, 2000. RA-284/2000 filed by him was also dismissed. It is seen from the docket order that on 24.10.2000 after the dismissal of the RA the learned counsel for the respondents

CP

18
50

had taken three weeks' time for filing compliance report. As no compliance report was made a charge has been served on 16.11.2000 and in reply to the charge it is now sought to be argued that he was powerless to comply with the order. Thus, even after filing the CP the third respondent did not move an inch to comply with the order. The argument that he was powerless to comply with the order cannot be countenanced because no such averment was made in his reply. We have also perused the reply filed by the second respondent and who has also not stated that R-3 was not competent to revise the pay scales as directed by the Court.

6. The only direction given by the Tribunal was to revise the pay scales of the Radio Telephone Operators, the petitioner in the OA ^{Q is one of them} to the level of the pay scales of Radio Operators in the higher scale from Rs.330-480 to Rs.380-560 w.e.f. 1984 within a period of three months from the date of the order. It is not the case of the respondents that any order was passed by the High Court or the Supreme Court holding that the Radio Telephone Operators are not entitled to such scales or that the order of the Tribunal has been stayed by High Court. It, therefore, follows that the order of the Tribunal remain valid and operative till date. When such is the case it is not open to contest the validity of the order in this CP, as the jurisdiction of the Tribunal in the CP is limited to see whether the order was complied with or not. It cannot be denied that it is the bounden duty of R-3 to comply with the order. If they were really aggrieved by the order of the Tribunal they should have questioned it immediately after the order was passed. They have not done so, they

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18
51

filed Writ Petition only in October, 2000. Obviously it appears that they have never intended to comply with the order. They have simply put it aside. Even now, R-3 does not say a word that he would comply with the order. The stand taken by the respondents cannot be countenanced. If the mandate of the courts are not complied with, it would destroy the confidence of the people in the courts and it would lead to public disaster. "The purpose of the contempt jurisdiction is to uphold the majesty and dignity of the law courts and the image of such majesty in the minds of the public cannot be allowed to be distorted." [Omesh Saigal v. R.K. Dalmia, AIR 1969 Delhi 214]. The Supreme Court as early as in Brahma Prakash Sharma v. State of Uttar Pradesh, AIR 1954 SC 10 held that the contempt proceedings are intended "to be a protection to the public whose interests would be very much affected if by the act or conduct of any party, the authority of the Court is lowered and the sense of confidence which people have in the administration of justice by it is weakened." The Supreme Court in the recent judgment in T. Sudhakar Prasad v. Govt. of A.P. & Ors. (Civil Appeal Nos.5089-5090 of 1998), upholding the validity of Section 17 of the Administrative Tribunals Act, 1985, observed:

"Contempt jurisdiction is exercised for the purpose of upholding the majesty of law and dignity of judicial system as also of the courts and tribunals entrusted with the task of administering delivery of justice. Power of contempt has often been invoked, as a step in that direction, for enforcing compliance of orders of courts and punishing for lapses in the matter of compliance. The majesty of judicial institution is to be ensured so that it may not be lowered and the functional utility of the constitutional edifice is preserved from being rendered ineffective. The proceedings for contempt of court cannot be used merely for executing the decree of

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(2/52)

the court. However, with a view to preserving the flow of the stream of justice in its unsullied form and in unstinted purity willful defiance with the mandate of the court is treated to be contemptuous. Availability of jurisdiction to punish for contempt provides efficacy to functioning of the judicial forum and enables the enforcement of the orders on account of its deterrent affect on avoidance."

7. We are, therefore, constrained to hold, *✓* *Truth* is R-3 is guilty of the contempt of the Tribunal.

8. The respondents 1 and 2 have no role to play in this case. R-3 being the Head of the Department and the petitioner having approached him directly from the beginning it was he who should be liable for contempt. Respondents 1 and 2 are, therefore, not liable for any action under the Contempt of Courts Act.

9. In the result, we hold R-3 guilty of contempt of this Court and convict him under Section 17 of the Administrative Tribunals Act, 1985 read with Section 12 of the Contempts of Courts Act, 1971 and sentence him to one month's simple imprisonment. But the sentence is suspended for a period of 20 days from today, to enable R-3 to approach the appropriate higher forum, if he so desires, against the order.

10. C.P. is accordingly allowed, in the circumstances without costs.

[Signature]
S. Indan S. Tampi
Member (A)

'San.'

[Signature]
(V. Rajagopala Reddy)
Vice-Chairman(J)