IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Cr.C.P. No.290 of 2019

in

OA.No.2413 of 2016

Date of reserving for Judgment:18.03.2020

Date of Pronouncement:23.09.2020

HON'BLE MR.JUSTICE L.NARASIMHA REDDY, CHAIRMAN

HON'BLE MR.A.K.BISHNOI, ADMINISTRATIVE MEMBER

IN THE MATTER OF:

TRIBUNAL ON ITS OWN MOTION ..APPLICANT

(By Advocates: Mr.Vikramjit Banerjee, Additional Solicitor General and Mr.Hanu Bhaskar, Mr.R.K.Jain, Mr.Gyanendra Singh)

VERSUS

MEHMOOD PRACHA .....RESPONDENT

(By Advocate: Mr.Mehmood Pracha, Party-in-Person)

: ORDER :

Justice L. Narasimha Reddy, Chairman :

This contempt case has arisen under peculiar circumstances. Rarely such instances take place in the Courts or Tribunals.

2. The brief facts are as under:

One Mr.Sanjiv Chaturvedi (for short, the applicant), an IFS officer of Uttarakhand cadre, was on deputation to the All India Institute of Medical Sciences (AIIMS) Delhi, for some period. In relation to the recording of ACRs during that period and other connected issues, he filed OA.Nos.1342/2016, 2413/2016 and 436/2017 before the Principal Bench of this Tribunal. On completion of his deputation, he was repatriated to his parent cadre. He filed OA.No.790/2017 before the Circuit Bench of this Tribunal at Nainital, which is under the Allahabad Bench, claiming certain relief against the AIIMS.

3. The applicant filed three Transfer Petitions being PT.Nos.286, 287 and 288/2017, under Section 25 of the Administrative Tribunals Act, with the prayer to transfer all three OAs pending before the Principal Bench, to the Circuit Bench at Nainital. The AIIMS, on the other hand, filed PT.No.316/2017 for transfer of the OA pending before the Nainital Bench to the Principal Bench. Normally, the PTs are disposed of by the Chairman in

a matter of 2 or 3 months deciding whether or not to accede to the request for transfer. The PTs, referred to above, however, were pending for a long time. The applicant himself was pursuing the proceedings. They were dismissed for default on 16.02.2018, and were restored on 4.5.2018. However, the applicant did not turn up on several occasions subsequent thereto.

4. On 27.7.2018, the learned counsel for the AIIMS, represented that if OA.No.790/2017, pending before the Circuit Bench at Uttarkhand, is disposed of even while the other three OAs, pending before the Principal Bench, several complications would arise, and accordingly prayed for stay of further proceedings in that OA. The applicant was not present. An interim order was passed on that date.

5. On 7.9.2018, the 4 PTs were listed. On that date, the applicant appeared and he stated that he filed Writ Petition No.359/2018 before Uttarakhand High Court challenging the order of stay passed in PT.No.316/2017 and that the Writ Petition was allowed.

6. Rule 6 of the Administrative Tribunal (Procedure) Rules, in fact provides guidance. One of the categories of transfer of OA, from one Bench to another ordered under Section 25 of the Act, is where the OA was filed before a particular Bench, and the public servant has since been transferred to the jurisdiction of another Bench. The applicant, however,

was flamboyant in his approach and was in fact exhibiting triumphalism in getting the order of stay passed in the PT, set aside. He was informed that he can argue the PTs themselves so that the issue can be given a quietus. That did not appeal to him and he went on almost browbeating the Chairman and trying to explain as to how the Tribunal should function. At that stage, he was informed that his conduct before the Tribunal has touched the border of the Contempt of Court and it is for him to choose the course of action. Thereupon, he sought adjournment.

7. The learned counsel for the Respondents in PT also sought time stating that they intend to file an SLP against the order passed by the Uttarakhand High Court.

8. The PTs were listed on subsequent dates. Sri Mehmood Pracha, learned counsel (the respondent herein) was engaged by the applicant. On 08.02.2019, he stated that the Hon'ble Supreme Court dismissed the SLP filed by the AIIMS, by imposing cost of Rs.25,000/-. After taking note of that fact, he was asked to proceed with the PTs . He was also informed that the adjudication before the Hon'ble Uttarakhand High Court and the Hon'ble Supreme Court was only about the power of the Chairman under Section 25 of the Administrative Tribunals Act, 1985 to stay the proceedings while

dealing with an application for transfer and that issue no longer subsists, with the adjudication by the Hon'ble Courts.

