

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD.

Original Application no. C.C. A 22/95  
Transfer Application no. OA No. 696/84.

Date of Decision 6.6.97

Shanker Lal Sharma Petitioner

\_\_\_\_\_  
Advocate for the  
Petitioner

V E R S U S

Shri M.C. Kaul and others. Respondents.

Shri A.C. Tripathi Advocate for the  
Respondents.

C O R A M

Hon'ble Mr. Dr. R.K. Baweja, Jm.

Hon'ble Mr. D.S. Baweja, Jm.

1. Whether Reporters of local papers may be allowed to see the judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordship wish to see the fair copy of the judgement ?
4. Whether to be circulated to all Bench ?

No

Sundares  
SIGNATURE

PIYUSH/

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ADDL. BENCH  
ALLAHABAD

DATED: THE 6<sup>th</sup> DAY OF <sup>June</sup>~~May~~ 1997

CORAM : HON'BLE DR. R.K.SAXENA, J.M.  
HON'BLE MR. D.S.BAWEJA, A.M.

C.C.A. NO.22 of 1995

In

ORIGINAL APPLICATION NO.690 of 1994

Shanker Lal Sharma S/o Shri S.L.Sharma,  
44, Jawahar Ganj, P.O.Hapur,  
District Ghaziabad.

... Petitioner

C/A

Versus

1. Shri M.C.Kaul, Collector of Central Excise  
Kanpur.

2. Shri V.P.Singh, Collector  
Central Excise, Allahabad.

.... Respondents

C/R Shri S.C.Tripathi, Advocate.

ORDER

BY HON'BLE DR. R.K.SAXENA, J.M.--

This Contempt petition has been moved by the applicant Shanker Lal Sharma against the respondents S/Shri M.C.Kaul, Collector of Central Excise, Kanpur and V.P.Singh, Collector of Central Excise, Allahabad. The prayer made in the petition is that the respondents have not complied with the directions given by the Tribunal



on 11.8.1994 in O.A.No.690 of 1994 Shanker Lal Sharma v. Collector of Central Excise, Kanpur and others. The <sup>now</sup>compliance of the directions given by the Tribunal on 26.3.1992 in T.A.No.719 of 1987 Shanker Lal Sharma v. Union of India and others has also been made a ground for action under Contempt of Court Act.

2. The facts giving rise to the petition are that the applicant while working at Gorakhpur and was transferred to Chandausi in Moradabad district, was placed under suspension on 6.1.1968. The ground for suspension was that certain irregularities were allegedly committed by the applicant. The suspension order was subsequently revoked on 13.10.1970 but the disciplinary proceedings continued. It appears that before any punishment could be awarded, the applicant reached <sup>2</sup>the age of superannuation and ultimately retired on 30.1.1974. The matter was, therefore, referred to the President under Rule 9 of the Central Civil Services (Pension) Rules 1972. The view taken by the President was that the facts did not disclose a case of misconduct. As a result of this conclusion, the disciplinary case against the applicant was dropped. Despite the dropping of the case, the respondents again issued a show cause notice on 4.8.1978 on the same charges. The applicant resisted the show cause notice on the ground that the disciplinary case was already dropped and, therefore, fresh action could not be taken against him. It appears that despite this objection, the punishment of deduction of 1% of pay and allowances which were admissible to the applicant during his suspension period, was passed on 2.11.1978. The applicant preferred an appeal against the said order but the same was also dismissed on 11.3.1981. Thereafter he approached the High Court where was filed

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the writ petition which was subsequently transferred to the Tribunal where it was registered as T.A.No.719 of 1987. The said T.A. was decided by the Tribunal on 26.3.1992 and the order of punishment passed on 2.11.1978 and confirmed in appeal on 11.3.1981, was quashed. The applicant was found entitled to all the consequential benefits as if no punishment order was ever in existence.

3. It appears that despite the quashment of the order of punishment, the applicant was not given the benefits to which he was entitled. He, therefore, instituted a O.A.No.690 of 1994 Shanker Lal Sharma v. Collector, Central Excise, Kanpur and others which was decided by the Tribunal on 11.8.1994. The directions given to the respondents were to refix the pay of the applicant, if not already done within a period of one month from the date of communication of the said order. The second direction was that all dues accruing to the applicant on account of retiral benefits, be paid within a period of 3 months from the date of refixation of pay. According to the contention of the applicant, these directions were not complied with. Hence this Contempt Petition has been filed.

