

CCA 72/2000

OA 435/95

Chhote Lal Vs. P.R.M.Raot and Another

06.3.2002

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

We have heard Shri Anil Kumar, holding brief of Shri O.P.Gupta, learned counsel for the applicant and Shri A.K.Gaur, learned counsel for the respondents.

By this contempt application u/s 17 of A.T.Act 1985 applicant has prayed to punish the respondents for wilful disobedience of the order of this Tribunal dated 17.4.2000 passed in OA 435/95. The direction given was as under:

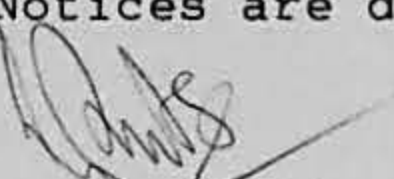
"Keeping in view the pleadings and submissions from either side, we find it a fit matter to direct the respondents to issue appropriate orders within 2 months regarding the re-instatement of the applicant and payment of unpaid subsistence allowance, as the position may come out after consideration of departmental proceedings. Nothing placed before us to disagree with the mention in the inquiry report that pending suspension, the applicant could not be removed from the service roll."

A supplementary counter affidavit has been filed by the respondents wherein it has been <sup>stated that the order dated 17/4/2000,</sup> challenged in writ petition No.36150/00 before Hon'ble High court and the writ petition is still pending. It has also been stated that in pursuance of the order dated 17.4.2000 the applicant has been reinstated in service w.e.f. 7.12.2000. Thus, at this stage it is difficult to say that there is any wilful disobedience on the part of the respondents. Hon'ble Supreme Court in case of Suresh Chandra Poddar Vs. Dhani Ram and others 2002(1) AWC 377 <sup>has</sup> already held that in case writ petition is filed before High court challenging the order of the Tribunal, the order cannot be termed final and

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the Tribunal should go slow in contempt proceedings. From the aforesaid averment we find that the part of the order has already been complied with as the applicant has been reinstated. The only part now left is with regard to payment of subsistence allowance that may be enforced even after the judgement of the Hon'ble High court.

In the circumstances, we do not find any good reason to keep this application pending. The contempt application is rejected. Notices are discharged. No order as to costs.

  
MEMBER(A)

  
VICE CHAIRMAN

Dated: March 6th, 2002

Uv/