9. Repeated requests to him, to advance arguments did not appeal to him. He has also humiliated the learned counsel for the Respondents by saying that they have been shown their place by the Supreme Court by imposing cost of Rs.25,000/- and that they have no right whatever to plead before the Tribunal. He created an unfortunate situation in the Court and was browbeating the Chairman as well as the respondents through his gestures and dramatics. All these were tolerated, with a view to give quietus to a long pending matters. Seeing that his provocation is not yielding the expected results, the respondent herein went on making personal attack on the Chairman.

10. By looking around the Court, he said that the proceedings must be held in Camera and he has much to say about the Chairman. He was informed that he can say in the open Court whatever he intends and if that is not done, it would amount to scandalising the Chairman. His behaviour continued in the same manner and he did not reveal anything. The Court was full with Advocates of different standings and repeated requests made by them to pacify the respondent did not have any effect on him. He proceeded to observe that Chairman lost his right to hear the PTs. He was

informed that Section 25 of the Act provides for hearing of PTs only by the Chairman and that if he has got any other alternative or suggestion, he can make it. Even that did not work and he continued his tirade. Left with no alternative, a detailed order was passed on that date and a notice was issued. The respondent was required to explain within two weeks as to why contempt proceedings be not initiated against him.

11. On the next date of hearing i.e., 22.2.2019, he stated that he did not receive the notice. On his request, it was adjourned to 29.3.2019. On that date, a detailed order was passed taking note of various developments. As regards, the proposed contempt proceedings, it was directed that the matter be placed before the Hon'ble Chief Justice of High Court of Delhi for taking necessary steps under relevant provisions of Constitution of India and Contempt of Courts Act. The PTs were directed to be returned to the applicant so that he can work out his remedies under any provision other than Section 25 of the Administrative Tribunals Act 1985. The fact that the doctrine of necessity cannot be invoked was also mentioned.

12. A Division Bench of the Hon'ble High Court of Delhi took up the matter as Contempt Criminal Petition No.4/2019. Their Lordship appointed an Amicus Curiae. In a detailed judgment dated 30.05.2019, their

Lordships referred to the judgment of the Hon'ble Supreme Court in *T.Sudhakar Prasad v. Government of Andhra Pradesh* (2001 (1) SCC 516) and other judgments on the subject, and held that the Tribunal alone has the jurisdiction to hear and decide the contempt case.

13. It is brought to our notice that the order passed by the Hon'ble High Court of Delhi was affirmed by the Hon'ble Supreme Court by rejecting the SLP (Crl) No.7850/2019 filed by the respondent herein. After receiving the judgment of the Hon'ble High Court of Delhi, the contempt case was numbered as Criminal Contempt Petition No.290/2019 by this Tribunal. The draft charge, as provided under the Contempt of Courts (CAT) Rules, 1992, was framed on 19.07.2019.

14. The respondent filed MA.No.2471/2019 with three prayers viz., (i) to decide certain MAs filed in PT.No.288/2017; (ii) to decide whether the Hon'ble Chairman has jurisdiction to hear the contempt case; and (iii) to pass orders in respect of draft charge dated 19.07.2019. The MAs were disposed of on 02.08.2019. The respondent filed counter affidavits on 04.11.2019 and 11.12.2019. He did not turn up on 15.11.2019, but filed a bunch of miscellaneous applications. Sri R.H.A.Sikander, learned counsel appeared for the Respondent. During the course of hearing, the respondent was addressing parallel arguments. He was informed either he or his

counsel has to argue. After some deliberations between both of them Sri RHA.Sikander stated that he intends to dissociate himself from the case and made a request that he be discharged from the case. The respondent stated that he needs considerable time to address arguments. Therefore, the case was adjourned to 21.11.2019. On that day, he expressed a doubt as to whether the counter affidavit must be with reference to the order dated 8.2.2019 or the subsequent order. He was informed that this was clarified on 15.11.2019 itself. While adjourning the matter to 11.12.2019, we requested the learned Attorney General to depute an Additional Solicitor General to assist us in this case. On 11.12.2019, Sri Vikramjit Banerjee, learned Additional Solicitor General appeared.

