

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD**

( THIS THE 4<sup>th</sup> DAY OF AUGUST, 2009 )

PRESENT :

**HON'BLE MR. JUSTICE A.K. YOG, MEMBER-J**

**HON'BLE MR. S.N. SHUKLA, MEMBER-A**

**CIVIL MISC. CONTEMPT PETITION NO.120 OF 2004**

**IN**

**ORIGINAL APPLICATION NO. 262 OF 1995**

(U/s, 19 Administrative Tribunal Act.1985)

1. Satyendra pal Singh Ticket No. 3181 son of Sri Jai Pal Singh
2. Nasir Uddin Ticket No. 1645 son of Sri Abdul Hameed.
3. Shyam Singh Ticket No. 2797 son of Umrao Singh
4. Baisaki Ram Ticket No. 2506 son of Shyam Singh
5. Birender Singh Ticket No. 2958 Girdhari Singh
6. Mominder Singh Ticket No. 2974 son of Gulzar Singh
7. Ahwani Kumar Ticket No. 2830 son of Radhey Shyam
8. Satish Kumar Ticket No. 3296 Son of Ram Lal Singh
9. R.K Sharma Ticket No. 3063 son of Mahabir Prasad
10. Sunil Kumar Ticket No. 3040 son of Padam Sen
11. Satish Chand Ticket No, 3051 son of Dal Chand
12. Rajveer Singh Ticket No. 3020 Brham Singh
13. Jitender Kumar Ticket No. 2992 son of Kabool Singh
14. Sushil Kumar Garg Ticket No 3180 Suraj Mal
15. Nizamuddin Ticket No. 3186 son of Nanhey Khan
16. Vijender sen Ticket No. 321 son of Mangal Sen
17. Kusum Pal Ticket No 3142 son of Mahabir Singh
18. Shiv Kumar Ticket No, 3408 Son of Tej Pal Singh

*ls.*

19. Kashi Ram Ticket No.3410 Son of Panna Lal
20. Pankaj Kumar Ticket No, 3397 son of Iqubal Singh
21. Shyam Sunder Nehra Ticket No. 2896 son of Amar Singh
22. Brij Pal Singh Ticket No. 3195 Son of Nanhar Singh
23. Surender Singh Ticket No. 3176 Son of Tej Pal Singh
24. Jagdish Singh Ticket No. 2668 Son of Prakash Chand
25. Stender Kumar Ticket No. 3211 Son of Lekh Ram
26. Ramesh Chand Ticket No. 3325 son of Bodh Ram
27. Ajab Singh Ticket No. 2653 Son of Bhram Singh
28. Brham Pal Singh Ticket No. 2654 Son of Balbir Singh
29. Narendra Singh Ticket No. 2651 son of Alam Singh
30. Om Prakash Ticket No. 2248 Son Ram Swaroop
31. Rajender Singh Ticket 2697 son of Man Chand
32. Rajender Singh Ticket 2695 son of Jagan Swaroop
33. Bhart Sharma Ticket No. 2915 Son of S.M. Sharma
34. Arvind Kumar Ticket 3046 Son of Kishan Lal
35. Parmod Kumar Ticket No.3282 Son of Jaikeran Singh
36. Yash Pal Singh Ticket No. 3283 Son of Shoraj Singh
37. Prem Chand Ticket No. 3285 Son of Raj Singh

.....Applicants

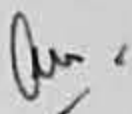
By Advocate : Shri A.I. Naqvi

Versus

1. Lt. General V. K. Dhir Director General Electrical Mechanical Engineering (**EMECIV**) MOO's Branch, Army Head Quarters DHQ Office New Delhi.

.....Respondents

By Advocate : Shri S.C. Mishra





**ORDER**

(DELIVERED BY: JUSTICE A. K. YOG- MEMBER-JUDICIAL)

1. Heard Shri A.I. Naqvi, learned counsel for the applicant and Shri S. N. Chatterji, Additional Standing Counsel on behalf of opposite parties.

