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Central Administrative Tribunal
Principal Bench, New Delhi.

CP-269/94 &
MA-3566/94 in
OA-1340/88

New Delhi this the 10th Day of January, 1995.

Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman(J)
Hon'ble Mr. B.N. Dhoundiyal, Member(A)

Smt. Nirmal Rai,
S/o Sh. Mahesh Rai,
R/o B-IV-147, Dayanand Colony,
Lajpat Nagar,
New Delhi. Petitioner

(through Sh. J.P. Verghese, advocate)

versus

1. Sh. R.K. Takkar,
Chief Secretary,
The Delhi Administration,
Old Secretariat,
Alipur Road,
Delhi.
2. Sh. Suresh Prakash,
Member Secretary,
Managing Committee,
SD Ayurvedic College,
Malka Ganj Chowk,
Malka Ganj, Delhi. Respondents

(through Mrs. Avnish Ahlawat, advocate)

ORDER(ORAL)
delivered by Hon'ble Mr. Justice S.K. Dhaon, V.C.(J)

The complaint is that the directions given
by this Tribunal in its judgement dated 25.10.1991 are
not being carried out.

A counter-affidavit has been filed on
behalf of the respondents. The learned counsel for the
parties have been heard.

In the O.A. giving rise to this contempt
petition, relief No.2, as claimed, is material. The
said relief, inter alia, was that appropriate

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order/direction may be issued quashing the order dated 8.7.1988 by which the services of the petitioner had been done away with.

Paragraph-15 of the judgement contains the directions. The contents of the said paragraph may be extracted as below:-

"In the light of the foregoing discussion, we over-rule the preliminary objections raised by the respondents as to the maintainability of the present applications. The applications are disposed of with the directions to the respondents to treat the applicants as the employees of the Delhi Administration who have been rendered surplus consequent upon the closure of the Sanatan Dharam Ayurvedic College with effect from April, 1991. The applicants shall be given alternative placement in posts in the Delhi Administration commensurate with their qualifications and experience in accordance with an appropriate scheme to be prepared by them. They would also be entitled to pay and allowances for the period from the take-over of the Management of the said College till they are given alternative jobs and all consequential benefits. The respondents shall comply with the above directions within a period of three months from the date of communication of this order. There will be no order as to costs."

The learned counsel for the respondents has urged the following submissions in opposition to the contempt petition:-

- (i) The order of 1988 terminating the services of the petitioner had not been quashed by the Tribunal;
- (ii) In a matter similar to the one as in the present case, a reference has been made on 23.2.1994 to a

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Larger Bench and, therefore, we should stand over the hearing of this contempt petition till the decision of the Full Bench;

(iii) The contempt petition is barred by limitation.

We shall deal with these submissions in seriatim. Paragraph-10 of the judgement states that, in the facts and circumstances, it would not be fair and just to terminate the services of the staff on the plea that the college has been closed down after April, 1991 examinations without making a proper scheme for redeploying such surplus staff. We have already extracted the contents of paragraph-15. The learned counsel for the respondents has drawn our attention to the observations contained in paragraph-15 to the effect that the petitioner shall be entitled to pay and allowances for the period from the taking-over of the Management of the said College till they are given alternative jobs and all consequential benefits. She urges that it was within the knowledge of the Tribunal that the Management was taken-over some time in 1991 and it was also within the knowledge of the Tribunal that the services of the petitioner had been terminated in the year 1988 yet the Tribunal did not pass any order to the effect that the petitioner should be paid pay and allowances 1988 onwards.

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A combined reading of the contents of paragraphs 10 & 15 will go to show that probably the Tribunal did not find it appropriate to award back wages to the petitioner from the year 1988. In our opinion, there is nothing in the contents of paragraph-15 to enable us to come to the conclusion that the Tribunal did not intend to quash the order terminating the services of the petitioner passed in the year 1988.

Regarding contention No.2. Assuming the decision on the question referred to the Full Bench will be in favour of the respondents, that will not automatically set-aside the judgement of the Tribunal dated 25.10.1991. In the light of the judgement of the Full Bench, it will be open to the respondents to take such legal steps, as they are advised, to get over the judgement dated 25.10.1991.

Regarding contention No.3. The learned counsel for the respondents has contended that the limitation for the purpose of filing of a contempt petition will commence immediately after the expiry of a period of three months from the date of the communication of the directions contained in the order dated 25.10.1991. She urges that admittedly the contempt petition was filed on 01.06.1994. In a Civil Contempt the cause of action arises only when a party expressly or impliedly wilfully disobeys the directions of the Court/Tribunal. There is nothing on record to suggest as to when the respondents made up their mind not to carry out the directions.

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In the facts and circumstances of the case, it has to be assumed that on 23.2.94, when another O.A. was referred to a Larger Bench, the respondents decided not to comply with the judgement/directions. Therefore the contempt petition having been filed in the year 1994 cannot be thrown out as barred by limitation.

There can be no getting way from the fact that the respondents have failed to carry out the directions of the Tribunal. The question, therefore, is whether in the facts and circumstances of the case, the officer concerned should be punished for having committed the contempt of this Tribunal. Keeping in view the defence taken by the respondents in the contempt petition, we feel that the officer concerned can take the plea that he acted bonafidely under a legal advice in taking the view that, in the absence of an express order of the Tribunal quashing the order of termination passed in the year 1988, the directions could not be carried out. We, therefore, let off the officer concerned. The officer concerned shall be careful in future.

The learned counsel for the respondents states that the appropriate authority is the Director of Health Services in the National Territory of Delhi. That officer shall now carry out the directions of this Tribunal within a period of three months from today.

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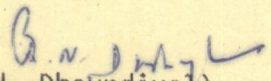
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The order need not be communicated to the ^{Director} Secretary concerned as the same is being passed in the presence of Smt. Ahlawat.


With the above observations, the contempt petition is disposed of finally.

Notices issued to the respondents are discharged.

No costs.


(B.N. Dhoondiyal)

Member(A)


(S.K. Dhaon)

Vice-Chairman(J)

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