

(27)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

CP NO. 159/2001
OA NO. 292/2000

This the 18th day of March, 2002

HON'BLE SH. V.K. MAJOTRA, MEMBER (A)
HON'BLE SH. KULDIP SINGH, MEMBER (J)

Mahavir Singh
S/o Shri Baghrwat Singh
R/o H-1/4, P.S. Defence Colony,
New Delhi

...Applicant

(By Advocate: Sh. S.K. Gupta)

Versus

1. Shri Ajay Raj Sharma
Commissioner of Police
Police Head Quarters
I.P. Estate MSO Building
New Delhi-110002.
2. Shri P.K. Bhardwaj
Foreigners Regional Registration Officer
Hans Bhawan I.P. Estate,
New Delhi.

...Contemnors

(By Advocate: Mrs. Sumedha Sharma)

ORDER (ORAL)

By Sh. Kuldip Singh, Member (J)

This CP has been filed by the applicant seeking prayer to initiate contempt proceedings against the contemnors and to punish them under Section 17 of the AT Act read with Section 2(B) read with Section 12 of Contempt of Court Act.

2. Applicant submits that as per judgment of the Tribunal in OA-292/2000 which was disposed of vide order dated 23.5.2000 this court had allowed the OA and held that applicant will now be entitled to be reinstated in service with all consequential benefits, as per rules. Though the petitioner was reinstated in service w.e.f. 26.7.2000 but as regards consequential benefits the contemnor No.3 has passed the order dated 28.8.2000 and denied the pay and allowances to the applicant.

ku

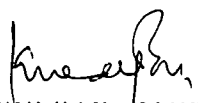
Against this order the applicant had filed a CP earlier which was registered under CP No.3529/2000 where Resp. No.3 was called and he also withdrew the order dated 28.8.2000 and another order dated 14.12.2000 was passed vide Annexure P-4 and one more order was passed for giving pay and allowances for the aforesaid period. It is further submitted that the applicant had earlier filed OA No. 2343/96 which further culminated in the filing of the OA No.292/2000. The applicant had challenged the departmental enquiry in OA-292/2000 which has ultimately abated. The subject matter of the enquiry of these OAs was that one FIRs 104/93 under Section 419, 420, 468 and 471 of IPC was registered against one passenger at P.S. IGI Airport and because of that the name of the applicant was placed in the list of officers placed in doubtful integrity. But for placing a person of doubtful integrity in the secret list, provisions which apply are S.O. 265 issued by respondents, copy of which is placed as Annexure P-6. According to S.O. 265 the case of applicant is not covered and he could not be placed under secret list. Despite the fact that the enquiry has been abated the respondents kept the name of the applicant in the secret list of doubtful integrity. Thus, the respondents have circumvented the compliance of the directions given by the Tribunal in OA-292/2000 and had treated the case of the petitioner as if departmental enquiry is still pending, so it is prayed that contempt proceedings be initiated against the respondents.

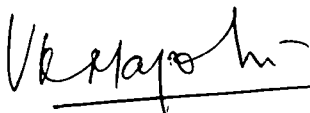
3. The CP is opposed by the respondents. The respondents pleaded that as per the directions given in OA-292/2000 the same has been duly complied with. If at all the name of the applicant is in the secret list, that gives an independent

[Signature]

cause of action and applicant has also rightly filed a separate OA to challenge the same, but in any case no contempt proceedings can be drawn against the respondents.

4. We have given our thoughtful consideration. We agree with the contentions raised by the respondents and we are of the considered opinion that the order vide which the applicant's name is kept under secret list of persons having doubtful integrity, i.e., altogether a separate and independent order though there is some sort of colourable exercise of power by the respondents, but still it cannot be said that the respondents had wilfully disobeyed the directions given in OA-292/2000. This act on the part of the respondents gives an independent cause of action to the applicant to challenge the action of the respondents and the applicant has rightly challenged the same by filing a separate OA. Hence, we find that no contempt is made out. CP is dismissed. No order as to costs.


(KULDIP SINGH)
Member (J)


(V.K. MAJOTRA)
Member (A)

'sd'