

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Contempt Petition No. 19 of 2010

In

Original Application No. 673 of 1994

This the ____ day of December, 2010

Hon'ble Mr. Justice Alok Kumar Singh ,Member-J

Hon'ble Mr. S.P. Singh, Member-A

1. Pran Vir Singh, Aged about 57 years, S/o late Sri B.B.S. Chauhan, R/o 4/147, Vivek Khand, Gomti Nagar, Lucknow.
2. Ajay Vir Singh, Aged about 51 years, S/o late Sri Bishram Singh, 419-A Kanwali Road, Balliwada, Urja Bhawan, Dehradun.
3. Arun Kumar, Aged about 57 years, S/o late Sri Prem Prakash, presently posted as Scientist 'C', Central Ground Water Board, (NR), Sitapur Road Yozna, Lucknow.
4. Abhay Kumar Padeny, Aged about 54 years, S/o Sri markandey Padeny, 419-A Kanwali Road, Balliwada, Urja Bhawan, Dehradun.
5. Ravindra Kumar Rajput, Aged about 52 years, S/o late Sri Shankr Singh, presently posted as Scientist 'B', Central Ground Water Board, (NR), Sitapur Road Yozna, Lucknow.
6. Ganesh Dutt Bharthwal, Aged about 53 years, S/o late Sri B.D. Barthwal, 419-A Kanwali Road, Balliwada, Urja Bhawan, Dehradun.
7. Ram Chandra Verma, Aged about 57 years, S/o late Sri Babu Ram, presently posted as Scientist 'C', Central Ground Water Board, (NR), Sitapur Road Yozna, Lucknow.
8. Ajay Kumar Bhargava, Aged about 56 years, S/o Sri L.P. Bhargava, presently posted as Scientist 'C', Central Ground Water Board, State Unit Office, 276 Kaushambi Road, Chakia, Allahabad.
9. Sanjeev Mehrotra, Aged about 47 years, S/o Sri K.C. Mehrotra, presently posted as Scientist 'C', Central Ground Water Board, (North Central Region), Block no.1 4th floor, Paryavas Area Hills, Jail Road, Bhopal.

42

10. Bhuwan Chandra Joshi, Aged about 51 years, S/o late Sri T.B. Joshi, presently posted as Scientist 'C', Central Ground Water Board, (NR), Sitapur Road Yozna Lucknow.
11. Arun Kumar Srivastava, Aged about 63 years, S/o late Sri D.N. Srivastava, R/o C-1/209 Sector 'G', Jankipuram, Lucknow

.....Applicants

By Advocate : Sri R.C. Singh

Versus.

1. Sri Umesh Narayan Panjiar, IAS, Secretary, Ministry of Water Resources, Government of India, Shram Shakti Bhawan, New Delhi.
2. Sri B.M. Jha, Chairman, Central Ground Water Board, Government of India, Ministry of Water Resources, Bhujal Bhawan, NHIV, Faridabad.
3. Sri Dhruv Vijay Singh, IAS Ministry of Water Resources, Government of India, Shram Shakti Bhawan, New Delhi.
4. Sri S.C. Dhiman, Chairman, Central Ground Water Board, Government of India, Ministry of Water Resources, Bhujal Bhawan, NHIV, Faridabad.

.....Respondents.

By Advocate : Sri S.P. Singh

ORDER

By S.P. Singh, Member-A

This is third round of litigation. The above Contempt petition has been filed by the applicants under Section 17 of Administrative Tribunals Act, 1985 for non-compliance of judgment and order dated 4.9.1997 passed by this Tribunal in O.A. no. 673 of 1997. The operative portion of the order reads as thus :

" we, however, direct that in case the Vth pay Commission has not specifically considered this aspect with regard to the Central Ground Water Board and no recommendations are available in this regard, the department shall within three months from the date of issuance of order on the basis of Vth Pay Commission recommendations, shall undertake a job analysis in respect of the posts of Assistant Hydrologist by an expert body and decide on the basis of the recommendations of that body whether the post of Assistant Hydrogeologist should be categorized as Scientific post. If the decision is an affirmative, the Flexible Complementing Scheme shall be extended to them. This exercise shall be

SP

completed within a period of six months from the date of issuance of orders passed on the basis of recommendations of the Vth Pay Commission. In case however, the Vth Pay commission has duly considered this aspect specifically and has given a recommendation not to categories the posts of Assistant Hydrogeologist in Central Ground Water Board as Scientific posts, the respondents shall be free to decide on the basis of the recommendations. The other relief of time bound promotion to the Assistant Hydrogeologists cannot obviously be granted since they must seek their promotion in the hierarchical structure on the basis of the vacancies which may arise from time to time.

The O.A. is disposed of accordingly with the direction in the foregoing paragraph....."

2. Since the respondents did not comply with the aforesaid directions of this Tribunal, the applicant filed CCP No. 14 of 1998 alleging non-compliance of the order of this Tribunal which came to be decided by this Tribunal by judgment and order dated 9.10.2001. The relevant portion of the order reads as thus:

"In the present case, though we find that the Tribunal's direction had not been complied with by the respondents, instead of proceeding to charge the respondents, we grant four months further time from the date of communication of this order to the respondents to make compliance of the order and to submit the compliance report, to this Tribunal. The Contempt petition is decided accordingly."

