

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

CCP 84/88 in

O.A. No. 67  
T.A. No.

198 8

DATE OF DECISION 10.10.88

Shri S.K.Nagpal & others Petitioner s

Shri R.L.Sethi, Advocate for the Petitioner(s)

Versus

Union of India & others Respondents

Shri M.L.Verma, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice K. Madhava Reddy, Chairman

The Hon'ble Mr. Kaushal Kumar, Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether to be circulated to all the Benches? No

*Kaushal Kumar*  
( KAUSHAL KUMAR )  
MEMBER

*K. Madhava Reddy*  
( K. MADHAVA REDDY )  
CHAIRMAN

10.10.88

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI.

CCP 84/88 in  
OA 67/88

Dated: 10.10.1988

Shri S.K.Nagpal & others ..... Petitioners

Vs.

Union of India & others ..... Respondents

Coram: Hon'ble Mr. Justice K. Madhava Reddy, Chairman  
Hon'ble Mr. Kaushal Kumar, Member.

For the Petitioners ..... Shri R.L.Sethi, Counsel

For the Respondents ..... Shri M.L.Verma, Counsel.

( Order of the Bench delivered by Hon'ble Mr.  
Justice K. Madhava Reddy, Chairman)

This Tribunal by its order dated 19.1.1988 in OA 67/88 directed the Respondents to dispose of the representations made by the petitioners within a period of two months from the date of receipt of that order. The petitioners have moved this CCP for taking proceedings in contempt against the Respondents on the plea that the Respondents have not disposed of the representations so far. Learned counsel for the Respondents states that only on 10.8.1988 when they received copies of the Original Application they came to know that order dated 19.1.1988 has been passed. As they did not receive a copy of the Original Application nor a copy of the order dated 19.1.1988 they are not guilty of contempt.

2. Learned counsel for the Respondents has raised a preliminary objection to the maintainability of this petition. He contends that the petitioners ought to have filed a petition under Section 27 of the Administrative Tribunals Act, 1985( for short 'the Act' ) for execution of the direction of this Tribunal rather than a petition

*for*

3

-2-

to punish the Respondents for contempt of Court.

3. So far as the first contention is concerned, we must observe that even if the Respondents had not received a copy of the judgement earlier, on their own admission they had received it on 10.8.1988; even to this date the representations have not been disposed of. However, we do not think that any proceedings in contempt should be taken on this CCP moved on 29.4.1988. In the circumstances now that the Respondents have received a copy of the order dated 19.1.1988 they are directed to dispose of the representations within a period of one month from today. Turning to the Respondents' preliminary objection to the maintainability of this CCP, we find it untenable. The Respondents plead that the petitioners should have applied for execution of the order of the Tribunal as contemplated by Section 27 of the Act which reads as under:-

" 27. Execution of orders of a Tribunal:-

Subject to the other provisions of this Act and the rules [the order of a Tribunal finally disposing of an application or an appeal shall be final and shall not be called in question in any court (including a High Court) and such order shall be executed in the same manner in which any final order of the nature referred to in clause (a) of sub-section(2) of Section 20 (whether or not such final order had actually been made) in respect of the grievance to which the application relates would have been executed."

Any application for execution of the order can no doubt be made. But that must be dependent on the nature of the order and the facts and circumstances of the case. Having regard to the nature of the order made by this Tribunal on 19.1.1988 disposing of OA 67/88, on any such application being filed only a further direction to dispose of the

for

9

representations could have been issued. Moreover, to say that the order can be executed under Section 27 of the Act is one thing but to say that no petition for taking proceedings in contempt can be entertained under Section 17 of the Act read with the provisions of the Contempt of Courts Act ~~can be taken~~ is another. So merely because the order can be executed, failure to comply with the directions given by the Tribunal does not cease to be a contempt and proceedings in contempt are not barred. If without justifiable cause the order has not been obeyed, the right to get the orders executed does not take away the jurisdiction, powers and authority of the Tribunal to take proceedings in contempt. That is a matter between the Tribunal and the Respondents who are allegedly guilty of contempt. Section 27 of the Act is subject to the other provisions of the Act as expressly stated therein. Section 17 of the Act empowers the Tribunal to exercise the same jurisdiction, powers and authority in respect of itself as a High Court has and may exercise and, for this purpose, the powers vested in a High Court under the provisions of the Contempt of Courts Act, 1971 shall have effect. An order of the nature such as one made in this case on 19.1.1988 cannot be executed otherwise than by initiating proceedings in contempt. If the Respondents fail to dispose of the representations without any justifiable cause, there could be no other method except taking proceedings in contempt. Atleast for fear of proceedings in contempt and punishment thereon, the Respondents will dispose of the representations. If an order or a direction given by the High Court had not been complied with within the period prescribed, the High Court could certainly take

put

proceedings in contempt. As the same jurisdiction, powers and authority is vested in the Tribunal in respect of the contempt of itself, any failure to comply with its order, the Tribunal also can take proceedings under the Contempt of Courts Act read with Section 17 of the Act.

4. Reliance for the contention that the petitioners cannot move for taking proceedings in contempt for non-compliance of the Tribunal's order is placed on the judgement of the Supreme Court in (1985) 3 Supreme Court Cases 382- Amrit Nahata Vs. Union of India & others-.

All what that judgement lays down is that the matter of contempt is between the Court and the person who has committed contempt and that the petitioner is not entitled as of right to insist on imposing any punishment. No exception can be taken to this proposition. This judgement does not lay down that where the order of the Court is not complied with proceedings in contempt cannot be taken. What all that judgement lays down is that even if the petitioner has moved for initiating proceedings in contempt and the Respondent is found to have committed contempt whether to punish the Respondent for contempt or not is a matter between the Court and the alleged contemner. Even if the Respondent is guilty of contempt, the petitioner cannot insist that the contemner should be punished. That is a matter entirely in the discretion of the Court to issue appropriate directions. However, that the Tribunal may refuse to initiate proceedings in contempt and the petitioners cannot insist upon imposing a punishment on the contemner does not mean that the petitioners do not have a right to move the

*Levi*

Court for taking proceedings in contempt. In view of the foregoing discussion the preliminary objection of the Respondents that the petitioners have not applied for execution of the order and no proceedings in contempt should be taken is rejected.

5. In the facts and circumstances of this case, we direct the Respondents to dispose of the representations of the petitioners within a period of one month from today. CCP stands disposed of in the above terms. Notice of contempt is discharged.

  
( KAUSHAL KUMAR )  
MEMBER

10.10.1988

  
( K. MADHAVA REDDY )  
CHAIRMAN