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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

NEW DELHI.

C.P.No.214 of 1995

in

O.A.No.2658 of 1990

New Delhi: this the 2nd day of December, 1996.

HON'BLE MR.S.R.ADIGE MEMBER (A).

HON'BLE DR A.VEDAVALLI MEMBER (J).

Shri D.C.Tripathi,

S/o Shri Nandan Lal Tripathi,

R/o Vill. & P.O.Mount,

Distt. Mathura, UP

.....Applicant.

(By Advocate: Shri P.P.Khurana)

Versus

1. Shri Munnu Lal,
Deputy Director General of Ordnance Equipment
Factory (Group) HQ GT Road,
Kanpur, U.P.

2. Shri V.Y.Ghaskadbi,
Addl. Director General of Ordnance
Factory (OE.Fy Group),
Sujat Ganj,
Kanpur, UP

.....Respondents.

(By Advocate: Shri V.S.R.Krishna)

ORDER

BY HON'BLE MR.S.R.ADIGE MEMBER (A).

Heard.

2. The operative portion of the impugned judgment dated 5.5.95 in O.A.No.2658/90 against which contempt is alleged is extracted below:

"For the aforesaid reasons, this OA is allowed and the impugned Annexure 'A' order dated 3.9.90 of the second respondent and the impugned Annexure 'B' appellate order dated 29.10.90 of the third respondent are quashed. The respondents are directed to reinstate the applicant if he has not already superannuated, within a period of one month from the date of receipt of this order and they are also directed to pass an appropriate order, in accordance with law, in respect of the period of suspension as well as the period from

the date of compulsory retirement till the date he is reinstated in accordance with this order or till he superannuated, as the case may be, within a period of four months from the date of receipt of this order. We make it clear that this order will not stand in the way of the competent authority from continuing with the disciplinary proceedings, in accordance with law provided that such a decision shall be taken within four months from the date of receipt of this order. No costs."

3. The respondents have passed impugned order dated 20.9.95 (Annexure-RI) reinstating the applicant w.e.f. 5.9.90 and deeming him to be placed under suspension under Rule 10 (4) CCS (CCA) Rules from the date of his original compulsory retirement i.e. 5.9.90, fixing his headquarters and sanctioning him subsistence allowance and other allowances admissible under rules.

4. In the C.P. it has been stated that the respondents have committed contempt by not reinstating him within 1 month from the date of receipt of a copy of judgment dated 5.5.95. During arguments applicants' counsel Shri Khurana also urged that in terms of the Tribunal's judgment dated 20.9.95 as the penalty order as well as the appellate's order had been quashed, the respondents were required to reinstate the applicant w.e.f. 5.9.90 and pay him his full salary from that date onwards till 20.9.95 which had not been done. It was also asserted that the respondents' reply to the CP had not been filed by the alleged contemnors and was therefore not fit to be considered. Reliance in this connection was placed on 1989 (II) ATC 461 and AIR 1962 SC 1334.

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5. We note that the penalty order as well as the appellate order were quashed principally because the authorities who issued those orders were not competent to do so. We further note that in the background of Rule 10(4) CCS (CCA) Rules the respondents on consideration of the facts and circumstances of the case decided to pursue the matter further and passed revised orders compulsorily retiring the applicant dated 21.12.95 issued by the D.G. Ordnance Factory (Disciplinary Authority) which is on record, and has been filed by the applicant himself. The order dated 20.9.95 under Rule 10(4) CCS (CCA) Rules is fully in accordance with the operative part of the Tribunal's judgment. It is true that there was some delay in issuing those orders, but merely for that reason we would not be justified in prolonging this CP further. In the face of the Disciplinary Authority's order dated 25.12.95 filed by the applicant himself the ground taken that the affidavit was not filed by the alleged contemnors but someone else and that the CP should be allowed to proceed, has no merit, in the facts and circumstances of this case.

6. We would have imposed some ^{costs} ~~penalty~~ on the respondents for delay in issuing the order dated 20.9.95 reinstating the applicant, but we note that during hearing on 1.10.96 the applicant who was present in Court had instructed his counsel to state that he had not received a copy of respondents' order dated 21.12.95 when in actual fact the official records which we have perused, reveal that he had received the same on 30.12.95. He therefore disentitles himself to any consideration.

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7. Under the circumstance no cause for initiating contempt proceedings against the respondents is made out. The CP is dismissed and notices to respondents are discharged.

A. Vedavalli
(DR. A. VEDAVALLI)
MEMBER (J)

S. R. Adige
(S. R. ADIGE)
MEMBER (A).

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