

RESERVED

**CENTRAL ADMINISTRATIVE GTRIBUNAL
ALLAHABAD BENCH**

THIS THE 26th DAY OF SEPTEMBER, 2005

Civil Contempt Petition No. 26 of 2005

In

Original Application No.903 of 1996

CORAM:

**HON. MR. K.B.S. RAJAN, MEMBER(J)
HON.MR. A.K. SINGH, MEMBER(A)**

Hansraj Singh, Ex-Airman
Opp. Sub. Guard Room,
Air Force, Manauri, Allahabad.

Applicant

(By Adv: Shri H.R.Singh)

Versus

Sri Sudhakar Tiwari,
Commissioner of Income
Tax, Allahabad. .. Respondents.

(By Adv: Shri S. Singh)

ORDER

By Hon.Mr.K.B.S.Rajan, Member(A)

The applicant to the Contempt petition, an ex-serviceman and a retired (a decade ago) ~~as~~ UDC in the Income Tax Department, appearing in person, has painstakingly and proficiently presented his case which calls not only for justice but also mercy. At the same time, obsession with one's own case and inability to see things in perspective are often a frailty of a party who spends the enormity and anguish of his superannuated leisure on the main pursuit of his litigative points, and this makes for prolixity and subjectivity of submissions, which due

to emotions accompanying submissions result in the dominance of the provocative part of the art of advocacy. Even so, we have listened with sympathy to the submissions sufficiently stuffed with the sense of anguish and agony, despair and disgruntlement, frustration and vexation.

2. His grievance is that the order passed by this Tribunal as early as 4th November, 1999, in OA No. 903/96 with a specific direction and a calendar for compliance by the respondent has been simply ignored, a contumacious act on the part of the respondent and all his sincere hopes that justice would be rendered to him both in spirit and reality has been draining. Hence, he has attempted to trigger the legal process so that the majesty and dignity of the order of the Court is kept in the highest pedestal and justice to him would be a bye-product of the same.

3. Now a look at the operative portion of the order dated 4th November, 1999:

"The respondents are directed to determine the pensionary benefits of the applicant after counting his past Air Force service rendered by him after deducting amount of gratuity if any received by the applicant from Air Force along with simple interest at the rate of rs.6% from the date of his joining the present department. The respondents may ascertain the amount of gratuity received by the applicant from concerned Air Force Authority."

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4. On their part, the respondents, aggrieved by the aforesaid order, chose to approach the Hon'ble High Court by filing a writ petition 22346/2000 and save some rest time for four years for them from implementing the order of the Tribunal they could not succeed in the writ petition; rather the writ petition only concretized the decision of this Tribunal. A glimpse at the following words of the Hon'ble High Court would confirm the same:-

"So far as the other submission that there was no mention of the fact of past services rendered by Hansraj Singh in the Indian Air Force in his Service book and in his personal file is concerned, the tribunal has found on cogent ground that the omission in this regard was only on account of the own negligence of the officials of present petitioners. All the relevant information, option etc. had been submitted by Hansraj Singh at the relevant time and in fact knowing fully well about his past services and giving credit for the same the income tax officials had granted him relaxation in the age treating him to be ex-military person. Taking into consideration the facts and circumstances as brought on record including those noticed in the impugned judgment and order passed by the tribunal we are not satisfied that sufficient ground can be said to have been made out for any interference by this court while exercising the extra-ordinary jurisdiction envisaged under Article 226 of the Constitution of India."

5. ~~With~~ The dismissal of the civil writ petition preferred by the respondents, and their having not moved the Apex Court has made the order of this Tribunal to reach finality and compliance is the lone option left to the respondents. This situation has increased the hope of the applicant that his relief would be given though not in platter at least

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when he knocks at the doors of the authorities, but his ardent hope became an illusion as according to him even "100 times visit to the office of the respondent" did not have any impact on the inertia of the respondents. Thus thoroughly frustrated and disgruntled, the septuagenarian has approached the Tribunal and ^{as} his patience have reached a state of saturation, he vehemently argued his case and wanted a decision of this Tribunal "here and right now".

6. Now the version on the part of the respondents. Better the same is in their own language as given in the counter which is extracted below:

"3. The above orders have been passed by the Hon'ble Court on account of vague and misleading statement given by the applicant that his service book has been destroyed. Infact, the service book of the applicant has not been destroyed, but inadvertently misplaced in/by the department. It is further submitted that is no departmental instructions regarding retention of the service book after the retirement of an employee. The respondents authorities have also been regularly requesting the applicant for providing certain details which would be required for the purpose to re-constitute the service book, but in spite of various personal request as also request made in writing, the applicant failed to do so for the reasons best known to him. It is, therefore, requested that if this Hon'ble Court issue a specific direction to the applicant to co-operate with the respondents authorities and to supply of the details required by the department for re-constitution of service book, the direction given by the Hon'ble Tribunal would be finally complied with. The respondents authorities is, however, regretted for the misplacement of the service book of the applicant in/by the department.

