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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

C.C.P. No. 81/91 in OA No. 1134  
of 1987.

Date of decision: 23.9.91

Mohinder Singh

Petitioner

vs.

Delhi Administration

Respondents

PRESENT

Shri Shyam Babu, counsel for the petitioner.

Mrs. Avnish Ahlawat, counsel for the respondents.

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Hon'ble Shri Justice Ram Pal Singh, Vice-Chairman (J).

Hon'ble Shri P.C. Jain, Member (A).

(Orders of the Bench delivered by Hon'ble Shri  
Justice Ram Pal Singh, Vice-Chairman (J).)

This Contempt Petition (Civil) has been filed under Rule 5 of the Central Administrative (Contempt) Rules of 1987 by the applicant in O.A. No. 1134/87.

2. On notice, the alleged contemners appeared and Shri Maxwell Pareira, Deputy Commissioner of Police (Traffic) Delhi, filed his affidavit on behalf of all the respondents on 26.7.91. The second affidavit was filed by Shri Pareira on 19.8.91.

3. The petitioner, who was a constable in the Delhi Police, while serving in the Traffic Unit, was charged with misconduct in the discharge of the official duties and the imputation was that on 12.4.1984, while posted in Punjabi Bagh Circle, he stopped the car driven by one Shri D.C. Gupta and on the threat of prosecuting him for making the commercial use of the private vehicle extorted an amount of Rs. 200 from him. After the conclusion of the departmental enquiry, the disciplinary authority imposed the penalty of dismissal from service. His revision was rejected. The petitioner/applicant aggrieved by this order of dismissal from service filed the O.A. before the Bench. The O.A. was allowed by a Bench of this Tribunal by judgment dated 23.2.90 in which

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one of us (Hon'ble Shri P.C. Jain) was a Member. The operative portion of the said judgment is reproduced for convenience:

"The applicant shall be reinstated in service forthwith. He shall be treated as having been in continuous service from the date of dismissal till such reinstatement and shall be allowed all consequential benefits except the wages during the period when he had not actually worked in the above post. The application is allowed as above."

4. The petitioner filed this C.C.P. and contended that his pay has not been properly fixed by the Deputy Commissioner of Police Headquarters, Delhi, and Deputy Commissioner of Police (Traffic) Delhi. He further contended that respondents have wilfully disobeyed the directions contained in the judgment, hence they should be punished for having committed the contempt of this Tribunal.

5. Shri Shyam Babu, learned counsel for the petitioner, and Mrs. Avnish Ahlawat, learned counsel for the respondents, were heard. Mrs. Ahlawat contended that the directions given in the judgment have been complied with by the respondents and the petitioner has been reinstated in service and his pay has been fixed in the scale of Rs. 950-1400 with effect from 4.5.90.

6. In the first affidavit, the alleged contemner has contended that on the advice of the counsel of the department, the basic pay of the petitioner has been fixed at Rs. 1050 with effect from 4.5.90. So far as promotion to the rank of Head Constable is concerned, the applicant will have first to appear for 'A' list test and if he passes that test, then the D.P.C. shall consider and bring the names of all those who had appeared in the test in the list 'A'. After that, he will be sent for lower school course and on successful completion of the course, the name of the petitioner shall then be considered for 'B' list. According to the deponent, the applicant was asked to submit application in the prescribed form for appearing in the promotion list 'A' test. In the second affidavit, the alleged contemnor contended that the directions of the Hon'ble Tribunal have been implemented and the pay of the petitioner constable has been fixed at Rs. 1050.00 with effect from 4.5.90. The order was passed by the respondents on 22.7.91.

*Amal Singh*

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The deponent further contends in the second affidavit, so far as giving consequential benefits are concerned, the petitioner's name has to appear in the 'A' list. Hence, it was placed before the D.P.C. The petitioner was made to appear in the promotion list 'A' test held in 1989-90. He was not found eligible to appear in promotion list 'A' test held in 1987 as he was confirmed with effect from 9.8.87. According to the deponent, so far as the <sup>test</sup> 1989-90/is concerned, the applicant appeared in the test and also in outdoor and indoor tests. The DPC assessed the service record marks and on the basis of the outdoor and indoor tests, the petitioner secured 104 1/4 marks in all out of 200 marks. Qualifying marks in list 'A' test are 133 for general candidates and 126 for Scheduled Caste candidates. According to the deponent, since the applicant secured only 104 1/4 marks, he failed to make the grade in list 'A' test held in the year 1989-90. As such, no further action is required to be taken by the respondents.

7. The learned counsel for the petitioner argued that the pay should be given not from 4.5.90 but from the date of the judgment itself i.e. 23.2.90. He further contended that the Pay Rules came into force from May 1983. Mrs. Ahlawat controverted these facts and contended that all the directions given by this Hon'ble Tribunal have been complied with fully and the most essential element that she contends is that the wilful disobedience of the Tribunal's directions is completely lacking in these proceedings.

8. If the petitioner has any grievance against the departmental test, then he gets a separate cause of action for redressal after filing representations, according to rules. It is also observed that the <sup>minor</sup> modalities of the test for induction of the petitioner decided by the respondents cannot be the subject matter of the C.C.P. From the reply of the alleged contemners in the affidavit, it becomes clear that they <sup>have</sup> complied with the directions of the Tribunal given in its judgment dated 23.2.90. In the order at Annexure 'D', passed by the deponent/alleged contemner, it is mentioned that the petitioner is hereby reinstated in service with

Lawyer

immediate effect. The order further mentions that the petitioner will be entitled to avail the continuity of service from the date of dismissal and all consequential benefits flowing therefrom. This order is dated 3.5.90. It is not clear from the C.C.P. as to what directions of the Tribunal have not been followed by the respondents. From the documents, it appears that the respondents have tried faithfully to implement the directions given by this Tribunal in its judgment.

9. It is well settled that proceedings for contempt are initiated for the purpose of protecting the court itself and the party concerned in judicial proceedings. To use it for any other purpose is abuse of process of the court. Machinery of the court cannot be set in motion for the purpose of taking proceedings in contempt to satisfy one's own feelings of grudge and malice. The jurisdiction in contempt is a very special jurisdiction and is certainly a jurisdiction which it is necessary for the superior<sup>court</sup> to have and exercise whenevern it is found that something has been done which tends to affect the administration of justice, or which tends to impede its course. While considering the question of contempt, the Court has to take into account the surrounding circumstances and the material facts of the case and on a conspectus of them to come to a conclusion whether because of some contumacious conduct or other sufficient reason the person proceeded against should be punished for contempt of court.

10. It is well-settled that the jurisdiction in respect of contempt proceedings should be exercised only when the case is clear and beyond reasonable doubt. The law relating to contempt has to be properly understood before an alleged contemner can be held guilty of a contumacious disregard of an order passed by the court affecting thereby the dignity and authority of the court and interfering with the course of justice.

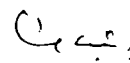
11. On perusal of the reply of the alleged contemnors, we are not satisfied that any prima facie case of contempt of this

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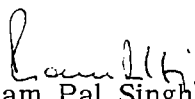
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Tribunal has been made out against the respondents. The most important element of contempt, i.e. the wilful disregard to the the C.C.P. is dismissed and directions of this Tribunal is completely absent. Hence, the notice issued against the respondents is discharged.

  
(P.C. Jain) 23/9/1991

Member (A)

  
(Ram Pal Singh) 23.9.91

Vice-Chairman (J)