

**Central Administrative Tribunal
Ernakulam Bench**

CP(C) No.180/00030/2020
in OA No.216/2003

Monday, this the 18th day of January, 2021

CORAM

Hon'ble Mr.P.Madhavan, Judicial Member

Hon'ble Mr.K.V.Eapen, Administrative Member

K.Ravikumar, age 59 years,
S/o Late Sri K.V.Kunchu Pillai
Sorting Assistant at Kottayam RMS,
under order of compulsory retirement.
Residinng at Ajaya Bhavanam,
Changankulangara, Ochira P.O.,
Kollam, Kerala (PIN: 690 526)

Petitioner

(Petitioner in person)

Versus

1. Sayid Rashid, age 59 years,
Director of Postal Services (Hqs.),
S/R, O/o Chief PMG, Trivandrum.
PIN: 695 033. (Original 3rd respondent)
2. K.K.Davis, age 58 years,
Senior Superintendent, RMS, T.V.Division,
Trivandrum-695 036.
(Original 4th respondent).

Respondents

(Advocate: Mr.Thomas Mathew Nellimoottil, Sr.PCGC)

The Contempt Petition (Civil) having been heard on 13.01.2021, this Tribunal delivered the following order on 18.01.2021:

ORDER

By P.Madhavan, Judicial Member

This Contempt Petition was filed by the applicant in OA No.216/2003 and MA No.255/2019 seeking implementation of the order passed in his favour in OA No.216/2003. According to the petitioner, this Tribunal had passed an order

to reinstate him in service with all consequential benefits but without backwages. Due to the non-implementation of the order, the petitioner has filed the contempt petition. So the 2nd respondent issued an order reinstating him at Kayamkulam RMS and he immediately joined duty at Kayamkulam RMS on 28.12.2015. While he was working there, the 2nd respondent issued an order transferring him to Kottayam RMS and directed him to join there on 3.2.2016. Then the applicant filed a representation to 2nd respondent for getting a re-transfer to Kayamkulam RMS but the respondents did not consider his request. Then he filed MA No.403/2017 in an OA bearing No.702/2016 pending before this Tribunal against the transfer made by the 2nd respondent. The Tribunal directed the 2nd respondent to consider the transfer request within two months and the order was communicated to the 2nd respondent. But it was not considered and the respondents ignored the same. In the meanwhile, the petitioner had submitted a transfer TA bill to the Department but it was returned stating that the address shown by the petitioner in the TA bill was wrong and the bill was returned to show the proper address of the petitioner. He again represented the same in proper time but the 2nd respondent conducted an inquiry into the address and in continuation of the same, a statement was obtained from the wife of one P.R.Sureshkumar and based on the said statement, the 2nd respondent issued a charge sheet and an conducted an inquiry under Rule 14 of the CCS (CCA) Rules. After conducting the inquiry, the petitioner was removed from the service by ordering compulsory retirement. The 2nd respondent had not properly fixed his pension and only an amount of Rs.20260/- was fixed as pension instead of the actual amount. Only an amount of Rs.5 lakh was disbursed to him as gratuity. Then he filed an MA No.255/2019 for implementation of the order passed in OA

No.216/2003. Then the Tribunal had observed in the proceedings *“Applicant appeared in person. He seeks implementation of the orders at Annexure MA3 by which an order had been passed in OA No.216/2003 reinstating the applicant and quashing all actions taken by the respondents against him. It is seen that although the order was passed on 16th September, 2015, it is yet to be implemented. We need to take a strict stand on this issue as the order of this Tribunal is yet to be implemented nearly 4 years after the order was passed. Post on 4th June, 2019 to report full compliance, failing which suo motu contempt action will be initiated against the respondents”*. The petitioner handed over a copy of the order to the department at Trivandrum.

2. According to the petitioner, when the matter came up for hearing, the counsel for the respondents some how or other managed to adjourn the matter and it was submitted before the Tribunal that the petitioner had fabricated his signature in an argument note purportedly showing the receipt of copy of the argument note. A complaint was filed before the police and the matter was being adjourned unnecessarily. At this stage, the petitioner tried to approach the Hon'ble High Court with a Writ Petition but the Registry of the High Court advised him to file a contempt petition before this Tribunal and accordingly he filed the present Contempt Petition. He had also stated a lot of allegations against the staff and the counsel appearing for the respondents. According to him, he is entitled to get Rs.15 lakh as DCRG; Rs. 36500/- as monthly pension; Rs.4,90,000/- as CELS; Rs.50,000/- as part of insurance and Rs.5 lakh as GPF. He is also entitled to get leave surrender benefit which is not calculated. So he is entitled to get a balance amount of Rs.20,19,351/- as retirement benefit.