4. That vide judgment and order dated 4.11.1999 passed in O.A. no. 903/96, the respondents were directed to pay the pensionary benefits to the applicant within a period of three months and further a cost of Rs. 1000/-.
5. That in compliance of the judgment and order dated 4.11.999, the cost of Rs. 1000/- had already been paid to the applicant vide Bankers Cheque. So far as the payment of pensionary benefits are concerned, the Department had filed Writ Petition no. 22346/2000 before the Hon'ble High Court, Allahabad wherein, vide order dated 11.5.2000 the operation of the judgment and order dated 4.11.1999 was stayed. However, the aforesaid Writ petition got dismissed by means of the judgment dated 12.3.2004.
6. That thereafter the respondents proceeded to undertake the steps towards the compliance of the direction of this Hon'ble Tribunal issued by the judgment and order dated 4.11.1999 and in this regard the respondents authorities has sent letter dated 14.7.2004 to the applicant. The applicant submitted his reply to the letter dated 14.7.2004 on 21.7.2004. The department, thereafter, sent letter dated 9.8.2004 to the Commanding Officer, AHQ, Air Force, New Delhi. The respondents again sent the letters dated 22.3.2005 and 13.4.2005 requesting him personally to co-operate with the department in re-constituting his service book and to give certain necessary papers.
7. That in spite of the fact that the respondents authorities had been regularly corresponding with the applicant for submission of the pension papers, the same has neither been submitted by him before the respondents authorities, nor request through several letters afore-stated made in this regard by the department had been complied with. It was only for the first time the applicant had received the letter dated 6.6.2005 issued by the respondent department alongwith pension format, which was sent through registered post. However, in response to the letter dated 6.6.2005, the applicant has not submitted duly signed pension format before the respondents authorities till dated.

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8. That the aforesaid facts shall clearly demonstrate that the respondent has not willfully disobeying the order of this Hon'ble Tribunal dated 4.11.1999 and what so ever delay in payment of pension to the applicant had only occurred on account of delaying tactic adopted by him for which the department cannot be blamed.
9. That so far as the compliance of the order passed by this Hon'ble Court dated 4.11.1999, and orders dated 30.5.2005, 8.7.2005 regarding reconstitution of the service book are concerned, the respondents' authorities had taken relevant steps vide issuing the letters dated 21.3.2005 to the Commissioner, Income Tax, Allahabad regarding reconstitution of the service book of the applicant. In pursuance to the aforesaid direction issued, such letter dated had also been issued to the applicant whereby he had been asked for assisting the department for the purpose of the reconstitution of the service book because the same has been mis-placed in/by the department as there are certain documentary evidence which have to be provided by the applicant himself. The remaining details which are required to be filled in the service book shall be supplied by the department.
10. That service book of the applicant can only be prepared by the department when the applicant himself assists the department in doing so. The department alone can never complete the entire details so required for the purpose of reconstitution of the service book.
11. That in view of the aforesaid, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to direct the applicant for co-operating with the department and further for supplying the relevant details required by the department for reconstituting the service book of the applicant, so that the order/direction issued by the Hon'ble Tribunal can be duly complied with and the justice can be done in the present case."

7. The above would reflect that non compliance is certain but whether it is beyond the control of the

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respondents is to be ascertained as it is the deliberate disobedience of the order of the Tribunal that has to be viewed seriously by this Tribunal.

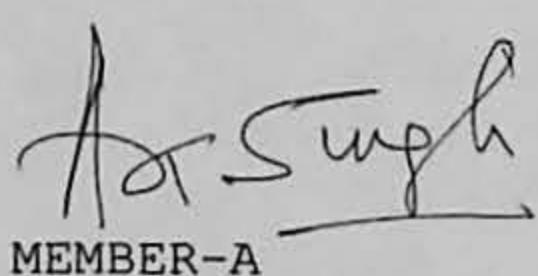
8. That there are some missing information in the records of the respondent is evident from their very submission before the High Court when they contended that "there was no mention of the fact of past services rendered by Hansraj singh in the Indian Air Force in his service book and his personal file". It is perhaps to fill up this vital gap that the cooperation of the applicant has been sought for by the respondents, if their version at paragraph 11 of the counter is taken at its face value. The documents annexed to the counter do induce us to believe their version. At the same time, we cannot dismiss the submission of the applicant that his innumerable visits had not ~~resulted in~~ ^{yielded to} any fruitful result. His version is that he was asked to come to the department so that they would consult but in action he received only insult.

9. Instead of trying to ascertain as to who is right and to what extent, which would consume, perhaps, a like time as it has taken from the day of pronouncement of the judgment of the Tribunal, interest of justice would be met if a strict direction is given to the Respondents to ensure expeditious compliance of the order of this Tribunal.

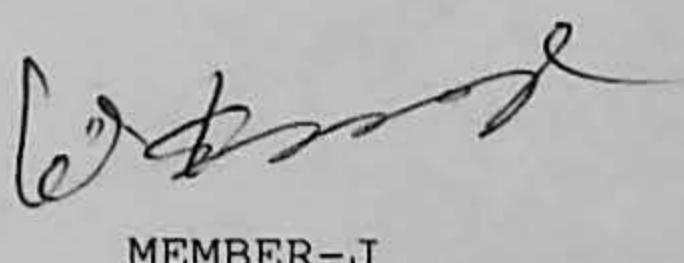
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10. The respondent Commissioner of Income tax shall detail one officer of the rank of Inspector of Income Tax to handle this matter with the assistance of the dealing hand concerned and both the dealing hand and the appointed Inspector of Income tax shall chalk out a schedule of calendar as may be warranted to have full information from the applicant and intimate the same to the applicant so that the applicant could present himself with the relevant documents in his possession at the time and venue as indicated by the said team and fully assist the Department in collecting the requisite information so that final order could be passed. The applicant, in the absence of any documents to support his information, should necessarily submit the information duly supported with a sworn in affidavit. A record of such meeting shall be kept by maintaining the minutes, wherein the applicant should also append his signature in token of having seen the same and the entire drill in regard to collection of all the requisite information should be completed within a period of one month from the date of receipt of a copy of this order, whereafter, within a month, the respondents shall complete the other formalities and render a compliance report thereafter.

11. The case shall be listed for perusal of the compliance report on 13th December, 2005.



As Singh
MEMBER-A



Wassan
MEMBER-J