

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

**CONTEMPT PETITION NO. 291/26/2016
in
ORIGINAL APPLICATION NO. 291/302/2013**

Order reserved on 12.10.2020

DATE OF ORDER: 14.10.2020

CORAM

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

Rameshwar Dayal Meena son of Shri Devi Singh Meena, aged about 45 years, resident of Plot No. 24-C, Ambedkar Nagar, Near Kartarpura Railway Crossing, Jaipur and presently working as Assistant Engineer (Civil), Central University of Rajasthan Project Division, Central Public Works Department, Bandar Sindri, Kishangarh, District Ajmer.

....Petitioner / Applicant

Shri C.B. Sharma, counsel for petitioner (through Video Conference).

VERSUS

1. Shri Rajiv Gauba, Secretary, Central Public Works Department, Ministry of Urban and Development, Nirman Bhawan, New Delhi.
2. Shri Diwakar Garg, Director General (Works), Central Public Works Department, First Floor, Nirman Bhawan, New Delhi – 110011.
3. Shri V.K. Malik, Additional Director General (S&P), Central Public Works Department, Second Floor, Nirman Bhawan, New Delhi – 110011.

Newly Added

4. Shri D.S. Mishra, Secretary, Central Public Works Department, Ministry of Urban and Development, Nirman Bhawan, New Delhi.
5. Shri Prabhakar Singh, Director General (Works), Central Public Works Department, First Floor, Nirman Bhawan, New Delhi – 110011.
6. Shri Rajendra Kalla, Additional Director General (S&P), Central Public Works Department, Second Floor, Nirman Bhawan, New Delhi – 110011.

....Non-Petitioners / Respondents

Shri Rajendra Vaish, counsel for respondents (through Video Conference).

ORDER

Per: Hina P. Shah, Judicial Member

The present Contempt Petition has been filed by the petitioner for alleged non-compliance of the order dated 25.05.2016 passed by this Tribunal in O.A. No. 302/2013 by which the O.A. was disposed of with the following directions:-

"4. xxxxx Therefore, we think that following order will resolve the issue:

- i) Both, the applicant and respondent No. 4 are permitted to file a fresh representation on the basis of OM dated 08/03/2016 and its converted format now. This they shall do within fifteen days of receipt of a copy of this order.

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- ii) Within one month, thereafter the respondents will hear both sides on a pre-advised date and will pass a reasoned and speaking order.
 - iii) Even after, either the applicant or respondent No. 4 is aggrieved with the decision of the respondents, they are at liberty to approach the Tribunal.
5. We were taken to the interim order by which a post of Executive Engineer (Civil) was kept vacant in the ST Category. Respondents are directed to keep this fact in mind while passing the orders."
2. The petitioner states that the orders of this Tribunal have not been considered by the respondents so far in true sense as per the directions given by this Tribunal. The respondents are deliberately and intentionally flouting the orders of this Tribunal. So the respondents are liable to be punished for contempt of court. The applicant further added that the respondents had stated that the applicant will be considered for regular promotion to the grade of EE (Civil) for vacancy year 2013-14 but in fact, he was actually promoted vide order dated 11.04.2017 in the grade of EE (Civil) in ST quota.
3. The respondents vide their compliance report dated 11.11.2016 submitted that they have highest

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regard to the orders and directions of this Tribunal and that they never intended to commit any wilful disobedience of any of the orders and directions given by this Tribunal. They further stated that if this Tribunal ultimately reaches to a conclusion that any disobedience or contempt has been committed by the respondents, they tender their unconditional apology for the same.