15. The respondent stated that he would file reply to the draft charge on that date itself. The case was adjourned to 4.2.2020. After hearing both the parties, we expressed the view that the matter falls under Rule 13 (b) of the Contempt of Courts (CAT) Rules, 1992. Since we were satisfied that a prima facie case exists, the charge was framed under Form III. The case was listed on 10.02.2020 and the respondent pleaded not guilty.

16. Extensive arguments were addressed on 18.3.2020.

17. Sri Vikramjit Banerjee, learned Solicitor General, submitted that such a behaviour, on the part of a counsel, as is evident from the record cannot

be countenanced by any Court. He stated that even where an Advocate becomes emotional, during the course of hearing, there is a method of setting the things right and persistent behaviour of challenging the very authority of the Tribunal or attempting to denigrate the Chairman would clearly amount to criminal contempt.

18. According to him, the judgment of the Hon'ble Supreme Court in *Leila David vs State of Maharashtra & Ors* dated 21.10.2009 in Writ Petition (CRL) No.D 22040/2008, squarely applies to the facts of this case.

19. The respondent, on the other hand, stated that he addressed arguments only on the basis of the record and that he did not state anything which amounts to Contempt of Court. He has also stated that during the course of hearing of the PTs, the Chairman has made certain observations about the judgment of the Uttarakhand High Court and the Hon'ble Supreme Court and in fact, a Contempt Case was filed against the Chairman before the Uttarakhand High Court. He has also referred to the SLP pending before the Hon'ble Supreme Court against the said contempt case.

20. To the suggestion made by the learned Additional Solicitor General that the matter can be given a quietus in case the respondent expresses

regrets, the latter stated that he will stand by whatever he said in the Tribunal and during the course of proceedings and that there is no question of expressing regrets. He filed counter affidavits on 4.11.2019 and 11.12.2019.

21. The basis for this contempt case, is the remarks and statements made by the respondent herein, in his capacity as an Advocate for the petitioners in PT.Nos.286, 287 and 288/2017. The background of the case has been furnished in the preceding paragraphs.

22. Adjudication is an age old phenomenon in which, conflicting claims made by the two parties are attempted to be resolved. The parties, or their agents or the counsel representing them naturally proceed under the assumption that their respective view point is correct. It is ultimately for the adjudicator in his capacity as Judge, Chairman or Presiding Officer or even an Arbitrator, to decide the matter, duly taking into account, the relevant provisions of law, the facts of the case and the arguments advanced on behalf of the parties. The entire process reflects the highly civilized nature of the society. For that very reason, the exercise requires the players in the process, to recognize their respective roles.

23. It is not uncommon that a party or his counsel whose view point is not being accepted by the Court gets agitated. Howsoever strong such feeling may be, they have to stop at a particular stage, even while making effort to drive home, their point. Attacking an adjudicator or attributing motives would cut at the very root of the system. It hardly needs any mention that the entire process rests on the touchstone of mutual respect and confidence. Even where an Advocate crosses the limits of propriety and decency, in his anxiety to put forward the case of his client, immediate corrective steps are taken. In the entire process it is not a case of drawing equations between Advocate and the Adjudicator. In the ultimate analysis, it is only an effort to uphold dignity of the Institution.

24. Once the dignity and status of the Institution is compromised, it loses its relevance. The concept of Contempt of Court is evolved inter alia to protect the dignity of the Institution as such. Courts would be loath to take recourse to it. It is only when all its attempts to impress upon the concerned persons fail to yield the result, and when it feels that its very dignity is at stake, that the provisions are invoked. The survival need not be in the form of physical existence. It can be in terms of its very ability function with required amount of honour and dignity. There again, it is not that of an individual, Judges or Presiding Officers, but of the Court or office itself. Law has developed considerably on this aspect. It is not necessary to deal with the same in detail.

