

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Contempt Petition No.81 of 2005

IN

Original Application No.287/2005

This the 25th day of January 2006

HON'BLE SHRI S.P. ARYA, MEMBER (A)

HON'BLE SHRI K.B.S. RAJAN, MEMBER (J)

Satya Narain Shukla, S/o late Shri R.D. Shukla, R/o B-7 Nirala Nagar,
Lucknow.

...Applicant.

By Advocate: Shri S.N. Shukla in person.

Versus.

1. Shri R. Ramani, Chief Secretary, Government of U.P.,
Sachivalaya Annexee, Lucknow.
2. Shri Manjit Singh, Principal Secretary, Finance Department,
Government of U.P. Sachivalaya, Lucknow
3. Smt Neera Yadav (Former Chief Secretary, U.P.) Chairman Board
of Revenue, Lucknow.
4. Shri D.C.D. Bhargava, Special Secretary, Finance Department,
Sachivalaya, Lucknow.

...Respondents.

By Advocate: Shri Rajendra Kumar.

ORDER

BY SHRI K.B.S. RAJAN, MEMBER (J)

1. The applicant having an order dated 13.09.2005 in his favour
has moved the instant C.C.P. on the ground of willful
disobedience of the order. The operative portion of the order
reads as under;



"As a result of the above discussions, it is held that Rule making power in respect of conditions of service of All India Service Officers is vested in Central Government and State Government have no power to review or modify the rules or decisions of Central Government. Allowing the O.A. Respondent No. q and 2 are directed to implement Annexure-A-3 and A-4 in letter and spirit within a period of one month from the date of communication of these orders. NO order as to costs."

2. The respondents have filed their Counter-Affidavit and according to them a Writ Petition No.1861 (SB) of 2005 has already been filed in which the following order has been passed, and hence, the C.C.P. cannot lie at this juncture as the order of the Hon'ble High Court amounts to stay of the impugned order;

" Heard Sri Viond Kuamr Singh, learned Addl. Advocate General. Sri Satya Narain Shukla in person and the learned counsel for the Central Government. The Original Application was filed by Sri Satya Narain Shukla opposite party No.1 alone within was allowed by the Central Administrative Tribunal by the impugned judgment and order:-

We, therefore, direct the petitioner to deposit rupees twenty five thousand (Rs. 25,000.00) before this Court within two week. The deposit amount made by the petitioners shall be subjected to the further orders of this Court."

3. Arguments were heard. The applicant submits that the order of the Hon'ble High Court may not come in any way in dealing with the C.C.P. in view of the following;

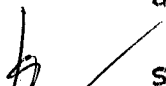
(a). When the impugned order stipulated a time frame, non-filing of Writ Petition within the said time frame would in entail Contempt proceedings.

(b). The respondents have not challenged the vires of the DOPT orders, which were sought to be implemented.

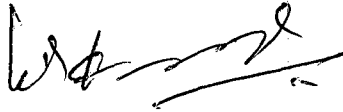
(c). The order directing the respondents to deposit Rs.25,000/- would only mean that the order has been taken as order in *personem* whereas the order is in *rem*.

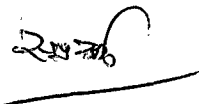
(d). The respondents are also guilty of filing a false affidavit alongwith the Counter-Affidavit and;

(e). By virtue of the judgment in the case of Dr. H. Phunindre Singh and Others vs K.K. Sethi and Another 1998(8) SCC 640, where no stay has been granted the contempt proceedings should follow.

4. It is trite law that the Court can take cognizance of the commission and omission under the Contempt jurisdiction only when the order is willfully or deliberately disobeyed. Here is a case wherein the respondents have moved the Hon'ble High Court and on the direction of the Hon'ble High Court, the respondents have also deposited a sum of Rs.25,000/- with the Registry of the Hon'ble High Court. As such, the order of Hon'ble High Court should be treated as a tacit stay of the order of the Tribunal impugned in the writ petition. If the applicant is desirous of withdrawing the money, he has to move necessary application with the Hon'ble High Court justifying his case for withdrawal of the amount and it is for the Hon'ble High Court to consider the same at that discretion.
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5. In view of the above, non-payment of amount or passing of any order in the wake of this Tribunal's order cannot be taken any willfull disobedience. If at all, it has to be only seen in future where there may be any disobedience after the Hon'ble High Court finalizes the Writ Petition.
6. In view of the above C.C.P. is adjourned sine-die with liberty to either of the parties to move this Tribunal at appropriate time for appropriate orders.


(K.B.S. RAJAN)
MEMBER (J)


(S.P. ARYA)
MEMBER (A)

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