

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

R.A. No. 243/92

Date of decision 23.11.92

in

CCP No. 139/91

in

O.A. No. 2568/89.

S.K. BHATNAGAR

v/s

UNION OF INDIA

For the Applicant ... In person

For the Respondents... Shri PH Ramchandani, & counsel.

O_R_D_E_R

In this R.A. a review of the Order dated 28th October, 1991 in CCP No. 139/91 has been sought. The background of the case is that the applicant had filed O.A.No. 2568/89 in which the judgement was given on 9th August, 1990. The following is an extract of the judgement:-

" It appears that the Fourth Pay Commission

has not made any specific recommendation for

the Members of CGEAT as mentioned in para 6.2

(viii) of the reply filed by the respondents

in O.A. No. 1946 of 1988, but the Members of

the CGEAT were given the normal replacement

scale of Rs.7300-7600. We do not want to go into the question whether it was correct to allow two Members - Shri Rekhi and Shri Anand - a higher scale than other Members even though it was made personal, but there is need for a proper examination of the whole matter by the competent authority. Normally, courts do not go into the question of parity between two sets of posts and the pay scale that should be admissible to them. These are normally left to expert bodies like Pay Commission and Government to decide. We feel that since the representation of the applicants has not been replied to by Government, they may examine the whole question regarding the pay scale of the Members of the CEGAT taking into consideration the recommendations of the Jha Committee and Rules 14 and 18 of the Customs, Excise and Gold (Control) Appellate Tribunal Members (Recruitment and Conditions of Service) Rules, 1987. We order accordingly and refer the matter in Respondent No. 1 to re-examine the whole question of pay scales of Members of the CEGAT and finalise the same within six months. The pay scale of the applicants may also be fixed according to the decision which may be taken by Government in this

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matter keeping in view the above observations.

The applications are disposed of accordingly

and there will be no orders as to cost."

2. The applicant filed a CCP for non-implementation of the aforesaid orders of the Tribunal. The CCP was disposed of with the following orders :-

" After giving our earnest consideration

to the arguments put forward by the rival

parties and scrutinizing the record, we

find that there is no wilful disobedience

of the orders dated 9.8.1990. Instead,

there has been substantial compliance with

the same. It may be that the decision taken

in the matter as per Memo. dated 26.6.91

may not be acceptable to the Petitioner for

reasons which appear to him to be valid. If

that be so, the appropriate remedy for the

Petitioner is to challenge the aforesaid

Memo. if he feels so advised.

In the premises, we find that no case

for initiating contempt of court proceeding

has been made out."

3. The applicant contends that the order dated 26th June 1991 was issued by Government during the pendency of the contempt petition. A supplementary petition was filed by the applicant to show that the above order does not show compliance with the CAT's direction but the CCP was dismissed without any reference to his supplementary petition. He contends that the order of the Tribunal was not properly implemented and in this connection he referred to various defects such as non-issue of any gazette notification regarding replacement (revised pay-scales), ignoring CEGAT Members Rules, 1987 though Rules 14 and 18 were to be taken into account, etc.

4. The main thrust of the arguments is that the directions of the Tribunal in the order dated 9.8.1990 have not been implemented by memorandum dated 26th June 1991 in letter and spirit and, therefore, the order of the contempt petition should be reviewed. The Learned Counsel for the respondents argued that the review petition was not maintainable since the review petition could not be filed against the order in a CCP because while disposing of a CCP, the Tribunal exercises the same jurisdiction power and authority in respect of

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contempt as a High Court and may exercise for the purpose the provisions of Contempt Court Act, 1971. The orders passed under the Contempt Court Act, 1971 cannot be reviewed.

5. The respondents, according to their interpretation of the order of the Bench in O.A. No. 2568/89, have issued the memorandum dated 26th June, 1991 and it was clearly mentioned in the order disposing of the CCP that if the decision taken in the matter as per memo. dated 26th June, 1991 was not acceptable to the petitioner, the appropriate remedy for him is to challenge the memo. if he felt so advised. In view of these observations, we are of the opinion that the remedy does not lie in a review petition against the order in the CCP but in filing an O.A. for a grievance arising from the letter of the respondents dated 26.6.1991, if the applicant feels that the directions and orders given in the O.A. were not implemented in letter and spirit by the issue of memo. of 26th June, 1991 which, according to him, is challengeable on several scores.

6. The R.A. is, therefore, dismissed with no order as to costs.

I agree. *[Signature]*
Lenni 23.11.92.

(I.P. Gupta)
Member (A)
Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman (J)