3. The respondents filed a detailed reply affidavit stating that the petitioner has filed the contempt petition stating various other facts which are not at all involved in OA 216/2003. The Tribunal in 216/2003 had directed the respondents as follows:

“The applicant shall be reinstated in service in the post from which he was deemed to have been removed from service. The period of unauthorized absence mentioned in the charge memo shall be treated as 'leave not due'. The Group-C post to which he became eligible to be appointed shall be conferred to the plaintiff soon after he is reinstated from the date on which such appointment became due to him. The entire period of service he remained out of employment as a result of A1 to A3 orders shall be counted for increment and pension, but without any back wages. It is made clear that the present order will not entitle the plaintiff to claim any further damages or any future promotions he would have been entitled to during the interregnum”.

4. According to the respondents, the directions of the Tribunal in OA No.216/2003 dated 16.9.2015 were fully implemented by the respondents by reinstating the applicant in service as MTS at Kayamkulam RMS on 27.12.2015 to the post from which the applicant was removed and promoted as Sorting Assistant at Kottayam RMS immediately. The promotion to the post of Sorting Assistant was granted to the applicant with effect from 29.9.1999 i.e., from the date of removal of the applicant. The period from 29.9.1999 to 27.12.2015 has been counted for increment and pay was fixed at Rs.8820/- + Rs.1800 GP, but no back wages were paid as it was clearly mentioned in the order that no back wages need to be paid for the period of service the applicant remained out of employment. Hence it is clear that the directions of this Tribunal dated 16.9.2015 in OA No.206/2003 were fully complied with by the respondents in true spirit.

5. The petitioner in this case had challenged the order in OA No.216/2003 in OP (CAT) 186/2016 for getting the back wages and other benefits and the same

is still pending for disposal before the High Court. Hence the present Contempt Petition is not maintainable also.

6. The applicant has filed a separate OA No.702/2016 for getting arrears of subsistence allowance and for promotion to the post of Supervisor by counting the service of the applicant from ED service etc. The above OA is also pending before the Tribunal.

7. The pension and pensionary benefits were given to the applicant as per rules and guidelines issued by the Government from time to time and duly verified by the Director of Postal Accounts, Trivandrum. It is also submitted that the pension related dispute was not considered in OA No.216/2003. It is also stated that the applicant is unnecessarily dragging the matter, raising false allegations and unnecessary claims which are not at all the issues related to the order in the above OA and thereby wasting the precious time of the Tribunal. So the Contempt Petition is liable to be dismissed.

8. We have anxiously gone through the petition and objection filed in the Contempt Petition. We have gone through the order passed in OA No.216/2003 and it is clear that the applicant was reinstated with all consequential benefits except back wages. The respondents have fully complied with the above order and the petitioner was reinstated and he was also granted promotion to the post of Sorting Assistant with effect from 29.9.1999 i.e., from the date of removal of the applicant from service. We clearly see that the respondents have fully complied with the directions issued by this Tribunal in OA No.216/2003 and there remains nothing for implementation. The respondents have also pointed out the pendency of OP (CAT) 186/2016 filed by the petitioner before the Hon'ble High Court for getting back wages, which was not granted by this Tribunal. The

petitioner has not produced any order which he obtained from the Hon'ble High Court. When his appeal is pending, no Contempt Petition can be filed, as the dispute is not finally settled. As regards other averments made in the petition, we find that those allegations and averments are not directly related to the OA No.216/2003 for which the petition was filed and it does not deserve any consideration in this petition. The applicant was removed from service by compulsory retirement in consequence of a disciplinary proceedings initiated subsequently, which was not challenged before this Tribunal. Those aspects are not coming within the purview of the Contempt Petition. There is no contempt committed by the respondents in this case. Hence the Contempt Petition (Civil) is dismissed and notices discharged. MA No.255/2019 stands disposed of accordingly.

(K.V.Eapen)
Administrative Member

(P.Madhavan)
Judicial Member

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Annexures referred to in the CP(C)

- Annexure R-CP1: True copy of the order of the Tribunal dated 29.03.2019 in MA 255/2019 in OA 216/2003.
- Annexure R-CP2: True copy of the order of the Tribunal dated 30.09.2019 in OA in 702/2016.
- Annexure R-CP3: True copy of the order of the Tribunal dated 06.07.2018 in Unnumbered CP Dy No. 711/18 in MA 403/17 in OA 702/16.
- Annexure R-CP4: True copy of the Transfer TA Bill submitted by the applicant.
- Annexure R-CP5: True Copy of the Memo No. B/18/10 dated 08.05.2017, issued by SSRM, RMS 'TV' Division, Thiruvananthapuram-695036.
- Annexure R-CP6: True Copy of the compliance report dated 03.06.2019 filed in MA 255/2019 in OA 216/2003.
- Annexure P1: Photostat copy of order in MA/255/2019.