2. At the outset we may note that contemnor/opposite parties in the present contempt petition are one Lt. General V.K. Dhir, Director General electrical Mechanical Engineering (EMECiv.) MGO's Branch, Army Head Quarters DHQ Post Office, New Delhi in his personal capacity knowingly through Senior Central Government Standing Counsel, Government of India, Central Administrative Tribunal sworn by one Lt. Col. Mahesh Kumar erstwhile while officiating Col. Administration in the Office of Commandant 510 army Base Workshop, Meerut Cantt. There is no explanation as to why Lt. General V.K. Dhir, Director General electrical Mechanical Engineering (EMECiv.) MGO's Branch, Army Head Quarters DHQ Post Office, New Delhi has not come forwarded to swear his affidavit; unconditional apology contained in para 9 is irrelevant and inconsequential.

3. Our Above observations are supported by the ratio laid down in 1991 CRLI 251. Shri S.C. Mishra, Senior Central Government Standing Counsel is directed to sent a copy of this order to concerned Ministry for information and compliance that violation of directions contained in the notice requiring to file show cause in the shape of affidavit/counter affidavit.



4. Coming to the facts of the case, a brief factual matrix has been recapitulated hereunder. 115 applicants (Shri Raj Singh Saini and 114 persons) jointly filed OA No.262 of 1995 which was finally decided vide order dated 13.2.2003; copy filed as Annexure A-2 to the contempt petition. Relevant para 4 of the said order reads:-

*"4. We have carefully considered the submissions made by the counsel for the parties and we are of the opinion that as the applicants are satisfied with the order (S.A.-1) of October, 1985. It is no more necessary to examine the claims and counter-claims raised in this O.A. The ends of Justice will be served if the respondents are directed to examine the claim of the applicants as to whether they were granted the benefit of the order or not. If the applicants were not granted the benefit, they will be entitled for the benefit from the date it should have been granted to them. The application is accordingly disposed of finally with the liberty to the applicants to make representation through proper channel along with copy of this order and annexing therewith the copy of the order filed as annexure S.A.-1. The claim shall be then considered by the respondent no. 2 in accordance with rules and decided by reasoned and speaking order within 4 months from the date a copy of this order is filed. No order as to costs."*

5. According to the applicant they submitted representation (in compliance of the direction contained in afore quoted order of the Tribunal dated 13.2.2003) and said representation has been decided vide order dated 14.11.2003/Annexure A-3. Perusal of this order shows that applications of various persons has been considered (admittedly those of the persons) and given reasons. It appears the relief claimed by some of the applicant who has joined as Applicant nos.1 to 37 in the present contempt petition have not been extended benefit in accordance with relevant departmental Rules, orders and law. Hence, being aggrieved they have filed

*Dr.*



present contempt petition supported by affidavit of one Satyendra Pal Singh, Ticket No.3181.

6. Interestingly, the applicants have not disclosed the date of filing of representation (under Tribunal order dated 13.2.2003) nor copy of said representation has been filed. This fact is evident from perusal of para 6 and 7 of the OA. Grievance of the applicants, justifying filing of present contempt petition are contained in para 8, 9, and 10 of the contempt petition which reads as follows:-

*"8. That a perusal of Annexure No. 3 would reveal that the opposite party has only tried to give explanation for the wrong committed by his department and did nothing else. The so called benefits given to some of the applicants mentioned in the said order of the opposite party refers to those cases who qualified in the departmental examination time to time or were promoted on the basis of Seniority without disclosing that how in those cases the said applicants got benefit and in what manner and when. The Annexure no. 3 would further reveal that the entire order passed by the respondent opposite party is full with twisted versions with an intention to save the Army Officers and staff of 510 Army Base Workshop Meerut Cantt Meerut as well as the D.G.E.M.E. i.e. (Director General Electrical Mechanical Engineering) and its concerned staff and practically did not comply the order dated 13/02/2003 (Annexure no. 2) passed by this Hon'ble Tribunal. The twisted versions in the impugned order of the respondent opposite party will be apparent from the perusal and reading of paragraph no. 8 to 16 of the impugned order dated 14-11-2003 (Annexure no. 3) passed by the respondent/opposite contemnor.*

