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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

C.P. No. 303 of 1994 In
O.A./~~XXXX~~NO. 1692 of /1992 Decided on : 4.8.95

Shri A.P. Sharma ... Applicant(s)

(By Shri B.K. Batra Advocate)

versus

Shri Md. Zaki Ansari ... Respondent(s)

(By Shri H.K. Gangwani Advocate)

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1. To be referred to the Reporter or not ? No
2. Whether to be circulated to other Benches No
of the Tribunal ?


(S.C. MATHUR)
CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

C.P. No. 303 of 1994 In
O.A. No.1692 of 1992

New Delhi this the ¹⁶ day of August, 1995

MR. JUSTICE S.C. MATHUR, CHAIRMAN
MR. K. MUTHUKUMAR, MEMBER (A)

Shri A.P. Sharma
S/o Late Shri S.S. Lall
Moradabad Division
R/o C-3/261, Yamuna Vihar,
Gokul Puri,
Delhi Shahdara.

...Petitioner

By Advocate Shri B.K. Batra

Versus

Shri Md. Zaki Ansari
Divisional Rail Manager,
Northern Railway,
Moradabad.

...Respondent

By Advocate Shri H.K. Gangwani

ORDER

Mr. K. Muthukumar; Member (A)

In this Contempt Petition, the petitioner alleges non-compliance of the orders of this Tribunal dated 16.8.92 passed in O.A. No.1692 of 1992 and have prayed that the Tribunal should take due cognizance of the deliberate defiance of the order of the Tribunal for suitable action under the Contempt of Courts Act, 1971.

2. In the aforesaid O.A., the applicant challenged the order of penalty of withholding increments for a period of one year without cumulative effect from 11.7.1990 passed by the respondents. Allowing the O.A., the Tribunal passed the following order:-

"(i) The orders of O.A., A.A. and R.A. are set aside.

(ii) The respondents are directed to restore the increment to the applicant

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on the due date as though the penalty has not been imposed and pay him the arrears of pay and allowances.

(iii) The respondents are also directed to pay the applicant Rupees Five Hundred only towards cost of the application.

(iv) The respondents are directed to comply with the above directions within three months from the date of receipt of a copy of this order".

3. The petitioner has stated that while the respondent has paid Rs.500/- as cost of the application sometime in March, 1994, he has not made the payment of arrears of pay and allowances as ordered by the Tribunal till date and the same has also been refused by the letter dated 27.5.94 of the respondents annexed as Annexure-3 to the petition. The respondent in his reply has averred that he has complied with the judgment of the Tribunal and has paid Rs.500/- as cost of the application. He has, however, submitted that no arrears of pay and allowances on account of cancellation of the punishment of withholding of one year increment without cumulative effect is due to him as the petitioner has been facing successive punishments, as detailed below:-

1. Withholding of Increment (hereinafter referred to as 'WIT') for 2 years by order dated 6.6.90, which was, on appeal, reduced to one year by order dated 13.2.91.

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2. WIT for one year by order dated 11.6.90, which was quashed by the order of the Tribunal dated 10.8.93.
3. WIT of six months dated 11.6.90, which was modified on appeal as WIT for three months by order dated 30.11.90.
4. WIT of 2 years by order dated 29.1.91, which was modified on appeal as WIT for one year by order dated 7.4.92.
5. WIT of one year by order dated 29.11.91, which was modified on appeal as WIT of nine months by order dated 24.7.92.
6. WIT of two years by order dated 2.9.92, which modified as WIT of one year by order dated 5.3.93.

In view of the above, the respondent has stated that the petitioner became finally free from the punishment of WIT only with effect from 1.8.94 and his pay was fixed at Rs.2300/- per month maximum, in his present pay scale of Rs.1400-2300 and the same has since been charged and, therefore, the respondent has averred that at no stage, he could get his regular increment in the normal course during the period from 1.8.90 to 1.8.94 due to the successive punishments, as indicated above. In view of this, no arrears of increment became due to the petitioner and, therefore, there had been no wilful disobedience of the order of this Tribunal.

4. The learned counsel for the petitioner cited the order of the respondent dated 6.10.1993 pursuant to the order of the Tribunal in O.A. No.1692 of 1992 dated 10.08.1993. Particular

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attention was drawn to para 2 of the aforesaid order, which is reproduced as follows:-

"1)

2) The increment which had been withheld for a period of one year in terms of NIP of even no. dated 11.6.90 is hereby restored with retrospective effect - Shri A.P. Sharma is due payment of all arrears of pay and allowances accordingly".

On this account, the learned counsel for the petitioner states that the petitioner was entitled to arrears of pay and allowances due to the restoration of the increment. The learned counsel for the respondent argued on the pleadings in the counter-reply and stated that no arrears have become due to him as at no stage during the period from 1.8.89 to 1.8.94, the petitioner could become entitled to his regular increments in view of the successive punishments during this period.


5. We have heard the learned counsel for the parties and have also perused the record.

6. Reference of the learned counsel of the petitioner to the letter of the respondent dated 27.5.94, Annexure A-3 is not relevant in this case as it is stated in that letter that the petitioner is not entitled to any increments in his pay or his promotion to the higher scale, i.e., Rs.1600-2660. It is true that in the order dated 6.10.1993 pursuant to the order passed by this Tribunal in O.A. No. 1692 of 1992, it is stated that payment of all arrears of pay and allowances is due to the petitioner consequent on the quashing of the penalty of WIT for a period of one year. The existence of successive punishment orders withholding increments as mentioned earlier, cannot

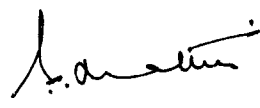
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be overlooked and because of these successive punishments, which were effective and operative, the petitioner could not have earned increments during the period from 1.8.89 to 1.8.94. The effective successive punishments on the increments due to the petitioner from time to time has been brought out by the respondent in his reply dated 17.5.95. We find that the successive punishments withholding the increment ran cumulatively for a period of 4 years from 1.8.90 and the petitioner became free from punishment only with effect from 1.8.94., We are satisfied that the petitioner because of successive punishments during the period from 1990 to 1994, could not have drawn increments and his pay has rightly been fixed at Rs.2300/- with effect from 1.8.94.

7. In view of the above, there is no merit in the Contempt Petition and it is accordingly dismissed. Notice issued is discharged. No costs.



(K. MUTHUKUMAR)
MEMBER (A)



(S.C. MATHUR)
CHAIRMAN

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