4. The respondents further added that as per the directions of this Tribunal, the respondents have after receipt of the representation of the applicant dated 09.06.2016 taken the said matter with the concerned authorities and all efforts were made for deciding the same on merits. The representation of the applicant was duly considered and the same was decided by a speaking order dated 05.09.2016 (Annexure R/1) assigning reasons that the applicant did not possess a degree as on 01.01.2012 and, therefore, he could not be considered for promotion for vacancy year 2012-13 to the post of EE (Civil) under the degree holder categories. It was further pointed out that the applicant would be eligible for consideration for regular promotion to the grade of Executive Engineer (Civil) for

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the vacancy year 2013-14, whenever DPC is constituted for regular promotion.

5. The respondents further stated in Additional Affidavit dated 28.01.2019 that pertaining to the 5th para of order dated 25.05.2016, "We were taken to the interim order by which a post of Executive Engineer (Civil) was kept vacant in the ST category. Respondents are directed to keep this fact in mind while passing the orders", it is stated that it was an error committed on their part for which they apologize but had no intention for not following the orders of this Tribunal in its true spirit. In fact, in seniority, applicant was much below and that his seniority position was at No. 1036 in the seniority list of A.E. (Civil) in ST quota. It was further clarified by order dated 20th November 2018 (Annexure R-2) that his name was assessed along with other officers but due to his seniority position at Sr. No. 1036, he could not be promoted to the post of EE (Civil) in ST quota in the screening committee meeting held on 14.07.2016, but in subsequent screening held on 16.01.2017, he was assessed as 'Fit' and granted ad-hoc promotion to the

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grade of EE (Civil) in ST quota vide order dated 11.04.2017.

6. The respondents stated that as per the directions issued by the Tribunal dated 25.05.2016, they have acted with due diligence in complying the orders of this Tribunal.

7. Therefore, respondents stated that they have not flouted any orders of this Tribunal intentionally or deliberately as claimed in the present Contempt Petition. The directions of this Tribunal are complied with in its true spirit. There is no question of any contempt and the present Contempt Petition deserves to be dismissed and notices are required to be discharged.

8. Heard learned counsels for the parties through Video Conference.

9. After considering the matter of alleged disobedience of the order of this Tribunal, we are of the view that though applicant pointed out that the respondents have wilfully not considered his case but only passed a

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speaking order dated 05.09.2016 whereby it is clear that the respondents have failed to keep one post of EE (Civil) vacant. But it is clear that since applicant was much below in seniority, the Screening Committee in its meeting held on 14.07.2016 though considered his case but could not grant him promotion. It is seen that subsequently in Screening Committee meeting held on 16.01.2017, applicant was considered for promotion to the post of EE (Civil) in ST quota and granted ad-hoc promotion vide order dated 11.04.2017, which he has accepted and, therefore, no prejudice will be caused to the applicant. Therefore, it is clear that the orders of this Tribunal dated 25.05.2016 has been complied with by the respondents and we do not find wilful or deliberate disobedience on the part of the respondents. By way of issuing orders dated 05.09.2016 and 20.11.2018, the respondents have complied with the directions issued by this Tribunal vide order dated 25.05.2016.

10. Here, it will be useful to refer to the judgment of the Hon'ble Calcutta High Court in the case of **Dr. Tapas Kumar Mandal vs. Dr. Sekhar Basu and Ors.** in C.P.A.N. No. 119 of 2018 decided on 29th March,

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2019 wherein the Hon'ble High Court in para 13 observed as under:-

“13..... The non-compliance of an order has to be wilful and deliberate and not mere accidental or unintentional. It is well settled that once an order is passed by a party to a proceeding on the basis of the direction issued by the Court, there arises a fresh cause of action to seek redressal in an appropriate forum. The Court in exercise of contempt jurisdiction cannot test the correctness of the order passed or to give any additional direction or to delete any direction.”

11. In view of the above, we do not find any wilful or deliberate disobedience on the part of the respondents and the Contempt Petition is liable to be dismissed, which is, accordingly, dismissed. Notices issued are discharged.

(HINA P. SHAH)
JUDICIAL MEMBER

(DINESH SHARMA)
ADMINISTRATIVE MEMBER

Kumawat