

22.04.2004

Hon'ble Mrs. Meera Chhibber, J.M.
Hon'ble Mr. S. C. Chaube, A.M.

Shri H.S. Srivastava, counsel for the applicant. Shri G.R. Gupta, counsel for the respondents.

This is one of those rare cases where department has been avoiding to implement the direction given by this Tribunal in its judgment dated 23.03.2001 on one pretext or the other without giving the benefit of the Judgment to the applicant. ~~Even though~~ Hon'ble High Court of Allahabad has refused to Stay the operation of the Judgment of this Tribunal. Before we pass the orders, we would like to give the background of this case:

By the Judgment dated 23.03.2001 this Tribunal had held as under:-

"In the facts and circumstances outlined in the preceding paragraphs, we have conceded the conclusion that if the pay scale earlier given to the applicant was at all required to be reduced, the respondents should have first issued a notice to the applicant to show cause in the matter, and a decision should have been taken only after giving reasonable opportunity to the applicant to state his case. This has not been done in circumstances which do not clearly indicate that the respondents have taken the right decision in the matter. The decision taken by the respondents to reduce the pay scale of the applicant from 1350-2200/- to Rs.1200-2040/- is, therefore, quashed and set aside. His pay will be restored to Rs.1720/- with effect from the date which it was reduced to Rs.1530/- P.M. and the applicant will be entitled to consequential benefits. The respondents are given liberty to issue a notice to the applicant and allow him full opportunity to state his case before the matter is decided. In the event of the order to be passed by the respondents being adverse to the applicant, the respondents will pass a speaking and a reasoned order having regard to the points raised in the present O.A. and to such other material as the applicant might place before the respondents during the course of personal hearing. The respondents are also directed to take a decision for placing the Lab Technician in the revised scale of Rs.4500/- to 7000/- as expeditiously as possible and in any event within a period of three months from the receipt of a copy of this order.

The aforesaid directions regarding restoration of pay scale in favour of the applicant will be complied with in a maximum period of one month from the date of receipt of a copy of this order."

Copy of this Judgment was served on the respondents on 18.04.2001 (Annexure A-2) Yet ~~as~~ neither any show cause



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notice was issued nor they complied [^] the direction given by this Tribunal. Therefore, applicant filed this Contempt Petition on 01.05.2002 by impleading SSPOs Shri A.S. Tyagi Aligarh Division, Aligarh and Shri Shafiquddin, Senior Post Master, Aligarh, Because applicant had been transferred from Varanasi to Aligarh, After filing of the Contempt Petition, Both the officers Shri A.S. Tyagi as well as Shri Shafiquddin were transferred to some other place, Therefore, applicant had to amend his C.P. for impleading Shri Umesh Verma SSPOs Aligarh Division, Aligarh and Shri Ashok Kumar, Senior Post Master Aligarh so that notices could be issued to them. This amendment was carried out on 17.02.2003. Notices were issued to them. These officers filed application stating therein that action is required to be taken by SSPOs Varanasi where applicant was earlier posted. Once again applicant was directed to carry out the amendment for impleading the officers at Varanasi for complying with the direction. Accordingly applicant amended his contempt petition on 22.07.2003 for impleading Shri H.L. Gupta ~~also who was~~ Senior Post Master, Head Post Office, Varanasi. Thereafter, notice was issued to Shri H.L. Gupta, Senior Post Master, Varanasi and now Shri H.L. Gupta Senior Post Master has filed Misc. Application No.3371/03 stating therein in para-9 that as provided in Govt. of India's order No.(1) below rule 232 of P & IT Financial Hand Book, Volume I, the responsibility for drawal of arrear claims rests with the Drawing/Disbursing Officer of the Unit where the Govt. servant is currently working. Order is annexed as Annexure CA-I. They have thus, submitted that the present controlling officer and drawing/disbursing officer of the applicant is SSPOs, Aligarh and Senior Post Master, Aligarh and they alone are responsible for implementation of the judgment of Hon'ble Tribunal dated 23.03.2001. He has categorically stated that he is not responsible in any way for non-compliance of the order dated 23.03.2001 as he has taken over ~~the~~ ~~charge~~ as Senior Post Master Varanasi on 24.05.2002 and he had no knowledge of this case prior to receipt of notice of ^{the} aforesaid contempt petition. He has further submitted that he has utmost respect and regards towards every order passed by any court of law. He has never flouted any order of Hon'ble Court in the past. However, if the tribunal feels ^{he is} ~~him to~~ guilty, he is tendering his absolute unconditional apology before this Hon'ble Tribunal. He has further submitted



that in view of the facts as explained by him notice/against him may be discharged.

