



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

**C.P. No. 185/2020
In
O.A. No. 237/2020**

This the 14th day of October, 2020

(Through Video Conferencing)

**Hon'ble Mr. Pradeep Kumar, Member (A)
Hon'ble Mr. R.N. Singh, Member (J)**

Virendra Pandey (Group-A)
Executive Engineer (Electrical), CPWD
S/o Sh. Vishwanath Pandey,
R/o AD-52, Avantika,
Ghaziabad, U.P.

...applicant

(By Advocate: Shri C. Mohan Rao with Shri Lokesh
Kumar Sharma)

VERSUS

1. Sh. Vinit Kumar Jayaswal
Director General
Central Public Works Department
Nirman Bhawan, Maulana Azad Road,
New Delhi-110011.
2. Sh. Brajesh Kumar Sinha
Director (Personnel)
Central Public Works Department
Nirman Bhawan, Maulana Azad Road,
New Delhi-110011.

...Respondents

(By Advocate: Shri S N Verma)

ORDER (Oral)



Hon'ble Mr. R.N. Singh, Member (J):

The present CP has been filed by the petitioner alleging wilful defiance of this Tribunal's order dated 17.02.2020 (Annexure P1) in O.A. 237/2020. The operative portion of the aforesaid order reads as under:-

“7. After considering the rival condition, there is no force with the argument that similarly situated persons are seeking transfer to Delhi, each and every case has its own merits. We are of the strong opinion that the respondents shall consider the representation of the applicant for transfer and posting as per the station of his choice in terms of Government of India guidelines, the employee should be given choice posting during his last leg of service and pass a reasoned and speaking order within a period of one month and if possible, consider the applicant's transfer and posting in Delhi/NCR.

8. The OA stands disposed of with these observations. No order as to costs.”
2. It is not in dispute that in pursuance of the directions of this Tribunal in the aforesaid order dated 17.02.2020, the respondents have passed an order dated 16.3.2020. However, the learned counsel for the petitioner submits that the said order dated 16.3.2020 is not in letter and spirit of the directions of this Tribunal in order dated 17.2.2020 under reference.



It is also not in dispute that the petitioner has challenged the said order dated 16.3.2020 in another original proceedings by filing OA No.909/2020, which has been partly allowed today vide separate Order.

3. Shri Rao, learned counsel for the petitioner further argues that by passing the order dated 16.3.2020, the respondents have attempted to override the directions of this Tribunal.

4. We have considered the rival submissions made by the learned counsel for the parties. We are of the considered view that once in pursuance of the directions of this Tribunal in Order dated 17.2.2020, the respondents have passed the order dated 16.3.2020, whether the petitioner is satisfied with the same or not and whether the same is in letter and spirit of the directions of this Tribunal or not, the contempt proceedings may not be maintainable that too when the petitioner has admittedly filed separate Original proceedings vide OA No.909/2020, which has been disposed of today vide a separate Order.

5. In this regard, we may refer and rely upon the law laid down by the Hon'ble Supreme Court in the case of ***J.S. Parihar vs. Ganpat Duggar and others***,

reported in (1996) 6 SCC 291. The relevant portion of the said Judgment reads as under:-



“.....It is seen that once there is an order passed by the Government on the basis of the directions issued by the court, there arises a fresh cause of action to seek redressal in an appropriate forum. The preparation of the seniority list may be wrong or may be right or may or may not be in conformity with the directions. But that would be a fresh cause of action for the aggrieved party to avail of the opportunity of judicial review but that cannot be considered to be the willful violation of the order. After exercising the judicial review in contempt proceedings, a fresh direction by the learned Single Judge cannot be given to redraw the seniority list. In other words, the learned Judge was exercising the jurisdiction to consider the matter on merits in the contempt proceedings. It would not be permissible under Section 12 of the Act.....”

6. In view of the aforesaid, the present Contempt Petition is dismissed. Notices issued to the respondents are discharged.

(R.N. Singh)
Member (J)

(Pradeep Kumar)
Member (A)

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