

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

Contempt Petition No. 291/42/2019
in
(Original Application No. 291/661/2015)
&
Misc. Application No. 291/260/2020
in
(Contempt Petition No. 291/42/2019)

Date of Order: 07.09.2020

CORAM

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

Ghasi Ram Yadav son of Shri Hari Singh Yadav, aged about 53 years, resident of A-77, Mahesh Nagar, 80 Feet Road, Jaipur and Presently working as Assistant Engineer (Civil), Central Public Works Department, Office of Chief Engineer (NZ-III), Sector-10, Nirman Bhawan, Vidhyadhar Nagar, Jaipur.

...Petitioner / Applicant

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

Versus

1. Shri D.S. Mishra, Secretary, Central Public Works Department, Ministry of Urban and Development, Nirman Bhawan, New Delhi.
2. Shri Prabhakar Singh, Director General (Works), Central Public Works Department, First Floor, Nirman Bhawan, New Delhi – 110011.

3. Shri Rajendra Kalla, Additional Director General (NR), Central Public Works Department, Sewa Bhawan, R.K. Puram, New Delhi – 110066.
4. Shri B.L. Meena, Chief Engineer (NZ-III), Central Public Works Department, Sector-10, Nirman Bhawan, Vidhyadhar Nagar, Jaipur.

...Non-Petitioners / Respondents

(Shri V.D. Sharma, counsel for respondents – through Video Conference)

ORDER (Oral)

Per: Hina P. Shah, Judicial Member

The present Contempt Petition has been filed by the petitioner for alleged non-compliance of the order dated 14.02.2019 passed by this Tribunal in OA No. 661/2015 by which the OA was allowed with following directions:-

"8. Accordingly, this OA is allowed. The respondents are directed to allow the benefits of second financial upgradation under the ACP Scheme to the applicant with effect from 31.08.2008. The respondents are further directed to modify their order dated 27.07.2015, (Annexure A/15), treating the 37 day period of strike as a period of regular service rendered by the applicant for the purposes of grant of financial upgradation under the ACP/MACP Scheme in terms of the clarification issued on Doubt 49 in DOP&T OM No. 35034/1/97-Estt. (D) (Vol.IV) dated 18.07.2001; (Annexure A/5). The entire exercise of refixing of pay of the applicant accordingly and payment of arrears as become due as a consequence may be completed within a period of two months from the date of receipt of a certified copy of this order."

2. The petitioner states that the 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 respondents are deliberately and intentionally flouting the order of this Tribunal. Therefore, the respondents are liable to be punished for contempt of court.

3. The respondents vide their reply dated 16.03.2020 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 after the orders of this Tribunal dated 14.02.2019, they had filed a Review Petition before this Tribunal, which was dismissed on 26.09.2019. Thereafter, they had preferred a D.B. Civil Writ Petition No. 21784 /2019 before the Hon'ble High Court of Rajasthan,

Jaipur Bench, wherein the Hon'ble High Court had issued notices on 29.01.2020 (Annexure CPR-1) and stayed the operation of the order of this Tribunal dated 14.02.2019.

5. The respondents have also filed a Misc. Application No. 291/260/2020 for early listing of the Contempt Petition. The respondents have pointed out that since the Hon'ble High Court vide its order dated 29.01.2020 has stayed the operation of the order of this Tribunal dated 14.02.2019, therefore, it is prayed that the Contempt Petition deserves to be dismissed as sine die till the pendency of the Writ Petition. It is further prayed that the aforesaid Misc. Application be allowed and the notices issued in Contempt Petition be discharged.

6. Therefore, respondents stated that they have not flouted any orders of this Tribunal intentionally or deliberately as claimed in the present Contempt Petition. As the Hon'ble High Court of Rajasthan had already stayed the operation of the order of this Tribunal, therefore, there is no question of any contempt and the present Contempt Petition deserves to be dismissed and notices are required to be discharged.

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

8. After considering the matter of alleged disobedience of the order of this Tribunal, we are of the view that as the order of this Tribunal dated 14.02.2019 has been stayed by the Hon'ble High Court of Rajasthan vide its order dated 29.01.2020, we do not find wilful or deliberate disobedience on the part of the respondents.

9. In view of the above, we do not find any wilful or deliberate disobedience on the part of the respondents. Accordingly, Misc. Application No. 291/260/2020 is allowed and the Contempt Petition is liable to be dismissed, which is, accordingly, dismissed with a liberty to the petitioner to approach this Tribunal if he succeeds in the aforesaid writ petition. Notices issued are discharged.

(HINA P. SHAH)
JUDICIAL MEMBER

(DINESH SHARMA)
ADMINISTRATIVE MEMBER