

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

CIVIL MISC. CONTEMPT APPLICATION NO.177 OF 2006
ALONGWITH
REVIEW APPLICATION NO.05 OF 2006
IN
ORIGINAL APPLICATION NO.09 OF 2001

ALLAHABAD THIS THE 27TH DAY OF DECEMBER 2007

HON' BLE MR. K. S. MENON, MEMBER-A
HON' BLE MR. S. K. DHAL, MEMBER-J

By Advocate : Shri K. P. Singh

Versus

By Advocate : Shri S. Singh

This order arises whether the contempt proceedings will be stayed till the disposal of Review application filed in O.A. No.09/01.

The applicant filed O.A. No.09/01 against the respondents and two others before this Tribunal. The OA has been disposed of on 16.05.2006. The respondents were directed to consider the case for regularization of the applicant by way of grant of temporary status. Further direction was given to re engage him and his seniority in the position of temporary status shall have, however, be as on the date of his temporary status and not earlier. It is alleged by the applicant that inspite of the communication of the order of the Tribunal the respondents have not taken any steps, in other words, they have flouted the orders of the Tribunal and so they are liable to be punished under contempt of courts act.

At the time of admission, Shri S. Singh the learned Senior Counsel have made appearance on behalf

of respondents and has submitted that the proceedings of the contempt be stayed as review application has been filed against the order passed by this Tribunal in O.A. No.09/01.

It is submitted on behalf of applicant that mere filing of the review application cannot be a ground to stay the further proceedings of the contempt proceedings. Reliance has been placed in case of Dr. H. Phunindre Singh and Others Versus K.K. Sethi and Another reported in (1998) 8 SCC 640.

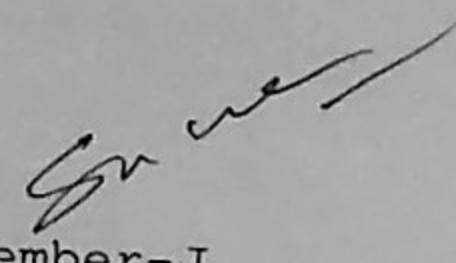
The Tribunal passed the order in O.A. No.09/01 on 16.05.2006 and direction was issued to comply the order of this Tribunal within a period of four months of communication of the order. Copy of the order stated to have been sent to the office of the respondents on 18.05.2006 under registered post. Review application has been filed on 07.08.2006. The order is required to be complied with within a period of four months from 18.05.2006 i.e. by 18.09.2006.

Ordinarily, the further proceedings of a case cannot be stayed unless there is order of stay by the Appellate court. In the case on which the reliance has been placed on behalf of the applicant the ~~appeal~~ was pending before the Division Bench of the Hon'ble High Court against the order of Single Bench. Simultaneously, Contempt Petition was pending. In that case Hon'ble Apex Court ~~was~~ ^{was} pleased to observe that when there is no order of stay by the Division Bench, the contempt proceedings may ^{continue} without ~~the~~ disposal of the appeal. But in ^{the} ~~case~~, ^{any} review application has been filed before the time granted by the Tribunal for compliance of the order. The Review Application could not be disposed of by the Tribunal for the reason which are beyond the control of the Tribunal. The disposal of the review application would decide the fate of the parties. If the order ^{goes} ⁱⁿ ^{the} ~~cause~~ ^{any} favour to the respondents who has filed the

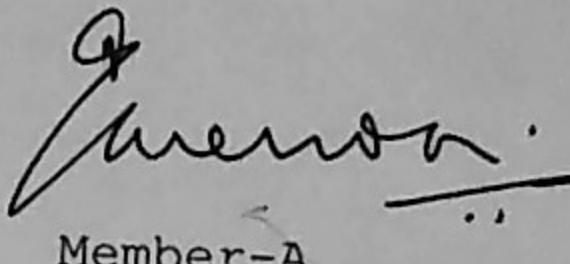
review application then the question of complying the order of the Tribunal would not arise. It is not a case that the order of the Tribunal has been flouted by the respondents intentionally with an ulterior motive.

As per the above findings, we are of the opinion, that it is a fit case where the further proceedings of the CCA No.177/06 be stayed till the disposal of the review application filed in O.A. No.09/01.

Registry is directed to take immediate steps for disposal of review application obtaining the order of the Hon'ble Vice-Chairman.


Member-J

/ns/


Member-A