



Central Administrative Tribunal Jammu Bench, Jammu

Contempt Petition No. 61/4/2020 in
O.A. No.61/7/2020

This the 26th day of October, 2020

(Through Video Conferencing)

Hon'ble Mr. Rakesh Sagar Jain, Member (J)
Hon'ble Mr. Anand Mathur, Member (A)

Kiran Jyoti, age 38 years,
W/o. Sh. Som Raj Kaith,
R/o. Tehsil Bishnah,
District Jammu.

...Applicant

(Mr. Sudershan Sharma, advocate for applicant)

Versus

Sh. Iftikhar Ahmed Hakim,
Chief Town Planner,
Jammu,
District Jammu.

...Respondent

(Mr. Amit Gupta, advocate for respondent)

ORDER**Hon'ble Mr. Rakesh Sagar Jain, Member (J):**

1. This order disposes of the Contempt Petition filed by the applicant Kiran Jyoti seeking initiation of proceedings against respondent Iftikhar Ahmed Hakim for committing contempt of the order dated 29.5.2020 of this Tribunal passed in OA No. 61/317/2020 [renumbered as OA/61/7/2020] titled Kiran Jyoti v. UT of J&K & Ors.

2. OA No. 61/317/2020 [renumbered as OA/61/7/2020] was filed by the applicant Kiran Jyoti seeking quashment of the impugned order dated 29.12.2017 issued by respondent No. 2 (Director General) whereby she had been transferred from Jammu to Srinagar. Applicant also seeks quashing of memo dated 20.5.2020 whereby the applicant was informed that vide impugned order dated 29.12.2017 she was transferred from Jammu to Srinagar but despite lapse of more than 28 months she had not joined her new place of posting and therefore, before taking further action she is directed to immediately report at her new place of posting by



27.5.2020. It is further case of the applicant that vide order dated 29.5.2020, the Tribunal was pleased to stay the operation of the impugned order qua the applicant.

3. Respondent filed his objections wherein it has been averred that the respondent's office had relieved the applicant prior to receipt of the interim order dated 29.5.2020 passed by the Tribunal in OA No. 61/317/2020 [renumbered as OA/61/7/2020]. That the interim order dated 29.5.2020 was served upon the office of the respondents on 30.5.2020 i.e. one day after the applicant was relieved.

4. It has been further averred in the objections that the applicant was relieved in the afternoon of 29.5.2020. However, the applicant refused to accept/acknowledge her copy of the said order and therefore, the order was served on the applicant through her e-mail and whatsapp at about 3 PM whereas the order passed by the Tribunal was served upon the respondents on 30.5.2020 and therefore, no



contempt of the order dated 29.5.2020 has been committed by the respondents.

5. We have heard and considered the arguments of the learned counsel for the applicant and learned counsel for the respondent and gone through the materials on record.

6. It was argued by the learned counsel for the applicant that contempt proceedings be initiated against the respondent since he has deliberately violated the order dated 29.5.2020 passed by the Tribunal. It has been further argued by the learned counsel for the applicant that applicant was relieved by the respondent after service of the stay order upon the respondent and therefore, he has wilfully violated the order dated 29.5.2020 and committed contempt of the order of the Tribunal for which appropriate action be taken against the respondent.

7. On the other hand, learned counsel for the respondent argues that there is no mention in the contempt application that the stay order was served upon the respondent prior to



the relieving order of the applicant on 29.5.2020. It has been further argued that perusal of the order dated 29.5.2020 reveals that learned counsel for the applicant had undertaken to serve copy of the stay order with OA upon the respondents through e-mail and also inform them telephonically. No material has been placed on record to show that the order dated 29.5.2020 along with the OA was served upon the respondent through e-mail or was informed telephonically on 29.05.2020 itself. Learned counsel submits that the applicant was relieved on 29.5.2020 much before the receipt of the order of the Tribunal on 30.5.2020, as such, the allegations being baseless, the application deserves to be dismissed.

8. The limited question involved in the present application at this stage is whether the applicant was relieved from her posting at Jammu before receipt of the order dated 29.5.2020 passed by the Tribunal staying the operation of the transfer order of the applicant or not.



9. Perusal of the order dated 29.5.2020 reveals that learned counsel for the applicant had undertaken to serve copy of this order with the OA upon the respondents through e-mail and also inform them telephonically.

10. We have perused the record in detail. There is no mention in the contempt application that stay order dated 29.5.2020 was served upon the respondent prior to relieving the applicant on 29.05.2020. No material has been placed on record to show that the order dated 29.5.2020 staying the transfer of the applicant was served upon the respondents on 29.5.2020 itself. The noting of the Registry also reveals that notice was issued on 29.5.2020 through e-mail to the counsel of the applicant but that the service affidavit has not been filed.

11. In the contempt petition applicant does mention that vide order dated 29.5.2020 the impugned transfer order was



stayed by the Tribunal but that the respondents relieved the applicant on the same date when the stay order was passed by the Tribunal, though it has been mentioned in the application that relieving order was not served upon the applicant on the same date and nor it was intimated over to her during the working hours. However, nowhere in the application it has been mentioned by the applicant that the copy of the impugned order was served upon the respondents on 29.5.2020. As per the record of OA No. 61/317/2020 [renumbered as OA/61/7/2020], this order dated 29.5.2020 it has been mentioned that the OA was received through e-mail and taken up for hearing through video conferencing and the learned counsel for the applicant had undertaken to serve copy of this order with OA upon the respondents through e-mail and also inform them telephonically.

12. Looking to the facts and circumstances of the case we are of the view that apparently the order dated 29.5.2020 passed by the Tribunal was not served upon the respondent



prior of relieving of the applicant on 29.5.2020. Accordingly, the contempt petition being meritless is dismissed. Notices issued are discharged. No costs.

(Anand Mathur)
Member (A)

(Rakesh Sagar Jain)
Member (J)

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