

Central Administrative Tribunal,
Allahabad Bench, Allahabad.

Dated: Allahabad, This The 30th Day of October, 2000

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

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

Civil Contempt Application No. 16 of 1999

in

Original Application No. 1742 of 1993.

Shiv Dutt Bajpai, aged about 39 years,
s/o Late Shri S.P. Bajpai, R/O at present
posted as Works Manager, File Factory,
Ishapur, West Bengal.

. . . Applicant.

By Advocate Sri K.K. Mishra.

Versus

1. Mr. Praveer Sengupta, Secretary,
Defence Production & Supply,
Ministry of Defence, New Delhi.

2. Mr. D. Raja Gopal, Chairman/
Director General Ordnance Factory,
10-A, Khudi Ram Bose Road,
Calcutta.

. . . Contemner/Opp. Parties.

By Advocate Sri Amit Sthalekar.

Order (Oral)

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

This Contempt petition has been filed for proceeding against the Opposite parties for deliberate disobedience of order passed in O.A. No. 1742/93 dated 28.4.98.

2. A Division Bench of the Tribunal in the said O.A. directed the respondents as follows:-

- i) The order dated 7.11.92 and 18.2.93 passed by respondent No.2 are hereby quashed and set aside.
- ii) Seniority list dated 1.1.92 marked as Annexure-2 is quashed, qua the applicant.

Ry

2.

iii) The respondents are directed to re-cast the seniority of the applicant keeping in view the observations made above and further to consider him on the post of Dy. General Manager in accordance with seniority which may be given to him on re-casting in accordance with the rules.

The applicant will not be entitled to any arrears of pay but only seniority and notional promotion of fixation of pay. The order shall be complied with by the respondents within a period of 3 months from the date of receipt of copy of this order. No order as to costs.

3. Against the aforesaid order of the Division Bench, the respondents filed a Writ Petition No. 27053/98, in which the following order was passed by a Division Bench of the High Court on 24.8.98:-

Sri K.K. Misra, learned counsel for the Caveator-Opposite Party in whose favour the C.A.T. has decided the Claim Petition prays for and is granted ten days time to file Counter Affidavit. Rejoinder Affidavit may be filed by Sri Shishir Kumar within a week thereafter. The Writ Petition shall come up for admission/final disposal in the week commencing 14.9.1998.

4. Heard the argument of Sri K.K. Mishra for the applicant and Sri Amit Sthalekar for the respondents. The learned counsel for the applicant states that the order remained uncomplied even now and though the opposite parties had approached the High Court through Writ Petition No. 27053 of 98, no stay order has been granted so far.

5. The learned counsel for the opposite parties has in this connection relied on a judgment of the Apex Court

3.

in a case - Anil Kumar Singh Vs. Union of India and another 1995 Supp (4) SCC 465. The Apex Court in a similar case ruled out as under :-

"Before the High Court, appellants urged that before any contempt proceedings could be initiated, it was necessary and appropriate for the Division Bench to examine the prayer for stay, or else, the appeal itself might become infructuous. This did not commend itself to the High Court, which sought to proceed with the contempt first. We are afraid the course adopted by the High Court does not commend itself as proper. If, without considering the prayer for stay, obedience to the Single Judge's Order was insisted upon at the pain of committal for contempt, the appellants may find, as has now happened, the very purpose of appeal and the prayer for interlocutory stay infructuous. It is true that a mere filing of an appeal and an application for stay do not by themselves absolve the appellants from obeying the order under appeal and that any compliance with the learned Single Judge's order would be subject to the final result of the appeal. But then the changes brought about in the interregnum in obedience of the order whose disobedience is complained about is appealed against and stay of its operation is pending before the Court, it will be appropriate to take up for consideration the prayer for stay either earlier or at least simultaneously with the complaint for contempt. To keep the prayer for stay stand-by and to insist upon proceeding with the complaint for contempt might in many conceivable cases, as here, cause serious prejudice. This is the view taken in State of J & K V. Mohd. Yaqoob Khan.

6. The opposite parties in this case have filed a Supplementary Counter Affidavit, inwhich they have stated as under :-

That in the meantime the Ordnance Factory Board, Calcutta has contemplated to constitute a review D.P.C. to assess the seniority position of the petitioner S.D. Bajpai as well as other persons

in whose cases similar orders have been passed by the Madras Bench of the CAT and Principal Bench, New Delhi, subject to such final orders as may be passed by the Hon'ble Chennai High Court in Sivanand's case and Hon'ble Allahabad High Court in S.D. Bajpai's case.

7. Since the respondents have decided to implement the order, subject to final order, as may be passed by the Chennai High Court and Allahabad High Court in the present case, we find that there is no contempt made out and dismiss the application for contempt. Notices issued to the respondents are discharged.

Ratnayakar
Member (J)

A
Member (A)

Nath/