3. It has been pleaded on behalf of the applicants that the respondents instead of complying with the directions of this Tribunal, filed Civil Appeal No. 6486 of 2002 before the Hon'ble Supreme Court challenging the order of this Tribunal 4.9.1997. The aforesaid Civil Appeal no. 6486 of 2002 has been dismissed by Hon'ble Supreme Court vide judgment and order dated 10.12.2009 directing the respondents to comply with the order of this Tribunal dated 4.9.1997 within three months. Relevant portion of judgment and order dated 10.12.2009 is reproduced as under:

"We have perused the same and do not find anything in the said paragraph which supports the contention of the learned counsel for the appellants. The said paragraph of the Vth Pay Commission in no manner adverts to any of the issues in controversy and there was no option for the appellants except to constitute an expert body in terms of the directions of the Tribunal which attained its finality. The Tribunal while disposing of the Contempt petition infact had taken a very lenient view in the matter by reiterating its earlier view and

SP

accordingly directed the appellants to comply with its earlier orders and submit a compliance report. It is difficult to discern as to why the appellants have chosen to challenge such an innocuous order passed by the Tribunal which did nothing except to reiterate its earlier view. The unreasonable view and unsustainable plea taken by the appellants undoubtedly resulted in causing grave prejudice to the respondents in getting their long pending claim properly adjudicated. The issue is hanging in fire for many a years on account of deliberate inaction on the part of the appellants and the same cannot be countenanced. Learned counsel for the respondents invited our attention to the contradictory stands taken by the appellants in the matter from time to time. However, it is unnecessary to go into that aspect of the matter since the appellants are bound to implement the order passed by the Tribunal and constitute an expert body whose opinion may ultimately pave the way for the resolution of the issue once and forever.

Having regard to the facts and circumstances of the case, we direct the appellant to comply with the directions issued by the Tribunal within three months from today and file its compliance report before the Tribunal.

We accordingly find no merit whatsoever in this appeal and the same shall stand dismissed with costs quantified at Rs. 25,000/-“

4. The respondents have filed two separate Compliance Affidavits sworn by Sri B.M. Jha, the then Chairman, Central Ground Water Board and Sri Umesh Narayan Panjiar, the then Secretary, Ministry of Water Resources saying that after dismissal of Civil Appeal by the Hon'ble Supreme Court, the competent respondent-authorities had constituted an Expert Committee on 4.1.2010 to decide whether the post of Assistant Hydrologist in Central Ground Water Board should be categorized as Scientific post, which submitted its reported on 22.1.2010 with recommendations that the post of Assistant Hydrologist should be classified as Scientific post. Thereafter, the matter was referred to the Department of Science and Technology on 4.2.2010 which is the nodal Agency. The Ministry of Science & Technology furnished its reply on 8.3.2010 by stating that no officer other than Group – A Officers of Scientific discipline are covered in FCS (Annexure-CA-2). The matter was further referred to DoP&T for its advice vide ID note dated 10.3.2010. On getting the advice from DoP&T/approving the proposal of the Ministry of Water Resources for submission of compliance report, all the applicants were called for and necessary interviews which were conducted by the Special

sp2

Board of Assessment in April, 2010. It is also pleaded that all the applicants were considered by the Special Board of Assessment constituted by the Ministry of Water Recourses and accordingly all these applicants were recommended for promotion in the relevant scale under Flexible Complementing Scheme w.e.f. the date indicated against fo them vide orders dated 29.4.2010 and 4.5.2010.

5. It has been, therefore, pleaded on behalf of the respondents that since the order of this Tribunal has been complied with, Contempt petition be dismissed and notices issued to the respondents may be discharged.

6. We have heard the learned counsel for the parties at great length and perused the material on record.

7. On perusal of orders dated 29.4.2010 and 4.5.2010, we find that the judgment and order of this Tribunal has substantially been complied with, though there is long delay of about 13 years. Learned counsel for the applicants, however, submitted that the judgment and order of this Tribunal has not been complied with in letter and spirit as the applicants have been promoted on adhoc basis and not on regular basis. Perusal of relevant portion of judgment and order dated 4.9.1997 would reveal that there were only two directions i.e. the first in respect of categorization of the post of Assistant Hydrologist as Scientific post and the second that if the decision is in affirmative, then to extend Flexible Complementing Scheme to the applicant. Since both the above directions appear to have been substantially complied with, therefore in-situ adhoc promotion to the grade of Scientist 'B' under Flexible Complementing Scheme vis-à-vis regular basis has no relevance at this stage. Since the substantial compliance has been made by the respondents, there is no justification in keeping this Contempt petition pending. If the applicants are still aggrieved with the orders of the respondents and if they are so advised, then they are at liberty to approach the appropriate forum as per rules.

8. In this regard, ratio laid down by Hon'ble Supreme Court in the case of **A.K. Shahi & Others Vs. R.S. Yadav** reported at

6/2

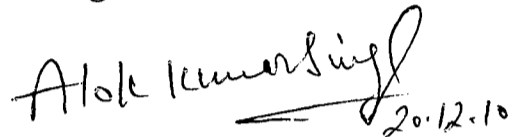
2009 (2) SCC (L&S) 269 is also relevant, which is reproduced below:

"Civil Contempt – Scope of – Held, Court's jurisdiction in civil contempt arises when there is willful disobedience of court's order – The court in such a situation can also pass consequential orders for enforcement of its original order – But while doing so, the Court cannot pass any fresh order which would materially alter or add to the original order – Substantive relief cannot be granted on contempt petition."

9. Finally, therefore, as substantial compliance has already been made this CCP fails and is accordingly dismissed. Notices issued to the respondents are hereby discharged.



(S.P. Singh)
Member-A



(Justice Alok Kumar Singh)
Member-J

Girish/-