

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

**CCP No. 332/00016/2016
In Original Application No. 494/2009**

This, the 3rd day of May, 2017

Hon'ble Mr. Justice Permod Kohli, Chairman,
Hon'ble Mrs. P. Gopinath, Member (Administrative)

Vijay Pratap Singh, aged about 62 years, son of Late Sri Samar Bahadur Singh, resident of 35 Dayal Estate Faizabad Road, chinchhat, District-Lucknow

....Applicant

(By Advocate : Sri P.K. Mishra)

Versus

1. Sri Ashok Lawasa IAS, Secretary, Ministry of Environment & Forest, Pariyavaran Bhawan CGO Complex, Lodhi Road, New Delhi.
2. Sri A. Bhattacharyya IAS, Secretary, Dholpur House, Shahjahan Road, New Delhi.
3. Sri Sanjeev Saran IAS, Principal Secretary, Department of Forest, Bapu Bhawan, Civil Secretariat, Lucknow.

...Respondents

(By Advocate: Sri S.P. Singh/ Sri G.K. Singh/ Sri M.K. Dubey)

ORDER (Oral)

Per Hon'ble Mr. Justice Permod Kohli, Chairman:

The contempt petition has been instituted for alleged non compliance of the order dated 23.04.2015 passed by this Tribunal in OA No. 494/2009 wherein following directions were issued.

"14. At this stage, we are also compelled to note that in the case of a difference of opinion, the matter is to be required to be sent to the Central Government for his decision. At the same time, under Rule 11 of the All India Services (Discipline and Appeal) Rules, 1969 the Central Government is required to be act as an Appellate Authority. It is not clear from the Rules that in view of the dual role of the Central Government, (which is designated as Appellate Authority as also for acting as an adjudicator in case of disagreement between State Government and UPSC that two different wings of the Central Government are vested with the two different roles. In the case of the same wing of the Central Government discharging both the roles (as in the case) one wonders how they can exercise that impartial scrutiny of the applicant's appeal should there be one having once disclosed their mind with regard to the penalty to be imposed on the charged officer by the Disciplinary Authority while acting under Rule 11. This is being the case, without going into the factual merits of the case we deemed it just and proper to quash the impugned order dated 09.09.2009. the matter is remanded to the respondents from the stage of referring the difference of opinion between the State Government and UPSC to the Central Government for giving decision under Rule 11 of the All India Services (Discipline and Appeal) Rules, 1969. Thereafter the penalty so decided may be imposed on the charged office by the Competent Authority i.e. the State Government. The applicant will have the right to appeal against the order so passed to the Competent Authority to the Central Government. In order to maintain complete impartiality judicial applicability, the respondent no. 1 must designate different officers (including the Dealing Assistants) for scrutinizing the case for future action. While acting

under Rule-11 and Rule 16 of the All India Services (Discipline and Appeal) Rules, 1969. It is further clarified that in case the applicant has retired from service, the proceeding will be deemed the proceeding under Rule 9(2) (a) of CCS (Pension) Rules and penalty imposed need also be in accordance with the Act and Rules governing retired officers.

15. In view of the above, the impugned order dated 9.9.2009 is quashed. The respondents are directed to act in accordance with the directions given in the preceding para of this judgment. No Costs."

2. From the perusal of aforesaid direction it appears that penalty order dated 09.09.2009 against the applicant was quashed. The matter was remanded back to the competent authority for completion of disciplinary proceedings under Rule 11 of the All India Services (Discipline and Appeal) Rules, 1969 on the basis of certain observations made by this Tribunal in Para 14 of the judgment dated 23.04.2015.
3. The respondents have filed detailed objections. In the reply filed by respondent no. 3 it is stated that disciplinary proceedings were initiated against the applicant while he was in service and even on retirement proceedings shall continue. It is further mentioned in Para-10 that pursuance to letter dated 20.05.2016, the State Government vide letter dated 16.03.2017 forwarded the proposed punishment to be taken against the applicant alongwith his reply. It was also requested that after taking the advice of UPSC appropriate decision may be taken and the same be apprised to the State Government.
4. The respondents have initiated the process to complete the disciplinary proceedings by taking final decision in accordance with Rule 6(1) (a) of All India Services (Death Cum Retirement Benefits) Rules, 1958.
5. In view of the above circumstance and keeping in view of the direction issued by this Tribunal, we are of the considered opinion that no contempt is constituted at this stage. Accordingly, this contempt petition is dismissed.


(P. Gopinath)
Member (A)


(Justice Permod Kohli)
Chairman