

Open Court

Central Administrative Tribunal,
Allahabad Bench, Allahabad.

Dated: Allahabad, This The 4th Day of May 2000.

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

Civil Contempt Application No. 98 of 1996

in

Original Application No. 1565 of 1993.

Mahendra Singh
son of Sri Shri Chand,
Resident of House No. 52 Arjun Nagar,
Agra.

. . . Applicant.

Counsel for the Applicant: Sri D.C. Saxena, A dv.

Versus

1. Brigadier G.S. Grewal (Chairman Station
Canteen) Station Commandant, Station Head Quarters
Indian Army Cantonment Area, Agra.

2. Colonel R.K. Budhwar, Administrative Commandant
(Incharge Station Canteen), Station Head Q uarter,
Indian Army Station Head Quarter, Agra.

. . Respondents/Opp.P

Counsel for the Opp. Parties: Kumari Sadhna Srivastava.

Order (Open Court)

(By Hon'ble Mr. S. Dayal, Member (A.))

This application for contempt has been filed
for punishing the Opp. parties for committing
contempt by refusing to implement the order of this

Tribunal dated 6.9.96 given in O.A. 1565 of 1993.

2. The Division Bench of this Tribunal in the said order set aside the order of termination of the applicant dated 29.9.93 as bad in law and directed the respondents to re-instate the applicant in service on receipt of the order. The respondents were left at liberty to take appropriate action against the applicant in accordance with law in case he was involved in any misconduct as alleged by the respondents.

3. The arguments of Sri D.C. Saxena for the applicant and Kumari Sadhna Srivastava for the Opp. parties have been heard and the record of the case considered.

4. We find from the counter reply filed by the Opp. Parties on 31.3.97 that the matter of re-engagement of the applicant was considered by the respondents and letter dated 22.1.97 was issued to the applicant. The applicant on receipt of joining orders reported for duty on 5.2.97. We find that the applicant in his Misc. Application No. 508/97 has admitted that letter dated 22.1.97 was received by him on 28.1.97 and he has annexed a copy of the letter which shows that the applicant was directed for duty to Station Canteen Agra and was to be paid agreed salary with effect from 7.9.96. The term and conditions of his appointment were to be governed by order dated 24.5.95.

5. The learned counsel for the applicant has sought a direction to the respondents to pay the back wages to the applicant from the date of his termination

-3-

on the ground that only would amount to full compliance. He has in support of his contention relied upon the order of Central Administrative Tribunal Hyderabad in B. Appa Rao Vs. Addl. Collector Customs Visakhapatnam (1993)23 Administrative Tribunals Cases 89 in which it has been held that where termination was quashed as illegal, the employee concerned was entitled to back wages. He has also placed reliance on C.S. Usha Kumari Vs. Senior Superintendent of Post Offices Pathanamthitta Div. and others (1993) 23 Administrative Tribunals Cases 468 in which it has been held that even in the absence of any specific order to pay back wages if termination order was set aside, the department was bound to pay back wages. The learned counsel for the applicant has also relied on an order of Division Bench of this Tribunal in Vinod Mani Diwakar Vs. Union of India (1995) 29 A.T.C. 12 in which it has been held that Tribunal can give appropriate direction to offset the effect of disobedience.

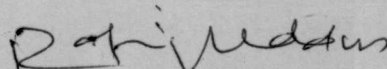
6. We have seen the O.A. No. 1565 of 1993 and found that the applicant had not staked any claim for back wages in the same. The order of the Division Bench not mentioning the payment of back wages was in the context of the relief sought by the applicant. The applicant did not perform any work in the Canteen from 29.9.93 till the date from which he has been granted back wages.

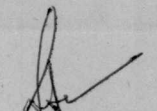
Under the circumstances, we do not consider it

-4-

appropriate to saddle the finances of the canteen with payment of back wages of the applicant.

7. In view of the above, we find that the order has been substantially complied with. We therefore drop the contempt proceedings and discharge the notices issued to the Opp. Parties.


Member (J.)


Member (A.)

Nafees.