We are rather pained to note how an individual can be harrassed by the Government machinery inspite of having taken a favourable order from the court of law. At this juncture, it would also be relevant to mention that counsel for the respondents once again ^{was} ~~was~~ submitting that they have filed a ~~Writ~~ Petition against the judgment in the Hon'ble High Court without realising that the same ~~condition~~ ^{contention} was raised by him as back as in May 2003 also but after hearing ^{both the parties,} ~~both the parties,~~ a detailed order was passed by the Tribunal on 23.05.2003 whereby his contention was rejected. In view of the fact that no stay had been granted by the Hon'ble High Court of Allahabad ~~and~~ after referring to the order passed by Hon'ble High Court of Allahabad itself, in similar circumstances, this Tribunal had given yet another opportunity to the respondents to comply with the directions given by the judgment within 2 weeks positively and report compliance. In view of the judgment given by Hon'ble Supreme Court in the case of Suresh Chandra Podwar reported in 2001(4)SCC 156. In the said order, it was made clear that even after this, if the directions are not complied with serious view would be taken in the matter and action would be taken ~~by~~ ^{by the} against the respondents under Contempt of Court Act. Accordingly Shri Umesh Verma SSPoS Aligarh and Shri Ashok Kumar Senior Post Master, Aligarh were directed to appear in person on 14.07.2003.

The above said two officers of Aligarh got their presence exempted from the court by putting the blame on officers of Varanasi by stating that it is Varanasi who has to comply with the direction and now as stated above Senior Post Master Varanasi says the ^{Ones lies in B} ~~one lies in B~~ Aligharh's office comply with the direction. It is un-imaginable that officers can make such ~~irresponsible statements~~ ^B in a court of law as well. Those officers who make wrong statement before a court of law cannot be allowed to get away with it without being booked for it.

Perusal of the above background clearly shows that applicant is being ~~shuttled~~ from one court to the other without getting any relief inspite of repeated directions of this Tribunal. We are therefore, now constrained ^{to} ~~to~~ the order as follows:-

"Shri Umesh Verma the then SSPoS Aligarh wherever he is posted now, should be directed ^{through B} the Chief Post Master General, U.P. Circle, Lucknow to remain present in court on 04.06.2004 in person to explain

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as to why contempt proceedings should not be initiated against him for making a wrong statement before the court. Similarly a ~~process~~ notice be issued to Shri Ashok Kumar the then Senior Post Master, Aligath, wherever he is now posted, through the Chief Post Master General, U.P. Circle Lucknow to remain present in court on 04.06.2004 in person to explain as to why contempt proceedings should not be initiated against him for making a wrong statement before the court and not complying with the direction. Shri H.L. Gupta, the then Senior Post Master, Varanasi wherever he is posted now should also be directed through Chief Post Master General, U.P. Circle, Lucknow to remain present in court on 04.06.2004 in person so that the controversy may finally be resolved in order to ensure that the relief is given to the applicant atleast now without any further delay. It is made clear that in no circumstances, adjournment will be given to the respondents and they shall come prepared with their affidavits to show who is responsible for complying with the directions finally and what steps have been taken to comply with the directions.

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The facts as narrated above, show a ~~very~~ state of affairs in the department of Posts, therefore, registry is directed to send a copy of this order along with copy of the judgment dated 23.03.2001 in O.A. No.1006/1998 and notices to the Chief Post Master General, U.P. Circle, Lucknow with a direction to serve the above said officers through messengers within a week from the date of receipt of a copy of this order and direct him further to personally look into the matter and to ensure that atleast now the directions given in the Judgment are complied with within 4 weeks from the date of receipt of a copy of this order.

In case the directions are complied with by the respondents before the next date, it will be open to the respondents to file an application seeking exemption from their personal appearance.

List this C.P. on 04.06.2004.

Shukla
Member (A)

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Member (J)

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