

**Central Administrative Tribunal
Principal Bench, New Delhi**

C.P.No.455/2012 in O.A.No. 390/1997

Thursday, this the 3rd day of January 2013

Hon'ble Shri G George Paracken, Member (J)
Hon'ble Shri Shekhar Agarwal, Member (A)

Shri SC Sharma (retired) age 69 years
s/o Shri S S Sharma
r/o Shanti Vihar 150, Govindgarh
Dehrdun (Uttaranchal) 248001

.. Petitioner

(By Advocate: Shri Ravinder Kumar Sharma)

Versus

1. Shri A K Chopra
Financial Advisor
Ministry of Defence (Finance)
South Block, New Delhi
2. Smt. Priti Mohanty
Controller General of Defence Accounts
Ullan Batar Road, Palam, Delhi-10

..Respondents

(By Advocate: Shri Rajinder Nischal)

O R D E R (ORAL)

Shri G George Paracken:

This Contempt Petition has been filed for the alleged non-implementation of the order of this Tribunal dated 27.06.2000 in OA No.390/1997. The operative part of the said order reads as under:-

"16. In the result, for the reasons given above, O.A. succeeds and is allowed with the following directions:

(i) The impugned penalty orders dated 12.1.1996 and 30.10.1998 are quashed and set aside.

(ii) If the applicant has not reached the age of superannuation from service, the respondents shall reinstate him, and liberty is granted to them to proceed with the disciplinary proceedings against him in accordance with law and regulations within 2 months from the date of receipt of a copy of this order;

(iii) Thereafter, the competent authorities shall pass necessary orders regarding the intervening period from the date of compulsory retirement to the date of retirement in accordance with the rules. No order as to costs."

2. The respondents carried the aforesaid order before the Hon'ble High Court of Delhi by filing W.P.(C) No. 5466/2000 but the same was dismissed on 07.07.2011 by imposing a cost of Rs.10,000/- on the respondents. The relevant part of the said order is also reproduced as under:-

"5. Rule DB was issued in this case and the matter was directed to be listed. Nobody appears on behalf of the petitioner/UOI at the time of hearing. The matter was argued by the learned counsel for the respondent. We have also perused the writ petition as well as other pleadings including the impugned judgment of the learned Tribunal. We are one with the Tribunal insofar as Tribunal holds that the impugned order passed by the disciplinary authority suffered on account of violation of principles of natural justice by not giving hearing before disagreeing with the findings of the Enquiry Officer on charges-I, II and III.

6. On the facts of this case, the judgment of Supreme Court in Kunj Behari (supra) is squarely applicable. The petition is decided on merits and is dismissed with costs quantified @ Rs.10,000/-"

3. Thereafter, the respondents have paid a lump sum amount of Rs.9,50,163/- to the petitioner vide cheque No.500482 dated 27.11.2012.

4. The learned counsel for the alleged contemnors, Shri Rajinder Nischal has submitted that during the pendency of the aforesaid WP(C) before the Hon'ble High Court, the petitioner retired from service on superannuation on 31.07.2003. He has also submitted that the respondents themselves have passed order dropping the disciplinary proceedings against the petitioner. He has, therefore, submitted that the second direction given by this Tribunal in the aforesaid order dated 27.06.2000 has become infructuous.

5. As regards the third prayer is concerned, Shri Nischal has stated that the intervening period between the date from where the petitioner was compulsory retired from service and the date of his superannuation has been treated as duty for all purposes. In this regard, he has also produced a copy of the respondents' order dated 12.11.2012 which reads as under:-

"OFFICE OF THE PCDA (AF), 107 RAJPUR ROAD,
DEHRADUN-248001

Part II O.O. No.384

Dated: 12.11.2012

Subject: Discipline: DAD Estt.

Reference: This office Part II O.O. No.238 dated 09.7.2012.

On reconsideration of the facts of the case and also in compliance to the directions issued in orders dated 17.9.2012 and 19.10.2012 in CP No.455/2012, OA No. 390/1997 of Hon'ble CAT (PB) New Delhi, the Competent Authority viz. The President has reviewed order No.AN/XIII/13700(188)/93/2/CAT CASE dated 21.6.2012. Accordingly Para 2 and 3 of the Part II O.O. No. 238 dated 09.7.2012 may be deleted and replaced with the following:

(i) The disciplinary proceedings in the case of Shri S.C. Sharma, Senior Accounts Officer (retd) initiated vide CGDA memorandum bearing No.AN/XIII/13700(188)/93/2/Vol-II dated 28.8.1993 may be treated as closed.

(ii) As result of closure of the disciplinary case, Shri S.C. Sharma, will be entitled to all consequential benefits and the period of suspension will be treated as duty w.e.f. 25.01.1996 till his normal date of retirement i.e.31.7.2003.

All other contents remain unchanged.

Authority: CGDA No.AN/XIII/13700(188)/93/2/CAT CASE

Dated 09.11.2012.

File No.AN-I/LC/4379/SCS/Vol-II

Sd/-
(I.J. MALHOTRA)
ACDA (AN)"

6. However, the submissions of the learned counsel for the petitioner, Shri Ravinder Kumar Sharma are that :-



- (1) the petitioner has not been given the details of the payment of Rs.9,50,163/- made by the respondents,
- (2) the respondents have not taken any action regarding the suspension period of the petitioner from 11.01.1993 to 10.05.1994,
- (3) the retrial benefits of the petitioner have not been revised/paid; and
- (4) the petitioner has not been given his notional promotion to the next higher grade even though his juniors have been promoted.


● The learned counsel for the petitioner has also submitted that since the disciplinary proceedings have been dropped against the petitioner and intervening period between his date of compulsory retirement and the date of superannuation has been treated as duty for all purposes, he is entitled for all the benefits including notional promotion but the respondents have not granted them so far. Learned counsel for the petitioner has also submitted that the petitioner has made a detailed representation to the CGDA on 22.11.2012 listing out the surviving benefits which are admissible to him.

7. The learned counsel for the respondents has submitted that on receipt of the aforesaid representation, the Department is working on it.

8. In view of the above position, we dispose of the present Contempt Petition directing the respondents to ensure that all the aforesaid claims of the petitioner shall be examined in the light of their own decisions to drop the disciplinary proceedings pending against the petitioner and to treat the period between compulsory retirement and superannuation as duty for all purposes, all the benefits as admissible under the rules shall be given to him without any further delay preferably within two months from the date of receipt of a copy of this order. The petitioner also will have the liberty to revive this Contempt Petition if the respondents do not comply with the

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aforesaid directions within the foresaid period of time. Notices issued to the alleged contemnors are discharged. There shall be no order as to costs.


(Shekhar Agarwal)
Member (A)

/vb/


(G George Paracken)
Member (J)

F-2084. N.A. No. 897/13 JGE
Extension of time