25. Reverting to the facts of the case, it was already mentioned that the proceedings, which gave rise to the Contempt Case are very simple. In all respects, result in the PTs was poised in favour of the applicant himself. However, what is discerned from the beginning is that his effort was to exhibit his personality than to get the relief in accordance with law. The fact that he was awarded Magsaysay Award was mentioned in every possible place. The tone and tenor of the pleas are such that the target was certainly highly placed officers and authorities. In an application for transfer all this is totally irrelevant. Once it is evident that –

a. He filed three OAs before the Principal Bench, at a time when he was working at Delhi; and
b. He has since been repatriated to the parent department in the State of Uttarakhand,

there was every justification for him to seek transfer at that place. Before, one of us, i.e., the Chairman took charge, the PTs were dismissed for default and were restored. It is only on account of the absence of the applicant, that an interim order had to be passed on a prayer made by the respondents in these cases. If the cases were disposed of in the ordinary course, the occasion to pass an interim order would not have arisen. At any rate, once the Hon'ble Uttarakhand High Court has set aside the order of stay, the only course of action open was to proceed with the PTs. That,

however, was not his intention. The record discloses that he crossed the limits and attempted to browbeat in every possible manner, the Tribunal, and in particular the Chairman. He was informed that such an approach may lead to initiation of contempt proceedings. Thereafter, he engaged the respondent herein, as his counsel.

26. Even where the parties are a bit emotional, the counsels are expected to discourage them and plead before the Court or Tribunal that much, which is relevant. It is rather unfortunate to note that the attack by the respondent herein was more severe and aggressive, than that of his client.

27. Repeated observations that the PTs are the oldest one and they can be disposed of within a matter of minutes, did not appeal to him. On the other hand, repeated references was made to the orders passed by the Hon'ble High Court of Uttarakhand and the Hon'ble Supreme Court to cajole the Chairman, as though he has committed a grave mistake and that the reprimand came from the superior Courts.

28. The matter reached its pinnacle when he said in the Open Court that the proceedings be heard in the Chamber because he has to say something about the Chairman. This was a clear innuendo to convey to

those present in the Court, that there is something shabby or serious against the Chairman. When he was asked to say whatever he wants in the Court itself, he went beating around the bush and did not spell out anything.

29. That what has occurred in the Court, be it in the P.Ts or thereafter is not a sudden or inadvertent development, is demonstrated by the applicant and his counsel, the respondent herein. In this case itself they filed applications, counter affidavits and documents running into about 400 pages. Every effort was made not only to justify whatever has taken place in the Court, but also to show what the applicant has achieved in his career and how he has taken on various authorities. These include the citation for Magsaysay award, the factum of his suspension, major penalty proceedings, his transfer on 12 occasions within 5 years while in the Haryana cadre, the change of his cadre of Uttarakhand, the dropping of charges etc.

30. After his cadre was changed, he applied under RTI Act for various items of information, including the IB report. Complaining that his request was not fully acceded to, he filed appeal. Feeling aggrieved by the order of the appellate authority, the CPIO filed W.P.No.5521/2016 in the High Court

of Delhi. In his judgment, the learned Judge of the High Court gave the detailed narration of events and facts. Some of them are as under:

> "*After the cadre change took place in 2012, the applicant applied for the following information on 05.12.2015.*
>
> *i. Kindly provide me certified copy of all the file noting/documents,correspondences/all type of reports between Ministry of Environment, Forest &Climate Change. Department of Personnel &Training, Cabinet Secretariat and Appointment Committee of Cabinet, regarding interstate Cadre Transfer of Mr. Sanjiv Chaturvedi, IFS, Deputy Secretary AIIMS, New Delhi from Haryana to Uttrakhand (excluding my own representations).*
>
> *ii. Kindly provide me certified copy of all the file noting/documents/correspondences/all type of reports between Ministry of Environment, Forest & Climate Change, Ministry of Health & Family Welfare, Department of Personnel &Training, Cabinet Secretariat and Appointment Committee of Cabinet, regarding Interstate Cadre Deputation of Mr. Sanjiv Chaturvedi, IFS, Deputy Secretary, AIIMS, New Delhi, to GNCT, Delhi (excluding my own representations)."*

All that was furnished. However, he wanted the IB report. The reply was that it is already part of record. The matter was carried in appeal, and that resulted in the filing of W.P. In Paras 19, 20 and 21, it was observed:

> *"19. It is contended that the respondent has been appreciated and rewarded for his performance and integrity. The respondent, during his tenure in the Haryana cadre, is alleged to have exposed corruption in multi-crore plantation scam in Jhajjar and Hisar district, corruption in construction of a Herbal Park at private land with Government money, illicit*

felling and poaching in Saraswati Wildlife Sanctuary, corruption in granting license to plywood units etc.

