

CP No. 291/35/2016 in (OA No. 291/368/2013)

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

**Contempt Petition No. 291/35/2016
in
(Original Application No. 291/368/2013)**

Order Reserved on: 23.07.2020

Date of Order: 28.07.2020

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 about 68 years R/o 2, Vivekanand Colony, Bh Triton Mall, Jhotwada Jaipur 302012.

...Applicant

(Petitioner present in person – through Video Conference)

Versus

1. Shri Bandaru Dattatreya, Chairman, Central Board of Trustees, (EPF) & Minister Labour & Employment, Government of India Ministry of Labour, Shram Shakti Bhawan, Rafi Marg, New Delhi – 110001.
2. Sh Shankar Aggarwal, Secretary (L&E) Ministry of Labour & Employment, Shram Shakti Bhawan, Rafi Marg, New Delhi – 110001.
3. Mr. V.P. Joy, Central Provident Fund Commissioner & Secretary, Central Board of Trustees (EPF), Bhavishya Nidhi Bhawan 14, Bhikaji cam Place New Delhi – 110066.

...Respondents

(Shri Prateek Kedawat, proxy counsel for
Shri R.B. Mathur, 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 order dated

31.03.2016 passed 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 petitioner states that the orders of this Tribunal has not been considered by the respondents in true sense so far as per the directions given by this Bench of the Tribunal. The respondents are deliberately and intentionally flouting the orders of this Tribunal. Therefore, the respondents are liable to be punished for contempt of court.

3. The respondents vide their reply submitted that they have highest 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 added 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 stated that the applicant accompanied by Shri. K.C. Pandey, his Legal Counsel, entered appearance before respondent No. 3 on 08.11.2016. Subsequent to the personal hearing, a Review DPC was held on 08.11.2016, which considered all the available facts, records and submissions made by the applicant. After consideration, the DPC did not find any merits in the case to re-consider the recommendations of the Review DPC held in 1994 for inclusion of name of the applicant in the panel of APFC (Grade-I) for the year 1983 and 1984.

5. The respondents further stated that in compliance of the said directions of this Tribunal dated 31.03.2016, an order dated 09.11.2016 has been passed by the respondents.

6. Therefore, respondents stated that as per directions issued by this Bench of the Tribunal, they have acted with due diligence in complying the orders of Tribunal. It was also pointed out by respondents that the applicant has challenged the said order by filing a separate Original Application, which is pending consideration before this Tribunal.

7. The 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 have been complied with in its true spirit, therefore, 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 the petitioner appearing in person as well as Shri Prateek Kedawat, appearing as proxy for Shri R.B. Mathur, learned counsel for the respondents, through Video Conference.

9. After considering the matter of alleged disobedience of the orders of this Tribunal, we are of the view that the aforesaid orders have been complied with by the respondents and we do not find wilful or deliberate disobedience on the part of the respondents. Pursuant to the directions issued by this Tribunal vide order dated 31.03.2016, the respondents have passed order dated 09.11.2016 rejecting the claim of the petitioner.

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, 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, therefore, 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