4. The respondents have opposed the petition on several grounds. It is pointed out that the perusal of the service-book of the applicant revealed that no doubt the applicant was promoted as Deputy Superintendent by the Collector Central Excise, Allahabad on 13.11.1956 but subsequently the applicant was reverted to the grade of Inspector with effect from 15.10.1966. This order of reversion was challenged by the applicant by filing a case in the High Court but the same was rejected and consequently the order of reversion to the post of Inspector continued. It is further pointed out that the applicant had wrongly disclosed himself as Deputy Superintendent in T.A.No.719 of 1987



and also in O.A.No.690 of 1994. It is contended on behalf of the respondents that this mistake was detected very late, and the application for revision<sup>?</sup> of the order on this point, was moved before the Tribunal and thus the compliance could not be made. The respondents further averred that the Collector, Allahabad vide order dated 2.4.1993 promoted the applicant to the grade of Superintendent (Group 'D') in accordance with the recommendation made by D.P.C. on 6/7.10.1970. It is pleaded that the arrears of salary along with interest which was calculated at Rs.18,911/-, was paid to the applicant who had received the said amount on 13.2.1997. The photo-stat copy of the receipt issued by the applicant has been brought on record on the date of arguments.

5. The applicant filed rejoinder and restressed those very facts which were mentioned in the O.A. No denial of the payment of the amount of Rs.18,911/- has been made.

6. The applicant appeared in person and argued the case himself. The respondents were represented by Shri S.C. Tripathi, Advocate. We have heard the applicant as well as the learned counsel for the respondents. The record is also perused.

7. The facts, as are set out in the beginning, do disclose that the applicant wants the respondents to be punished for non-compliance of the directions which were given by the Tribunal while deciding T.A.No.719 of 1987 on 26.3.1992 and O.A.No.690/1994 on 11.8.1994. This contempt petition was registered on 7.2.1995. In this way, we find that it was filed after three years from the date of the disposal of T.A.No.719 of 1987. No cognizance of contempt can be taken, if the notices are not issued to the contemnors within one

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year from the date of disobedience. In view of this fact, the non-compliance as is alleged by the applicant of the directions in T.A.No.719 of 1987, we take no cognizance.

8. As regards the directions of O.A.No.690 of 1994, the cognizance can be taken only if it is established that really there had been non-compliance. The respondents have come forward with the plea that the delay was caused because the fact of the applicant having declared himself as Deputy Superintendent, was found incorrect and steps were taken to get the mistake rectified. In this connection, it is stated that an application in revision was moved. There is no provision of revision, However, the contention has been made on behalf of the respondents and we take <sup>it</sup> as a fact <sup>that</sup> ~~may be~~, the application had been filed for review of the order. This fact does not find contradicted or challenged by the applicant. Thus we find a reasonable excuse for non-compliance of the order.

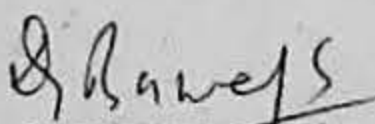
9. The learned counsel for the respondents, however, argued that the respondents had been making an attempt to comply with the directions and ultimately an amount of Rs.18,911/-, by way of bank draft, was paid. This fact has also not been controverted. It establishes the fact of compliance, no doubt, belatedly of the directions given by the Tribunal. <sup>What</sup> ~~that~~ appears from the averments made by the applicant is that he was holding a post of Deputy Superintendent and, therefore, his salary should have been fixed according to the pay-scale which was admissible to the Superintendent. The respondents, as is already pointed out, <sup>that</sup> ~~that~~ disputed <sup>to that</sup> the applicant <sup>had</sup> ~~had~~ held the post of Deputy Superintendent. This new controversy has been ensued. In our opinion, the contempt proceedings cannot be allowed to involve such a controversy. If there is any such controversy

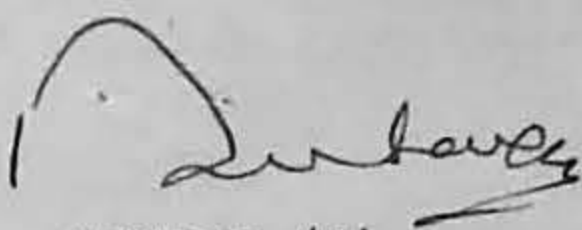
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or if the salary to the post which was held by the applicant, has not been paid, it may give fresh cause of action and the applicant may seek remedy elsewhere than in contempt proceedings.

10. In view of the discussions made above, we come to the conclusion that no case of contempt is made out against the respondents. Therefore, the proceedings are dropped and the notices discharged.

  
( MEMBER (A) )

  
MEMBER (J)

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