

Central Administrative Tribunal, Lucknow Bench, Lucknow

CCP No. 332/00028/2015 in O.A. No. 460/2011

Reserved on 05.04.2016

Pronounced on 11/4/16

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

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

Bhupendra Singh Gaharwar aged about 78 years son of late Sri Tribhuwan Singh resident of D-1125, Indira Nagar, Lucknow.

Applicant

By Advocate: Applicant appeared in person

Versus

1. Sri Alok Rawat , IAS Secretary, Govt. of India, Ministry of Personnel Public Grievances and Pension, Department of Pension and Pensioners Welfare, Lok Nayak Bhawan, new Delhi.
2. Lt.General Jotinder Sikand, Engineer-in Chief, Engineering Services, E-in-C's Branch, Army Headquarter, Kashmir House, New Delhi.
3. Maj. General Ajay Bharod, VSM, Chief Engineer, Central Command, Lucknow MG Marg, Lucknow.
4. Brig. Deepak Sharma, Chief Engineer, Lucknow Zone, Hospital Road, Cantt. , Lucknow.
5. Dr. G.D. Pungle, Senior Account Officer, PCDA (P), 4, Kachary Road, Allahabad.
6. Sri S.K.Singh, Garrison Engineer, GE, MES, Kanpur.

Respondents

By Advocate: Sri Rajesh Katiyar

ORDER

By Sri Navneet Kumar, Member (J)

The present contempt petition is preferred by the applicant for non-compliance of the Tribunal's order dated 13th December, 2013 passed in O.A. No. 460/2011 wherein the Tribunal directed the respondents to give a comprehensive personal hearing to the applicant and pass the fresh orders in accordance with the observations made by the full bench of this Tribunal.

2. The applicant who is appearing in person has categorically indicated that despite service upon the respondents, the respondents have not complied with the order of the Tribunal, as such they are liable to be punished.


3. On behalf of the respondents, compliance affidavit is filed and in the said compliance affidavit, it is categorically indicated that after the order passed by the Tribunal, the PCDA (P) Allahabad has granted the personal hearing to the applicant on 6.2.2014 and after that it is indicated that by virtue of an earlier order dated 13.12.2013, the order so passed by the Tribunal has already been complied with. The respondents annexed the copy of letter dated 19.5.2015 through which the PCDA (P) has passed the order. It is also indicated by the respondents that the case of the applicant was examined in the light of the direction of the Tribunal and correct pension payment order dated 12.2.2015 has already been issued by the PCDA (P) Allahabad, as such compliance of the order has already been made and nothing remains to be adjudicated in the present CCP.

4. During the course of hearing, the respondents also provided an order dated 19.2.2016 through which it is indicated that certain information is asked by the applicant under RTI and the same is replied to the applicant and as per the same, nothing remains to be adjudicated and as per the recommendations of the 6th CPC, the claim so settled by the respondents is correct and there is no illegality in the same. Copy of order dated 19.2.2016 is addressed to the Manager, State Bank of India and copy of which has already been given to the applicant. The said order dated 19.2.2016 is taken on record.

5. On behalf of applicant, Rejoinder Reply is filed which is also perused.

6. Heard the learned counsel for parties and perused the records.

7. The present CCP is preferred by the applicant for non-compliance of the Tribunal's order dated 13.12.2013 passed in O.A. No. 460/2011 through which the Tribunal directed the respondents to give a comprehensive personal hearing to the applicant and pass the fresh orders in accordance with the observations made by the full bench of this Tribunal. In pursuance of the same, the respondents have given



personal hearing to the applicant on 6.2.2014 and thereafter, they have passed an order on 19.5.2015. Subsequently in terms of information sought under RTI, the respondents again issued an order on 19.2.2016. The bare perusal of those two order show that the respondents have fully complied with the order of the Tribunal and nothing remains to be complied with in the present contempt petition.

8. The Hon'ble Apex Court in the case of **Chhotu Ram Vs. Urvashi Gulati and others** reported in AIR 2001 SC 3468 has observed as under:-

"Court directed for considering the case of the applicant for promotion . The case of the petitioner was duly considered but his claim for promotion was rejected and in that event, since the case of the applicant was considered as such, the contempt proceedings cannot be proceeded as there is no violation of any direction issued by the Court."

9. The Hon'ble Apex Court in the case **Prithawi Nath Ram Vs State of Jharkhand and Others** reported in AIR 2004 SC 4277, has been pleased to observe that:-

"Court dealing with contempt cannot traverse beyond the order."

10. In the case of **Lalit Mathur Vs. L. Maheswara Rao (2000) 10 SCC 285**, the Hon'ble Supreme Court held as under:-


"The High Court in the writ petition had issued a direction for the consideration of the respondent's representation by the State Government. This direction was carried out by the State Government which had considered and thereafter rejected the representation on merits. Instead of challenging that order in a fresh writ petition under Article 226, the respondent took recourse to contempt proceedings which did not lie as the order had already been complied with by the State Government which had considered the representation and rejected it on merits."

11. In the case of **Shail Raj Kishore , Secretary, Education basic, U.P. Lucknow and others** 2004 (3) AWC 2444 the

Hon'ble court has held as under:-

"If the applicants feel that the order passed by the opposite party is not in accordance to the intent or desire of the Court or otherwise illegal and arbitrary, the same can only be challenged before the appropriate forum. In various cases, Apex Court has held that the Contempt Court cannot go into the merit of the order. Various grounds raised by the learned for the applicant to submit that the order is bad in law required consideration and adjudication, which can only be done by the appropriate Court and not by this Court."

12. Considering the observations made by the Hon'ble Apex Court and after perusal of records, we are satisfied that the order passed by the Tribunal has been fully complied with, as such nothing survive to be adjudicated in the present contempt petition. Accordingly, the contempt petition is dismissed. The notice issued to the respondent stand discharged. No order as to costs.


(JAYATI CHANDRA)
MEMBER (A)


(NAVNEET KUMAR)
MEMBER (J)

HLS/-