

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

MISC. APPLICATION NO. 291/412/2020
in
ORIGINAL APPLICATION NO. 291/368/2013

Order reserved on 21.09.2020

DATE OF ORDER: 23.09.2020

CORAM

HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER
HON'BLE MRS. HINA P. SHAH, JUDICIAL MEMBER

S.K. Bhargava S/o Late Sh. Shriram Bhargava aged 73
Yrs. R/o A-1, Vivekanand Colony, Bh Triton Mall,
Jhotwada, Jaipur-302012. – Mob. 9468603156.

....Applicant

Shri S.K. Bhargava, applicant in person (through Video
Conference).

VERSUS

1. Union of India through the Secretary, (L&E) Ministry of Labour & Employment, Shram Shakti Bhawan, Rafi Marg, New Delhi – 110001.
2. Employees' Provident Fund Organisation, through Chairman, Central Board of Trustees, 14, Bhikaji Cama Place, New Delhi - 110066.
3. Central P F Commissioner and Secretary, CBT, Employees' P F Organization, 14, Bhikaji Cama Place, New Delhi – 110066.

....Respondents

ORDER

Per: Hina P. Shah, Judicial Member

The present Misc. Application has been filed by the applicant under Section 27 of the Administrative Tribunals Act, 1985 for execution of the order dated 31.03.2016 passed by this Tribunal in OA No. 368/2013 by which the OA was disposed of with following directions:-

"4. Therefore what is to be done in this case is to follow the directions of the Hon'ble Minister as stated above and hold a review DPC for promotion as early as possible and in any case within a period of three months next after giving a notice to the applicant and he may also be given personal hearing.

5. If the applicant found suitable, it would be appropriate for the authority to follow the decisions of the Hon'ble Supreme Court in the case of **Prabhu Dayal Khandelwal vs. Chairman, U.P.S.C. & Ors.** (supra) and create a notional post on which the applicant can be adjusted so that issues put forth by the respondents can be settled and the settled matters may not be reopened. If the notional post is created, the applicant may be adjusted, if he found suitable, and then in that situation no doubt he will be entitled for such benefits which must be applicable to the applicant within six months next.

6. The Original Application is disposed of with the above observations and directions. In view of this, the Misc. Application is disposed of."

2. The applicant states that the aforesaid order of this Tribunal has not been considered by the respondents so far in true sense as per the directions given by the Tribunal. The directions of this Tribunal were in four parts, namely:

- “a) to hold a “review DPC”, as early as possible;
- b) within a period of three months;
- c) giving a Notice to the Applicant &
- d) he may be given a personal hearing.”

3. The applicant states that despite the orders of the Tribunal to conduct the Review DPC as early as possible and in any case within a period of three months, the respondents did not pay any heed to the directions until the expiry of 7 months.

4. The applicant further states that only after filing of the Contempt Petition, CPFC fixed a date for personal hearing on 08.11.2016, but hearing was neither before the DPC nor as per the directions of this Tribunal. Though the order dated 09.11.2016 is alleged to have been passed by the Central P.F. Commissioner in compliance of the directions of this Tribunal in OA No. 368/2013, but the same is not a proper order as the orders of this Tribunal are not religiously complied in

its true letter and spirit. As the Contempt Petition No. 291/35/2016 has been dismissed by this Tribunal on 28.07.2020 (Annexure E/3), it is prayed that the respondents be directed to convene Review DPC as per rules and that delay be condoned in filing the present Execution Application.

5. Heard the applicant in person through Video Conference and perused the material annexed thereto.

6. The main question which determines consideration in the present Misc. Application for execution of order dated 31.03.2016 passed by this Tribunal in OA No. 368/2013 is whether the respondents have followed the directions passed by this Tribunal or not.

7. The applicant has himself pointed out four parts of the order of this Tribunal, which are as under:-

- "a) to hold a "review DPC", as early as possible'
- b) within a period of three months;
- c) giving a Notice to the Applicant &
- d) he may be given a personal hearing."

It may be noted that this Tribunal has observed in para 5 of aforesaid order dated 31.03.2016 that "*If the applicant found suitable, it would be appropriate for*

*the authority to follow the decisions of the Hon'ble Supreme Court in the case of **Prabhu Dayal Khandelwal vs. Chairman, U.P.S.C. & Ors.** (supra) and create a notional post on which the applicant can be adjusted so that issues put forth by the respondents can be settled and the settled matters may not be reopened. If the notional post is created, the applicant may be adjusted, if he found suitable, and then in that situation no doubt he will be entitled for such benefits which must be applicable to the applicant within six months next."*

8. It is seen that the respondents have considered the case of the applicant and in compliance of order of this Tribunal dated 31.03.2016, they have passed order dated 09.11.2016 (Annexure E/2). From the contents of para 3 of order dated 09.11.2016, it is clear that the applicant was called for personal hearing on 08.11.2016 and he was present along with Shri K.C. Pandey, Legal Counsel to assist him in presenting his say. Also as per para 5 of the aforesaid order, it is clear that subsequent to the personal hearing on 08.11.2016, a Review DPC was held, which has considered all the available facts on the file records and submissions of the applicant. Further, going through

the contents of the order dated 09.11.2016 at paras 14, 15 and 16, it is clear that the case of the applicant has been considered by the respondents in its true spirit.

9. It is a fact that this Tribunal vide its order dated 28.07.2020 (Annexure E/3) has dismissed the Contempt Petition No. 291/35/2016 filed by the applicant in OA No. 291/368/2013 for alleged non-compliance of the order of this Tribunal. This Tribunal was satisfied that the respondents have, in compliance of the order of this Tribunal dated 31.03.2016, passed order dated 09.11.2016.

10. Therefore, in view of the observations made above, the prayers of the applicant in the present Misc. Application has no merit and the same is accordingly rejected.

11. Accordingly, M.A No. 291/412/2020 is hereby dismissed. No costs.

(HINA P. SHAH)
JUDICIAL MEMBER

(DINESH SHARMA)
ADMINISTRATIVE MEMBER