

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

CP NO. 174/2006
OA NO. 3050/2004

This the 12th day of October, 2006

HON'BLE MR. JUSTICE M.A.KHAN, VICE CHAIRMAN (J)
HON'BLE MRS. CHITRA CHOPRA, MEMBER (A)

M.L.Kohli
S/o Sh. M.R.Kohli
R/o D-44, Prashant Vihar
New Delhi-110085
And others

(By Advocate: Sh. R.Doraiswamy)

Versus

Sh. S.N.Jha,
Director General
DGS&D,
Jeewan Tara Building,
Sansad Marg,
New Delhi-110001.

(By Advocate: Sh. Rajesh Katyal)

ORDER (ORAL)

Hon'ble Mr. Justice M.A.Khan, Vice Chairman (J)

Present CP was filed by the applicant complaining that the order of this Tribunal dated 25.1.2006 passed in OA-3050/2004 has not been implemented willfully and contumaciously and contempt proceedings may be initiated against the respondent under the Contempt of Courts Act. A show cause notice was issued to the respondents and in reply respondent stated that order dated 25.1.2006 was passed on the basis of the order in Radhey Shyam vs. Union of India and this order was challenged in a writ petition before the Hon'ble High Court along with an application for interim stay which is pending for consideration. On 4.9.2006 the Tribunal was told that the present OA filed by the applicant was decided in terms of the order passed in Radhey Shyam's case (supra) and that a writ petition filed by the respondent challenging that order is

pending in the High court so the decision of the Tribunal was sub judice. It was also stated that the said writ petition is listed for hearing on 29.9.2006. Today, learned counsel for respondents has stated that the Writ Petition and the application for grant of stay both have been adjourned to 15.4.2007. It is submitted that the application for interim stay could not be disposed of. Conversely, learned counsel of applicant stated that there was no stay in any of the cases. Learned counsel of applicant has drawn our attention to Annexure R-3 to their counter reply. It is a copy of the order dated 3.7.2006 passed on CP No.96/2006 arising out of OA-2165/2004, i.e. the case of Radhey Shaym. The Tribunal disposed of the CP with the following directions:

“Respondents have pointed out in the reply of the contempt petition that Tribunal’s orders dated 20.10.2005 have been challenged in WP (C) 6255-58/2006 and CMP No.5129/2006 in which notice both on the Writ Petition as also the stay application has been issued by the Hon’ble High Court fixing the next date of hearing on 29.09.2006.

2. In view of this CP is disposed of with liberty to applicant to resort to appropriate legal proceedings after disposal of the aforesaid W.P (C) or C.M.P.”
2. A perusal of the order of the Tribunal non-compliance of which is complained against in the present proceedings shows that the application was decided in terms of the order which was passed in the case of Radhey Shyam (supra). The order quoted above was passed in the CP which was filed by Radhey Shyam for initiating proceedings under the Contempt of Courts Act against the respondents as they had not complied with the order. Counsel for applicant has vehemently argued that since there is no stay of the order of this Tribunal there is no impediment in proceeding with the contempt proceedings. But we find that the order passed in the OA is solely based on the decision of Radhey Shaym’s case (supra). The CP filed by Radhey Shayma was disposed of by this Tribunal by order dated 3.7.2006 which has been reproduced above.
3. Though technically we agree that if there is no stay of the order of the Tribunal or stay of contempt proceeding we may proceed in this matter. But



consistency in the order of this Tribunal is necessary. The Tribunal cannot take one view in one matter and in another case involving similar facts take a totally different view. So it will be travesty of justice if this Tribunal takes a divergent view in the present proceedings and not to decide the present CP in the terms of this bench's earlier order dated 3.7.2006. Accordingly, we dispose of the present CP in terms of the order dated 3.7.2006 passed in CP No.96/2006 which arose from OA-2165/2004. We, however, leave it open to the applicant to file fresh petition, either after the disposal of the Writ Petition filed by the respondent or on the disposal of the application for interim stay by the Hon'ble High Court, in accordance with law.

4. With this CP stands disposed of in terms of above order.

Chitra Chopra
(Chitra Chopra)
Member(A)

'sd'

M.A. Khan
(M.A. Khan)
Vice-Chairman(J)