

Central Administrative Tribunal Lucknow Bench
Lucknow

CCP 12/12
In
O.A. No. 321/08

This, the 20th day of November, 2013.

Hon'ble Sri Navneet Kumar, Member (J)
Hon'ble Ms. Jayati Chandra, Member (A)

Sanjeev Kumar aged adult S/o shri Shyam Lal R/o 9
shahnajaf Road, Near ShobhaPublicity, Hazratganj,
Lucknow.

Applicant
By Advocate: Sri Amit Verma for Shri A. Moin.

1. Shri Girish Narain Pandey, Chief
Commissioner of Income Tax, Ayakar Bhawan
Ashok Marg, Lucknow.

2. Shri Dinesh Kumar Singh, Chief
Commissioner of Income Tax, Ayakar Bhawan
Ashok Marg, Lucknow.

Respondents
By Advocate Sri R. Mishra.
Order (Oral)

By Hon'ble Sri Navneet Kumar, Member (J)

The present contempt petition is preferred
by the applicant for non-compliance of the order
dated 15.4.11 passed in O.A. No. 321/2008 wherein,
the Tribunal directed as under:-

“In view of the above observations, I am
inclined to hold that in the light of temporary
status having already been given vide letter
dated 14.3.2008 can not be treated as
withdrawn. The applicant is entitled to be
regularized w.e.f. the date his juniors have
been regularized vide order dated 30.7.2008.
the subsequent list of seniority dated
22.8.2008 can only be treated as tentative
and there is no need to set aside this list. The
respondents are expected to include the
name of the applicant at the appropriate
place in this list and issue the final list.”

2. In pursuance of the said direction of the
Tribunal, the respondents have passed an order

dated 3.4.2013 whereby, the claim of the applicant was considered and rejected by the respondents where in they have observed that “ performance of Shri Sanjeev Kumar has not been found to be of the desirable standard for the purposes of regularization. Since he is not found fit for regularization, as such, his case was rejected.”

3. Since the respondents have passed an order as directed by the Tribunal, therefore, in view of the decision rendered by the Hon'ble Apex Court in the case of J. S. Parihar Vs. Ganpat Duggar & Ors. reported in (1996) SCC L&S 1422, - **“Once there is an order passed by the Government on the basis of the directions issued by the court, there arises a fresh cause of action to seek redressal in an appropriate forum. The preparation of the seniority list may be wrong or may be right or may or may not be in conformity with the directions but that would be a fresh cause of action for the aggrieved party to avail of the opportunity of judicial review. However, that cannot be considered to be the willful violation of the order. After re-exercising the judicial review in contempt proceedings, a fresh direction by the Single Judge could not be given to redraw the seniority list as in doing so the Single Judge was exercising the jurisdiction to consider the matter on merits in the contempt proceedings. It would not be permissible under Section 12 of the Act”**,

the present contempt petition is dismissed. Notices issued to the respondents, if any, stands discharged.

4. Copy of order dated 3.4.2013 given by the applicant is taken on record.

J. Chandra

(Ms. Jayati Chandra)
Member(A)

Navneet Kumar

(Navneet Kumar)
Member(J)

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