20. It is contended that the respondent was harassed through suspension, major penalty, departmental chargesheet, police and vigilance cases and 12 transfers in just five years.

21. It is contended that the respondent applied for change of cadre from Haryana to Uttrakhand in October 2012 on the ground of major hardships and threat to life. To assess the threat to life of the respondent, the then Secretary, MoEF sought for a report from the Intelligence Bureau in August 2014. The intelligence Bureau confirmed extreme hardships and harassment of the respondent."

The W.P. was ultimately dismissed. The reason for making reference to this is that, hardly we come across an All India Service Officer, who would go after the Government even after his request for change of cadre is acceded to. The applicant seems to be the one who intends to exhibit that he is above all and that there is nothing above him.

31. Even the orders that were passed in P.Ts and this Contempt Case where posted in the social media, and the reactions thereto, are made part of the reply of the respondent in this case. He and his client have hoodwinked the Tribunal at every stage and in all possible manners. Soon after the contempt notice was issued, a contempt case was filed against

the Chairman, in the Uttarakhand High Court. A learned Single Judge entertaining it issued notice. The Hon'ble Supreme Court stayed it.

32. The tone and tenor of the counter affidavit and the applications filed from time to time; the documents running into hundreds of pages would only show that the utterances of the respondent were not accidental or inadvertent. On the other hand, there appears to be a premeditation for that. It only shows that they would go to any extent to denigrate the authority or the Court whom they target, even if they get the relief. All depends upon whether the Court or the authority is to their liking. That would be the last thing which a Court can afford to put up with. If that takes place, the Court stands stripped of all its attributes and thereby loses its very relevance, if not existence.

33. These incidents, have taken place right in the face of the Court, and they constitute criminal Contempt of Court under Section 14 of the Act. The very purpose of enacting Section 14 of the Act is to meet the situations of this nature. Though the respondent filed an application for conducting trial, it is not possible, in the very nature of things.

34. The method of adjudication of the matter to this nature was dealt with by the Hon'ble Supreme Court in Leila David's case. The Advocates and the parties who behaved in an unruly manner in the Hon'ble

Supreme Court, were given sentence of imprisonment without conducting the Trial. One of the learned Judges, who was part of the Bench, did not agree with that. The matter was heard by another Bench. Dealing with plea that trial or inquiry needs to be conducted even where Section 14 of the Act is invoked, the Hon'ble Supreme Court held as under:

> *17. As far as the suo motu proceedings for contempt are concerned, we are of the view that Dr. Justice Arijit Pasayat was well within his jurisdiction in passing a summary order, having regard to the provisions of Articles 129 and 142 of the Constitution of India. Although, Section 14 of the Contempt of Courts Act, 1971, lays down the procedure to be followed in cases of criminal contempt in the face of the court, it does not preclude the court from taking recourse to summary proceedings when a deliberate and wilful contumacious incident takes place in front of their eyes and the public at large, including Senior Law Officers, such as the Attorney General for India who was then the Solicitor General of India. While, as pointed out by Mr. Justice Ganguly, it is a statutory requirement and a salutary principle that a person should not be condemned unheard, particularly in a case relating to contempt of Court involving a summary procedure, and should be given an opportunity of showing cause against the action proposed to be taken against him/her, there are exceptional circumstances in which such a procedure may be discarded as being redundant. The incident which took place in the court room presided over by Dr. Justice Pasayat was within the confines of the court room and was witnessed by a large number of people and the throwing of the footwear was also admitted by Dr. Sarita Parikh, who without expressing any regret for her conduct stood by what she had done and was supported by the other contemnors. In the light of such admission, the summary procedure followed by Dr. Justice Pasayat cannot be faulted.*