*9. That a perusal of the impugned order (Annexure No, 3) passed by the respondent/opposite party would make it clear that the applicants/petitioner were not given benefit of pay Scale @ Rs. 330-480 with effect from 16-10-1981 as directed by this Hon'ble Tribunal (Annexure no. 2) by the respondent-opposite which is in clear violation of the order dated 13-02-2003 (Annexure- No,2) of this Hon'ble Tribunal passed in Original Application No.*

*Dr.*



*262 of 1995 which amounts to the contempt of this Hon'ble Tribunal.*

*10. That thus under the facts and circumstances stated above it is clearly established that the respondent-opposite party-contemnor has committed willful disobedience and contempt of this Hon'ble Tribunal by intentionally and deliberately violating the order dated 13/02/2003 passed by this Hon'ble Tribunal in Original Application (O.A.) No. 262 of 1995 (Raj Singh Saini and other Versus Union of India and others) District Meerut, and thus it is necessary in the ends of justice and to preserve the dignity of this Hon'ble Tribunal that the respondent/opposite party (Contemnor) be punished for committed the contempt of this Hon'ble /Tribunal."*

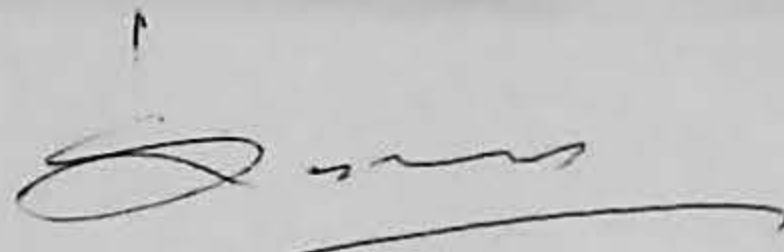
7. Perusal of relevant paras 8, 9, and 10 (quoted above) of the contempt petition shows that applicants are aggrieved by the order deciding representation (as quoted above) on merit of the findings recorded by the concerned authority. In the contempt petition there is no grievance to the fact that the authority in question, has failed to decide the representation within the time stipulated in the tribunal order dated 13.2.2003. Besides the facts that even the relevant facts in support of said charge against concerned authority have not been pleaded to demonstrate that representations have been actually decided beyond the period of four months to consider and adjudicate legality of order on the grounds contained in para 8,9, and 10 which amount to sitting in appeal nor the order passed by the concerned authority as a whole require consequential on merit which can be done by Higher authority/competent court as may be provided in law. Contempt jurisdiction cannot be utilized for these purposes. If applicants are aggrieved, it will be open for them to approach before appropriate forum. Learned counsel for the applicant asked time to be granted for filing supplementary affidavit on order to bring on record the

*for,*

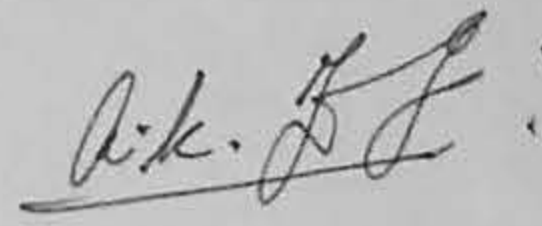
date of filing of representation in question, to show that authority in fact committed breach of the direction given by the Tribunal i.e. period of four months to decide said representation under Tribunal order dated 13.2.2003. This contempt petition is pending since 2004.

8. We are not inclined to grant time at this belated stage; particularly in view of the fact that representation/s already stand decided Breach of 'time-limit' appears to be unintentional and not deliberate.

9. Contempt Petition is dismissed. Notices issued against opposite parties is hereby discharged.



Member-A



Member-J

/ns/