

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

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C.P.No.248/94 in O.A.No.623/87

Hon'ble Shri A.V.Haridasan, Vice-Chairman(J)
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 16th day of August, 1995

Shri V.P.Madan
Computer
Army Headquarters
Directorate of Management
& Information System
Ministry of Defence
New Delhi. ... Applicant
(By Shri A.K.Bhardwaj, Advocate)

Versus

1. Shri K.P.Nambyiar
Secretary
Ministry of Defence
New Delhi.
2. Ms. Mala Srivastva
Chief Administrative Officer
D.H.Q., P.O.
New Delhi. ... Respondents
(By Shri E.X.Joseph, Advocate)

O R D E R (Oral)

Hon'ble Shri A.V.Haridasan, Vice-Chairman(J)

This Contempt Petition arises from the order of this Tribunal in OA No.623/87 dated 31.1.1994. By this order, the dismissal of the petitioner from service was set-aside with a direction to the respondents to reinstate the petitioner within a period of one month from the date of receipt of the order. The period between the date of dismissal to the date of reinstatement, was to be regulated in accordance with the provisions of the relevant rules. Despite representation made by the Petitioner, respondents not having fully complied with the above directions, this Contempt Petition has been filed praying that action under Contempt of Court Act may be initiated against the respondents.

2. In the reply, the respondents have stated that, they had filed a review application, and then Special Leave Petition, that these petitions were dismissed and the delay in implementation was on account of the pending of these

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petitions. However, during the pendency of this petition, the respondents have passed an order on 19.4.1995 treating the period during which the applicant was kept out of service as ~~per order of~~ suspension, but no subsistence allowances was paid. By order dated 4.5.1995, the Bench directed the respondents to hold an enquiry as to whether the petitioner was during the said period gainfully employed and then to take a decision on payment of subsistence allowance. An order was passed by the respondents on 15.5.1995 in this regard. These orders have been made available for our perusal.

3. Learned counsel for the petitioner argued that since the respondents have not paid subsistence allowance to the applicant for the period of deemed suspension the respondents have willfully disobeyed the orders of this Tribunal deserving punishment for contempt.

4. Shri E.X.Joseph, learned counsel for the respondents on the other hand, argued that the directions contained in the orders namely reinstatement of the applicant and issuing orders for regulating the period during which the petitioner was kept out of service have been complied with and the reasons for delay has been explained in the reply affidavit. He also stated that the respondents have tendered their unconditional apology stating that the delay was not intentional.

5. After going through the allegations in the Contempt Petition, the averments in the affidavit, directions contained in the order and the two orders passed during the pendency of the Contempt Petition by the respondents, we are of the considered view that there is no reason for ~~before~~ the Tribunal ~~as to~~ proceed against the respondents under Contempt of Court Act. About the delay, the unconditional apology tendered by the respondents is accepted. About the implementation, we find that there is ~~no~~ substantial ~~non~~-compliance of the directions inasmuch as that the petitioner has already been reinstated and

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respondents have passed orders for regulating the period during which the period the petitioner was kept under out of service.

6. Now, there is a grievance of the petitioner that subsistence allowance has been unjustifiably denied to him by the respondents and the decision taken by the competent authority as a result of the so called enquiries is neither just nor proper. He has another grievance that as the respondents did not reinstate the petitioner in service within the time stipulated in the final order, the respondents are bound to pay full pay and allowances from the date of the receipt of the Judgment till the date of reinstatement of the petitioner. He has still another grievance that the order of the competent authority treating the applicant to have been under suspension is also erroneous for the reason that the petitioner had not been placed under suspension before the impugned order of dismissal was passed. These are the ~~points~~ ^{matter} which the petitioner will be at liberty to claim for adjudication in appropriate proceedings initiated in accordance with the law but are not relevant in a Contempt Petition.

7. In the light of the above observations, we dismiss this Contempt Petition and discharge the notice to the respondents. No costs.

Pls. note -
(R.K. AHOOJA)
MEMBER(S)

/RAO/


(A.V. HARIDASAN)
VICE-CHAIRMAN(J)