18. Section 14 of the Contempt of Courts Act, 1971, deals with contempt in the face of the Supreme Court or the High Court. The expression "Contempt in the face of the Supreme Court" has been interpreted to mean an incident taking place within the sight of the learned Judges and others present at the time of the incident, who had witnessed such incident. In re: Nand Lal Balwani [(1999) 2 SCC 743], it was held that where an Advocate shouted slogans and hurled a shoe towards the Court causing interference with judicial proceedings and did not even tender an apology, he would be liable for contempt in the face of the Court. It was observed by the Bench of three Judges which heard the matter that law does not give a lawyer, unsatisfied with the result of any litigation, licence to permit himself the liberty of causing disrespect to the Court or attempting, in any manner, to lower the dignity of the Court. It was also observed that Courts could not be intimidated into passing favourable orders. Consequently, on account of his contumacious conduct, this Court sentenced the contemnor to suffer four months simple imprisonment and to pay a fine of Rs.2,000/-. In another decision of this Court in Charan Lal Sahu v. Union of India and another [(1988) 3 SCC 255], a petition filed by an experienced advocate of this Court by way of a public interest litigation was couched in unsavoury language and an intentional attempt was made to indulge in mudslinging against the advocates, the Supreme Court and other constitutional institutions. Many of the allegations made by him were likely to lower the prestige of the Supreme Court. It was also alleged that the Supreme Court had become a constitutional liability without having control over the illegal acts of the Government. This Court held that the pleadings in the writ petition gave the impression that they were clearly intended to denigrate the Supreme Court in the esteem of the people of India. In the facts of the case, the petitioner therein was prima facie held to be guilty of contempt of Court.

19. Section 14 of the Contempt of Courts Act no doubt contemplates issuance of notice and an opportunity to the contemnors to answer the charges in the notice to satisfy the principles of natural justice. However, where an incident of the instant nature takes place within the presence and sight of the learned Judges, the same amounts to contempt in the face of the Court and is required to be dealt with at the time of the incident itself. This is necessary for the dignity and majesty of the Courts to be maintained. When an object, such as a footwear, is thrown at the Presiding Officer in a Court proceeding, the object is not to merely scandalize or humiliate the Judge, but to scandalize the institution itself and thereby lower its dignity in the eyes of the public. In the instant case, after being given an opportunity to explain their conduct, not only have the contemnors shown no remorse for their unseemly behaviour, but they have gone even further by filing a fresh writ petition in which apart from repeating the scandalous remarks made earlier, certain new dimensions in the use of unseemly and intemperate language have been resorted to to further denigrate and scandalize and over-awe the Court. This is one of such cases where no leniency can be shown as the contemnors have taken the liberal attitude shown to them by the Court as licence for indulging in indecorous behaviour and making scandalous allegations not only against the judiciary, but those holding the highest positions in the country. The writ proceedings have been taken in gross abuse of the process of Court, with the deliberate and wilful intention of lowering the image and dignity not only of the Court and the judiciary, but to vilify the highest constitutional functionaries.

35. Same situation obtains in this case as well.

36. From the various developments that took in this case, what we gather is that the attempt was more to add to the personality of the applicant and his counsel i.e., the respondent herein, and for that purpose, the Tribunal became easy target. In these days of stiff competition in the legal field such tendencies are taking place. It may take decades of dedicated service for an officer to be recognised for his efficiency or honesty. Similarly, for a hardworking Advocate, it would take quite some time to get recognition or fame. Unfortunately, recourse is taken by some, to short cuts, without realising that the one who prefers short cuts is bound to be cut short. Sometimes the event may be delayed, but it is bound to occur some day or the other. The only unfortunate part of it is that severe damage is done to the Institutions, in the meanwhile. One cannot find any justification for the unruly and contemptuous behaviour on the part of the respondent herein. In his counter affidavit or in the course of argument, he did not deny what is attributed to him. We hold him guilty of Contempt of Court under Section 14 of the Contempt of Courts Act, 1971, in terms of the charge framed against him.

37. There would have been every justification for us, to impose the sentence, proportionate to the acts of contempt held proved against the

respondent. However, by treating this as a first instance, we let him off with a severe warning to the effect that if he repeats such acts in future in the Tribunal, the finding that he is guilty of contempt of Court, in this case, shall be treated as one of the factors in the proceedings, if any, that may ensue.

38. The copy of this order shall be forwarded to the Bar Council of India and Delhi State Bar Council.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

Dsn.