

Central Administrative Tribunal
Principal Bench

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C.P. No. 359 of 1997

in

O.A. No. 1428 of 1993

New Delhi, dated this the 19- APRIL 1999

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

In the matter of:

Shri Ajit Singh Vs. Union of India

Shri Ajit Singh ... Petitioner

(By Advocate: Shri O.P. Gupta)

Versus

Shri A.V. Gokak,
Secretary,
Ministry of Communications,
New Delhi.

... Respondent

(By Advocate: None appeared)

O R D E R

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Heard applicant's counsel on C.P. No. 359/97 alleging contumacious disobedience of the Tribunal's Oral order dated 23.4.97 in O.A. No. 1428/93 filed by applicant.

2. In that O.A. applicant had sought pensionary benefits including DCRG for the services rendered by him from 6.6.45 to 1.4.70. No reply was filed by respondents and none appeared for respondents when the case came up for hearing on 23.4.97. The aforesaid order dated 23.4.97 records the fact that applicant was removed from service vide order dated 16.7.74. In the absence of any reply filed by respondents, the Bench was not aware of the circumstances of applicant's removal from service. The O.A. was disposed of by

a direction to respondents to treat the notice u/s 80 CPC sent by him as his representation, and dispose of the same by a detailed, speaking and reasoned order and preferably within four months from the date of receipt of a copy of the order.

3. A 'draft' reply to the C.P. was filed by the Asst. D.G. (Admn.), Dept. of Telecommunications enclosing a copy of respondents' order dated 21.10.97 passed pursuant to the Tribunal's aforesaid order dated 23.4.97 in which inter alia it was stated that as applicant was dismissed from service after conducting enquiry in July, 1974, the question of paying him any retiral benefits did not arise under rules.

4. Applicant filed his rejoinder pointing out that the reply was only a draft, and had not been signed by the alleged contemnor and also challenging the order dated 21.10.97 on merits besides stating that it had not been passed within the prescribed period of four months.

5. A further affidavit dated 13.5.98 has been filed by the alleged contemnor Shri A.V. Gokak, Secretary, Ministry of Communications which is on record. In that affidavit dated 13.5.98, it has been stated that the word 'draft' appearing in the reply was a typographical error and may be treated as deleted. It has been reiterated in this

affidavit dated 13.5.98 that applicant has been dismissed from service, the question of release of his retiral benefits does not arise.


6. We have heard applicant at some length who has challenged the order 21.10.97 on merits and cited various rulings, a list of which is taken on record, and some of which are also referred to in his rejoinder.

7. Presently we are dealing with a contempt petition. Contempt proceedings are between the Court and the alleged contemnor the object of which is to uphold the majority of the law. In J.S. Parihar Vs. G. Duggar & Others JT 1996 (9) SC 608 the Hon'ble Supreme Court has held

"Once there is an order passed by the Govt. on the basis of the directions issued by the Court there arise a fresh cause of action to seek redress in an appropriate forum. The preparation of the seniority list may be wrong and may be right or may or may not be in conformity with the directions. But that would be a fresh cause of action.....(and) cannot be considered wilful violation of the order."

8. In the light of the above, it cannot be said that there has been any wilful violation of the Tribunal's order dated 23.4.97, and the present C.P. cannot be used to challenge respondents' order dated 21.10.97 on merits.

9. C.P. No. 359/97 is therefore dismissed and notices to alleged contemnors are discharged.


(Mrs. Lakshmi Swaminathan)
Member (J)
/GK/


(S.R. Adige)
Vice Chairman (A)