

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/01344/2014

HYDERABAD, this the 12th day of November, 2020



Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member

G. Jagajeevan Rao, S/o. late Sanyasi,
Aged 59 years, Skilled Engine Fitter,
Token No.3919 H, Centre No.136,
Sax Unit. II, Dept SAX,
Building No.15, Naval Dock Yard,
Visakhapatnam-14.

...Applicant

(By Advocate : Dr. P.B. Vijay Kumar)

Vs.

1. The Union of India rep. by its Secretary,
Ministry of Defence,
Sena Bhavan, South Block, New Delhi 110 011.
2. The Chief of Naval Staff, Sena Bhavan,
South Block, New Delhi 110 011.
3. The Chief of Personnel, Integrated HQ of MoD (Navy),
õCö Wing, Sena Bhavan,
South Block, New Delhi 110 011.
4. The Flag Officer Commanding in Chief,
Naval Base, Visakhapatnam 530 014.
5. The Admiral Superintendent,
Naval Dockyard, Visakhapatnam 530 014.

....Respondents

(By Advocate: Mr. T. Sanjay Reddy, learned counsel representing
Mr. T. Hanumantha Reddy, Sr. PC for CG)

ORAL ORDER
(As per Hon'ble Mr. B.V. Sudhakar, Administrative Member)

Through Video Conferencing:



2. The OA is filed challenging the punishment imposed on the applicant, which is not in accordance with the orders of the Tribunal.

3. Brief facts of the case are that the applicant was appointed in the Highly Skilled Grade (HSK)-I in the respondents organization. He was issued a charge memo on 26.11.2001 containing 2 Articles of Charge. One relates to unauthorized absence and the other one pertaining to misbehavior with the superiors. Inquiry Officer appointed for the purpose held that the 1st charge as not proved whereas 2nd charge as proved. Based on the inquiry report, penalty of compulsory retirement was imposed on 21.06.2003. On appeal, it was reduced to a lower post of Skilled grade until found fit by the Competent Authority as per Rules. Applicant filed review application and when it was rejected on 21.04.2010, the same was challenged in OA.926/2010, which was disposed of on 04.08.2011, wherein it was directed that a penalty similar to the one imposed on Sri P. Paul and Sri R.V. Rama Rao is to be imposed. Respondents complied with the order on 26.03.2012 and modified the penalty to reduction of pay by one lower stage in the existing pay scale for a period of 18 months with no increment to be drawn during the currency of the punishment and that it would have cumulative effect. Applicant filed an appeal on 31.07.2012 which was rejected by the appellate authority on 07.07.2013. Aggrieved over the same applicant filed OA.1102/23013, which was dismissed on

06.09.2013. Thereafter, applicant filed Review Application No.26/2013 which was allowed, wherein it was categorically stated that the same penalty which was imposed on Sri P. Paul and Sri Y.V. Rama Rao has to be imposed. For non-compliance of the Tribunal order, applicant filed CP. No.73/2014, which was closed on 14.08.2014. Consequently, respondents issued the order dated 18.08.2014 against which the present OA is filed, averring that it is not in conformity with relevant Tribunal directions on the issue.



4. The main contention of the applicant is that the respondents, despite being directed repeatedly by this Tribunal in different OAs, are not imposing the similar punishment as has been imposed on Sri P. Paul and Sri Y.V. Rama Rao.

5. Respondents in the reply statement state that the applicant, without seeking alternative remedy, is abusing law by filing frequent OAs. He is a habitual litigant. As per the direction of the Tribunal in RA No.26/2013 in OA No.1102/2013, the penalty has been finally reduced to reduction of pay by one lower stage in existing pay scale /pay band for one year with no increment to be drawn during the currency of the penalty and with cumulative effect. Applicant did not file any appeal to the Appellate Authority against the final order issued on 18.08.2014. C.P. filed has also been closed and, therefore, the OA lacks merit necessitating dismissal.

6. Heard Dr. P.B. Vijay Kumar, learned counsel for the applicant Sri T. Sanjay Reddy representing Sri T. Hanumantha Reddy, Senior Panel Counsel for the respondents and peruse the pleadings on record.



