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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

C.P. No. 139/91 in
O.A. No. 2568 of 1989.

Date of decision 28/10/91

S.K. Bhatnagar

.....Petitioner.

Vs.

Union of India through
Secretary, Department of Revenue.

.....Respondent.

For the Petitioner

- Petitioner in person.

For the Respondent

- Mr. P.H. Ramchandani,
Sr. Advocate.

B.S. SEKHON:

Applicant in O.A. No. 2568 of 1989 entitled
S.K. Bhatnagar Vs. Union of India (Petitioner herein)
has preferred the instant Petition for taking cognizance
of the contempt of court committed by Shri P.K. Lahiri,
Secretary, Department of Revenue, Union Govt. for
alleged wilful disobedience and disregard of the
Tribunal's order dated 9.8.1990. By virtue of operative
portion of the judgment rendered in the aforesaid O.A.
alongwith O.A. No. 1946 of 1988 on 9.8.1990, Respondent
was directed to re-examine the whole question regarding
the pay scales 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 (for brevity sake
called the 'Rules'). Respondent No. 1 in the O.A.
(opposite party in this Petition) was directed to
re-examine the whole question of pay scales of the
Members of the CEGAT and finalise the same within six
months. It was further directed that the pay scales

of the Applicants may also be fixed according to the decision which may be taken by the Govt. in this matter.

2. Petitioner has averred that the Respondent has not so far implemented the above order. He has neither announced any decision regarding the pay scale of CEGAT Members nor fixed any pay scale for the Petitioner in the light of the Tribunal's observations and directions although more than six months time has since expired. It has been further averred that in spite of several reminders and requests (both oral and written) drawing the attention of the Respondent to the fact that the time granted by the Tribunal was to expire/has already expired, the Respondent has not carried out the orders of the Tribunal and resultantly the Petitioner has been denied the benefit of relief granted to him by the Tribunal. According to the Petitioner, by this intentional act, the Govt. have obstructed the administration of justice and thereby committed contempt of the Tribunal.

3. In the reply affidavit, Respondent has denied the allegations about the alleged obstruction of the administration of justice adding that the matter has been examined and the decision has also been conveyed to the Petitioner vide Memo. dated 26.6.91. Regarding the delay in compliance with the orders of the Tribunal, Respondent has stated that the prolongation of the consideration of representation was substantially on account of several representations made by the Petitioner which

were required to be examined. One of such representation was made on 3.4.1991 just six days before the expiry of six months time limit and the Petitioner was also granted an opportunity of personal hearing on 6.5.1991 as the Govt. was keen for fair and judicious reconsideration of Petitioner's claim.

4. We have heard the arguments addressed by the Petitioner and by the learned counsel for the Respondent and have also perused the records relating to the examination of the matter in compliance with the directions given vide judgment dated 9.8.90.

5. A perusal of Memo. No. 27/34/90-Ad.IC, dated 26.6.1991 reveals that the matter has been considered and examined in compliance with the orders of the Tribunal made on 9.8.90. The period stipulated in the order for finalizing the matter was six months. Evidently, there has been delay in compliance of the judgment. The learned counsel for the Respondent submitted in this connection that the delay has occurred as the Petitioner had made several representations referred to in para 7 of the counter adding that one such representation was made as late as 3.4.91 i.e. merely six days before the expiry of six months time limit. The learned counsel further stated that the Petitioner had also requested for a personal hearing which had been accorded to him on 6.5.91 and that the delay was not at all intentional. The explanation for the delay given by the learned counsel for the Respondent appears to be reasonable and valid. In any case, mere delay in good faith caused in implementation of

the order cannot at all be made a ground for initiating action for contempt of court. Advertising to the central question i.e. as to whether the Respondent has complied with the judgment in question, it may be stated that only wilful disobedience of the orders of the Tribunal can sustain the proceedings for contempt of court. The learned counsel for the Respondent strenuously urged that the judgment of the Tribunal has been complied with in letter and spirit. Elaborating the learned counsel invited our attention to Rules 14 and 18 of the Rules as also to the Notification No. 15(7)IC/86, dated 13.3.1987 whereby the C.C.S. (Pay) Rules have been amended. Inviting our attention to rule 14 of the Rules and Item 32 at page 2 of the Notification, the learned counsel stated that the pre-revised pay of the Members was Rs. 3000/- p.m. and that the Petitioner has been granted the scale of Rs. 7300-7600 while implementing the recommendations of the Fourth Pay Commission. Regarding rule 18 of the Rules, the learned counsel for the Respondent submitted that this rule regulates only other conditions of Service of the Members of the CEGAT adding that other conditions are the conditions for which no specific provision has been made in the Rules. It was also submitted by the learned counsel for the Respondent, that the Respondent has also considered the recommendations of the Jha Committee Report. The learned counsel summed up by stating that there has been complete and faithful compliance with the orders of the Tribunal which

fact is also borne out by the records produced by the Respondent. According to the Petitioner, the notification relied upon by the learned counsel for the Respondent is not germane to re-examination of question of pay scales of the Members of the CEGAT and that the aforesaid matter is governed by the Rules. The other points made by the Petitioner were that there is little justification in granting the pay scales of Rs. 7300-8000 to S/Shri K.L. Rekhi and K.P. Anand and that the Members of the CEGAT are entitled to parity of pay with the pay of Members of CBEC. The Petitioner went on to submit that in any case no order for fixation of pay has so far been issued. Petitioner also made an issue of the delay caused in complying with the orders of the Tribunal.

6. 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.

7. In the premises, we find that no case for initiating contempt of court proceeding has been made out.

8. Consequently, the Contempt Petition
is hereby rejected and the notice issued to the
Respondent is hereby discharged. No costs.

D. K. Chakravorty
(D.K. CHAKRAVORTY)
MEMBER (A) 28/X/481

B. S. Sekhon
(B.S. SEKHON)
VICE CHAIRMAN

28/10/91

MS