

45

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

CP No.318/2000 in
OA No.195/1996

New Delhi this the 6th day of November, 2000.

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

1. Shri Dhani Ram,
R/o 272/18, Heera Nagar,
Khanda Road, Gurgaon.
2. Shri Tulsi Das Manchanda,
R/o K-120-A, West Patel Nagar,
New Delhi-110008.
3. Shri Daulat Ram Harplani,
E-212, Double Storey,
Ramesh Nagar,
New Delhi-110 015.
4. Shri Hari Ram Gupta,
No.186, Block No.11,
Double Storey, Govt. Flats,
Dev Nagar,
New Delhi-110 005.

...Petitioners

(By Advocate Shri D.R. Roy)

-Versus-

1. Shri P.S. Bhatnagar,
Chief Secretary,
NCT of Delhi,
5, Sham Nath Marg,
Delhi-110054.
2. Shri Suresh Chandra Poddar,
Director Education, NCT of Delhi,
Old Secretariate Building,
Delhi-110054.

...Respondents

(By Advocate Mrs. Meera Chhibber)

O R D E R

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

By order dated 3.11.99, the OA was allowed and the impugned seniority list was set aside and respondents 1-3 in the OA were directed to publish a fresh seniority list and grant the petitioners due seniority over respondents 4 and 5 with all consequential benefits. Alleging that the directions issued are not carried out, the petitioners filed this CP on 24.8.2000 and notices were

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issued to the respondents. As no reply has been filed, holding, prima facie that the respondent No.2 was liable to be proceeded against under the provisions of the Contempt of Courts Act, 1971, the 'charge' has been served upon the second respondent and in pursuance of the same R-2 appeared before the court and pleaded not guilty to the charge. He filed the compliance-affidavit dated 28.10.2000 stating that the order of the Tribunal has been complied with on 24.10.2000 and that if the petitioners become entitled to any consequential benefits it should be worked out and paid to them within three weeks.

2. The learned counsel for the petitioners strongly urges that though the order has been passed on 3.11.99 the directions have not been carried out. Even after filing of the contempt petition and receiving the notices the respondents had not cared to comply with the order. It was only after the charge was served the respondents filed the compliance-affidavit. The learned counsel further urges that even in the proceedings dated 24.10.2000 the petitioners were not allowed consequential benefits, as directed by the Tribunal. Thus the action of the respondents show wilful disobedience of the orders of the Tribunal and their conduct contumacious.

3. On the other hand, it is submitted by the learned counsel for the respondents Mrs. Meera Chhibber that the order could not be implemented earlier as the file was handed over to the Government counsel for filing writ petition and in fact the Writ Petition No.6437/2000 was filed and it was listed in the High Court on 24.10.2000 and on that date the notices have been issued. As no stay has

97

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been obtained the order was implemented immediately thereafter. It is, therefore, submitted that there was no intention in disobeying the orders at any point of time and the delay was neither wilful nor deliberate.

4. We have given an anxious consideration of the matter. Since no time was stipulated in the order we may agree that the respondents could not be faulted for not complying with the order within a period of six months. But the order remained unimplemented for over a year. Let us see how the delay is sought to be justified. The only ground shown as justification is that the respondents had decided to challenge the order in the High Court and for that purpose the papers have been handed over to the Government counsel and as no orders could be obtained till 24.10.2000, they had immediately complied with the order. This explanation, to our mind appears to be wholly unsatisfactory. The only grievance of the petitioners in the OA was as to the seniority over respondents 1-3 in the posts of Mechanic-cum-Care Taker in the Directorate of Education. The OA was allowed, the impugned seniority was set aside and the revised seniority list was directed to be issued with all consequential reliefs. Though that order was passed on 3.11.99, except handing over the papers to the Government's counsel for filing the Writ Petition the respondents appear to have done not a thing towards compliance of the order. No Writ Petition was filed till October, 2000. An year had elapsed by that time. Can this explanation be swallowed as reasonable and justifiable? The answer is 'No'. In the absence of any other tenable explanation we are left with no conclusion except to hold that the respondents are guilty of deliberate and wilful

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violation of the order. We are not, for a moment, to be understood to say that the respondents have no right to question the order before the higher courts. The Tribunal's orders are definitely subject to scrutiny of the High Court under Article 226 of the Constitution. But the orders of the Tribunal are passed for compliance and not to be thrown aside to gather dust. They have to be respected with all expedition. Question the order, if you take a decision to do so promptly and should be filed at the latest within three months and if one does not succeed there, one has to abide by the order and comply with the same, at the latest by six months. Any delay thereafter would have to be treated as wilful violation. If the orders are not respected it would destroy the confidence of the people in the courts and if such an object was achieved it would be a great 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 public cannot be allowed to be distorted." (Omesh Saigal v. R.K. Dalmia, AIR 1969 Delhi 214). "The Object of contempt proceedings is not to afford protection to Judges personally from imputations to which they may be exposed as individuals; it is 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." (Brahma Prakash Sharma v. State of Uttar Pradesh, AIR 1954 SC 10.



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5. The learned counsel for the respondents strongly pleads that as the orders have now been complied with and that as the respondents had expressed regret for the delay the proceedings might be dropped. We are not convinced of this plea either. The regret must be tendered at the earliest opportunity before the arguments begin and before the contemnors discover that they have a weak case and before the Judges indicate a trend of their mind. It should be real contriteness, there should be earnest desire to make such reparation by the alleged contemnors. In the present case the respondents ^{✓ NO-2} had in fact complied with the order only after the charge was served upon ~~them~~ ^{him} and when the alleged contemner was asked to appear before the Court. A mere statement in the compliance-affidavit that the delay is regretted cannot be accepted as a genuine apology. In fact the Supreme Court in Principal, Rajni Parekh Arts, K.B. Commerce and B.C.J. Science College v. Mahendra Ambalal Shah, 1986 SCC (Cr.) 183 made it clear that "If any court is to accept an apology of a contemner tendered at a late stage, it would encourage litigants to flout the orders of courts with impunity." We are of the clear view that the apology tendered after the case underwent several adjournments and came to near closure is not a genuine apology. It has lost its value. It indicates a mere device to escape punishment. The apology does not purge the contempt.

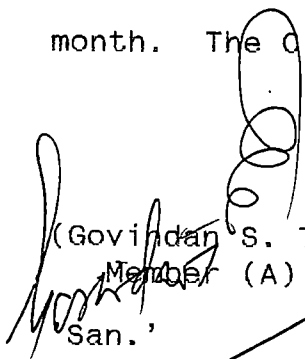
6. Respondent No.1 is not a necessary party to the C.P. as no direction was issued to be carried out by him. His name is deleted from the array of parties. Notice is discharged against R-1.

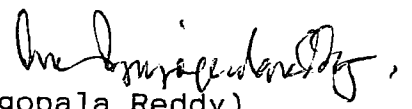
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7. In view of the foregoing we hold the respondent No.2, Shri Suresh Chander Poddar, Director of Education, NCT of Delhi, Old Secretariat Building, Delhi-110054, who is the officer who had to comply with the order, guilty of contempt and convict him under Section 17 of the Administrative Tribunals Act, 1985 readwith Section 12 of the Contempt of Courts Act, 1971 and ^{sentence} ~~punish~~ him with a fine of Rs.2,000/- (Rupees two thousand only) and in default to pay fine, simple imprisonment for a term of one month. The C.P. is accordingly allowed.


(Govindan S. Tampi)
Member (A)
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(V. Rajagopala Reddy)
Vice-Chairman (J)