7. It is a fact that the applicant was issued a charge memo for his misbehavior with the superiors. The outcome of the charge memo was imposition of the penalty of compulsory retirement, which was later modified as reduction to the lower post of Skilled grade until found fit after a period of three years, by the competent authority. Thereafter, OA No.926/2010 was filed wherein it was directed to impose penalty similar to that of Sri P. Paul and Sri Y.V. Rama Rao. Respondents complied and issued an order on 26.03.2012, imposing the penalty of reduction of pay by one lower stage in the existing pay scale for a period of 18 months with no increment to be drawn during the currency of the penalty and with cumulative effect. Appeal filed was rejected by the competent authority leading to the emergence of OA No.1102/2013, which was dismissed on 06.09.2013 and on filing RA No.26/2013 in OA.1102/2013, the Tribunal directed the respondents specifically to impose the same punishment as was imposed on Sri P. Paul and Sri Y.V. Rama Rao. However, as seen from the records, respondents in response to the order in the RA No.26/2013 reduced the punishment to reduction of pay by one lower stage in existing pay scale / pay band by one year with no increment to be drawn during the currency and with cumulative effect. Therefore, the order of the Tribunal is evidently not implemented as directed in RA No.26/2013. The difference is that in the case of the applicant, the penalty was reduction by one lower stage with cumulative effect whereas in respect of Sri P. Paul and Y.V. Rama Rao it is the reduction without cumulative effect. Penalty with and without cumulative effect makes an ocean of difference, since cumulative effect would mean the penal loss will be intense, in the period stated and if not, it will be permanent.



When the direction of the Tribunal is to impose the same penalty as has been imposed on Sri P. Paul and Y.V. Rama Rao, the Disciplinary Authority has to either to comply with the order of the Tribunal or pursue alternative remedies of approaching the superior judicial fora and get the order stayed. Instead of doing so, respondents have been repeatedly issuing orders which are in violation of the direction of the Tribunal. A Court order whether good or bad has to be implemented, as observed by Honøble Supreme Court in the following judgments, as under:

a. The Commissioner, Karnataka ... vs C. Muddaiah on 7 September, 2007, Appeal (civil) 4108 of 2007

31. We are of the considered opinion that once a direction is issued by a competent Court, it has to be obeyed and implemented without any reservation. If an order passed by a Court of Law is not complied with or is ignored, there will be an end of Rule of Law. If a party against whom such order is made has grievance, the only remedy available to him is to challenge the order by taking appropriate proceedings known to law. But it cannot be made ineffective by not complying with the directions on a specious plea that no such directions could have been issued by the Court. In our judgment, upholding of such argument would result in chaos and confusion and would seriously affect and impair administration of justice. The argument of the Board, therefore, has no force and must be rejected.

b. Director of Education v. Ved Prakash Joshi, (2005) 6 SCC 98

*The court exercising contempt jurisdiction is primarily concerned with the question of contumacious conduct of the party who is alleged to have committed default in complying with the directions in the judgment or order..... **Right or wrong the order has to be obeyed. Flouting an order of the court would render the party liable for contempt. (Emphasis supplied)** Referring to the above case, the Apex Court has stated in its judgment in Bihar Finance Service House Construction Coop. Society Ltd. v. Gautam Goswami, (2008) 5 SCC 339,*

Therefore, we find that the penalty imposed by the respondents on 16.07.2014 is violative of the direction of the Tribunal in RA No.26/2013 and hence, it has to be considered to be illegal. Being arbitrary and illegal, we set aside the orders dated 16.07.2014 & 18.8.2014 of the respondents. Consequently, respondents are directed to comply with

the direction of the Tribunal in RA No.26/2013 by imposing the same penalty as was imposed on Sri P. Paul and Sri Y.V. Rama Rao.

With the above direction, the O.A. is allowed. The time period allowed to implement the order is three months from the date of receipt of a copy of this order. No order as to costs.



(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

/pv/