

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

C.P. (Civil) No. 49/2018

CORAM:

HON'BLE MR. SWARUP KUMAR MISHRA, MEMBER(J)
HON'BLE MR. T. JACOB, MEMBER(A)

Balabhadra Sabar, aged about 47 years, S/o Late Madhab Sabar, at present working as Upper Division Clerk under Office of the Superintending Engineer, Bhubaneswar, Central Circle, CPWD, Nirman Bhawan, Bhubaneswar, Dist-Khuda.

.....Petitioner

VERSUS

1. Pravakar Singh, The Director General, Central Public Works Department, Ministry of Urban Development, Government of India, Nirman Bhawan,
2. Surendra Kumar, Executive Engineer Bhubaneswar Central Division No.III, CPWD, Unit-VIII, Nayapalli, Bhubaneswar, Dist-Khorda, Odisha, Pin-751012.
3. Karam Vir Sing, Assistant Director (Trg), CPWD Training Institute (Examination Cell), Kamala Nehru Nagar, Hapur Road, Ghaziabad(UP), Pin-201002.
4. Awadhesh Kumar, Controller of Examination and Chief Engineer (Trg)(Civil), CPWD Training Institute (Examination Cell), Kamala Nehru Nagar, Hapur Road, Ghaziabad(UP), Pin-201002.
5. Kewal Kumar Sharma, The Secretary, Ministry of Human Resource Development, C-1/2, Lodhi Garden, New Delhi-110003.

.....Contemnors.

For the Petitioner : Mr. T. Rath

For the Contemnors: Mr. B.P. Nayak

Heard & reserved on : 19.03.2021

Order on :09.07.2021

O R D E R**Per Hon'ble Mr. Swarup Kumar Mishra, Member (J):-**

The facts of the matter, in short, are that the applicant had filed OA No. 280 of 2018, inter alia praying for quashing of paragraph 3 of the order dated 17/04/2015 wherein there was a bar for appearing in the Limited Departmental Competitive Examination, 2015 for the post of JE (Civil/Electrical) in respect of candidates who had taken admission in a course for acquiring Engineer Diploma/Degree through distance mode education/correspondence course from various deemed Universities/Institutions after 29/07/2009 and to allow him to participate in the LDCE, 2015 in terms of the advisement dated 23/01/2015.

When the said OA was taken up, it was submitted on behalf of the Applicant that though result of qualified candidates for Civil Engineering was published on 17/06/2016, but for the stay order passed by this Bench, his result was withheld. Further it was submitted that in respect of other candidates who had not approached the Court, the department taking an undertaking from the said candidates had allowed them to sit in the examination and provisionally allowed them the benefit of promotional post, subject to the outcome of the decision of the Hon'ble Supreme Court of India in the case of Sri Kartar Singh VS

Union of India (SLP No. 35793-35796/2012. Accordingly, OA filed by the Applicant was disposed of by this Bench on 26th September, 2017 with the observation/direction as under:

“Since there is nothing to be adjudicated in this O.A at present, the OA is disposed of **with liberty to the Respondents** to treat the case of the applicant at par with the similar situated persons and, if necessary, taking an undertaking from the applicant so that he can be dealt at par with other similarly situated candidates, who have passed the competitive examination. The entire exercise be completed preferably within a period of one month. There shall be no order as to costs.” [*emphasis added*]

Thus, alleging non compliance of the aforesaid order dated 26th September, 2017 in OA No. 280 of 2015, the applicant has filed this Contempt.

2. The main thrust of the Respondents in the reply filed by them in pursuance of the notice issued by this Bench in the CP is that this Bench vide order dated 26/09/2017 had disposed the OA No. 260/00280 of 2015 with liberty to the respondent to treat the case of the applicant at par with the similarly situated persons and, if necessary, taking an undertaking from the applicant so that he can be dealt at par with other similarly situated candidates, who have passed in the competitive examination (Annexure-R4). On examination it was found that the applicant does not come into the same category of the candidates whose results were declared by the respondent after obtaining an undertaking subject to the outcome of the judgment of the Hon’ble Supreme Court of India in the matter of Shri Kartar Singh Vs

Union of India (SLP No. 35793-35793) because all the candidates whose results had already been declared had either acquired or taken admission in their respective fields of Engineering Diploma/Degree through distance/correspondence mode of education before 29/07/2009. The petitioner from the very beginning has repeatedly tried to mislead this Hon'ble Tribunal by keeping the facts under carpet. The applicant has never brought forward the original fact before this bench that there were two categories of candidates who had appeared in Limited Departmental Competitive Examination, 2015 as far as the date of their admission in their respective Engineering Diploma/Degree in a Deemed to be University/Institution through distance/correspondence mode is concerned. One who had either acquired their respective Engineering Diploma/Degree or taken admission for acquiring such education before 29/07/2009 and the other who had taken admission after 29/07/2009. Results of all candidates who come under the first category and had qualified the Limited Departmental Competitive Examination, 2015 have been declared by the Respondents without any delay. The results of the applicant along with similarly situated candidates could not be declared as they fall into the second category. Accordingly it is stated that as there was no intentional and deliberate violation of the order of this bench, this CP is liable to be dropped.

3. Applicant has filed reply to the show cause filed by the Respondents. In so far as the stand taken by the Respondents, extracted above,

the applicant's stand is that this was not the stand before this Bench in the OA or in the MA filed by the Respondents and for the first time such a plea has been taken by them only to circumvent the smooth implementation of the order of this Bench. Similarly the stand that the result of the applicant along with similarly situated candidates could not be declared as the case of the applicant does not fall in the second category is nothing but an afterthought and contrary to record. Accordingly, the applicant has reiterated for initiation of contempt proceedings against the Respondents.

4. Learned Counsel appearing for parties have reiterated stand taken in their respective pleadings, as enumerated above. Having heard them at length, we have also perused the records.

5. It needs no emphasis that before punishing a person for non-compliance of the decision of the Court, the Court must not only be satisfied about the disobedience of any judgment, decree, direction, writ or other process but should also be satisfied that such disobedience was wilful and intentional. Similarly, in various cases the Hon'ble Apex Court has been pleased to hold that Courts must not travel beyond the four corners of the order which is alleged to have been flouted or enter into questions that have not been dealt with or decided in the judgment or the order violation of which is alleged.

6. The case in hand this bench disposed of the original application

with liberty to the respondents to treat the case of the applicant at par with the similar situated persons and, if necessary, taking an undertaking from the applicant so that he can be dealt at par with other similarly situated candidates, who have passed the competitive examination. According to the respondents the applicant does not come at par with other similarly situated candidates and thus no benefit as was granted to others has been allowed to the applicant. Such decision of the respondents cannot be construed as violation of this order of bench in any manner not to speak of intentional or deliberate. The Applicant has also failed to establish the aforesaid two principles that the respondents have intentionally or deliberately flouted the order or his case stood in similar footings who have been given the benefits by the Department on the basis of undertaking furnished by them.

7. In view of the above we are of the considered opinion that no contempt is made out against the Respondents. This CP is accordingly dropped and notices are discharged.

(T. JACOB)
MEMBER (A)

(SWARUP KUMAR MISHRA)
MEMBER (J)