

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

**Civil Contempt Petition No.15 of 2013
In
Original Application No.95/2011**

Reserved on 09.09.2014.

Pronounced on 18th September. 2014.

Hon'ble Mr. Navneet Kumar, Member (J)

Hon'ble Ms. Jayati Chandra, Member (A)

Sanjay Pandey, aged about 46 years, son of Dr. C.K. Pandey, resident of -CM-II-I, Sector-B, Aliganj, Lucknow.

-Applicants.

By Advocate: Sri. Praveen Kumar.

Versus.

1. Dr. S.K. Sarkar, The Secretary, Ministry of Water Resources, Government of India, New Delhi.
2. Shri Sushil Kumar Gupta, The Chairman, Central Ground Water Board, CGO Complex, District-Raridabad, Haryana.
3. Shri K.B. Biswas, Regional Director, central Ground Water Board, Northern Region, Lucknow.

-Respondents

By Advocate: Sri S.P. Singh.

ORDER

By Ms. Jayati Chandra, Member (A)

This C.C.P. was filed for non-compliance of the order dated 27.07.2012 passed in O.A.No.95/2011. The operative portion of the order reads as follows:-

“In view of the above, the OA succeeds to the extent that the regularization of the private respondents, as contained in the impugned order at Annexure A-10 and A-11 are held valid only in so far as it confers other services to such regularized officers,

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but the same cannot be held to be of any assistance for reckoning seniority with retrospective effect. The applicant shall stand senior to such regularized offices for the purpose of consideration to higher posts. No costs."

2. The respondents filed their Counter Affidavit by which they have stated that the seniority list in accordance to the order has been revised and the revised seniority list has been issued on 31.01.2014. The list has been issued subject to the out-come of the O.A.No.1182/2012 filed before the Principal Bench, of this Tribunal and W.P.No.1227 (S/B) of 2012 filed before the Hon'ble High Court, Lucknow Bench. By a subsequent compliance report, the respondents have stated that O.A.No.1182/2012 has been disposed of by an order dated 26.04.2014 by which the following order has been passed:-

"Para-4.

In view of above, the OA is disposed of at this stage with directions to the respondents that claim of the applicants for grant of similar benefits as have been extended to persons junior to them in the promotional scale after revision of their seniority list, be considered and granted expeditiously in accordance with law. It would, however, be open for the private respondent Nos. 3 to 30 to assail the aforesaid revised seniority list in appropriate proceeding before appropriate forum, if they feel aggrieved."

3. The respondents/contemnors have pleaded that in view of the issuance of revised seniority list the C.C.P. is liable to be dismissed as the order passed by this Tribunal has been complied with. But the learned counsel for the applicant has submitted that there is no full compliance as consequent upon the revised seniority list no consequential promotion to the

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higher post has not been issued in favour of the applicant.

4. We have heard the learned counsel for the parties and perused the material on record.

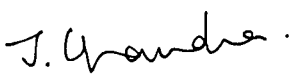
5. In this case direction is an affirmative direction only so far as fixing the seniority of the applicant is concerned is that he shall be senior to all those below him for further promotion. The direction so given is prospective in nature. Unless there evidence produced show that further promotion has been made as per unrevised seniority there is no willful disobedience. The scope of Contempt petition cannot be enlarged to adjudicate upon the issue involved in the Original Application or to go into the rightness or wrongness of the order passed by the respondent/contemnor concerned in compliance of the order of the Court/ Tribunal. The Hon'ble Supreme Court in the case of **Prithavi Nath Ram Vs. State of Jharkhand reported in AIR 2004 SC 4277** has held that Court dealing with application for contempt of court cannot traverse beyond the order. It cannot test correctness or otherwise of the order or give additional direction or delete any direction. That would be exercising review jurisdiction with an application for initiation of contempt proceedings. The same would be impermissible and indefensible. Further, in the case of **Bonbehari Roy Vs. Kolkata Metropolitan Development Authority reported in AIR 2004 Cal 254B** the Hon'ble Supreme Court has held that the various different modes of execution of orders and decrees, as recognized by law,

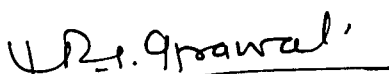
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cannot be resorted to by the Court in a contempt proceedings.

6. In view of the pronouncements of Hon'ble Supreme Court cited above, we find that the respondents/contemnors have not acted in a manner which can be deemed to be a willful disobedience of the order of this Tribunal dated 27.07.2012 passed in Original Application No.95/2011.

7. Under these circumstances, nothing remains to be adjudicated in the present C.C.P. and accordingly C.C.P. is dismissed. Notices stands discharged.


(Ms. Jayati Chandra)
Member (A)


(Navneet Kumar)
Member (J)

Amit/-