

C.C.P.No.107/2009  
In  
O.A.No.130/2005

Dated:-28.04.2010.

Hon'ble Shri Justice Shiv Charan Sharma, Member (J)  
Hon'ble Dr. A.K. Mishra, Member (A)

We have heard Shri R.C. Singh, Advocate learned counsel for applicant and Shri Pankaj Awasthi, Advocate holding brief for Shri Rajendra Singh, Advocate learned counsel for respondents. Instant application has been moved under Section 17 of Central Administrative Tribunal Act, 1985 read with Section 12 of Contempt of Court Act, 1971. It has been contended in the application that disobedience has been committed of the order dated 18.03.2009 passed in O.A.No.130/2005. In pursuance of the order of this Tribunal the respondents were required to hold DPC for considering the case of the applicant for promotion to the post of Supervisor B/S Grade I w.e.f. 1995. Initially, in accordance with the order of the Tribunal the compliance was to be made within a period of three months w.e.f. 18.03.2009. Learned counsel for applicant also argued that the order passed by this Tribunal was challenged before the Hon'ble High Court in Writ Petition and the Hon'ble High Court was pleased to dismiss the writ petition on the first date but further time was allowed by the Hon'ble High Court for making compliance of the order of this Tribunal. The time allowed by the Hon'ble High Court had also expired in the month of October, 2009 and thereafter, six months had already been elapsed but the respondents are not complying with the order of this Tribunal.

Learned counsel for the respondents argued that the application has been moved before the Hon'ble High Court for extension of further time for compliance of the order but no order could be passed on this application by the Hon'ble High Court as yet and on this ground the learned counsel for respondents making <sup>mention</sup> ~~making~~ prayer for granting further time for seeking order of Hon'ble High Court for extension of time. This prayer of the learned counsel for the respondents is seriously opposed by the learned counsel for the applicant on the ground that the respondents are sleeping over the order of this Tribunal as well as on the order of Hon'ble High Court for the last several months even six months had already expired after the expiry of the time allowed by the Hon'ble High

Court. There is no seriousness on the part of the respondents for making compliance of the order and this shows disobedience of the order of the court.

Seeing the conduct of the respondents, we are convinced that the order had been disobeyed by the respondents. Initially three months time was granted by the Tribunal and thereafter the Hon'ble High Court granted further time and the time granted by the Hon'ble High Court had expired in the month of October, 2009 but even then till date order has not been complied except moving application for granting extension of time ~~made no effort~~ <sup>with</sup> they had nothing for execution of the order. From all this, it shows that there is a willful disobedience of the order of this Tribunal.

Under these circumstances, application deserves to be allowed and a direction has to be given to the Respondent No.4 to appear in person to explain as to why he may not be punished for non-compliance and disobedience of the order of this Tribunal dated 18.03.2009 passed in O.A.No.130/2005.

List this case on 06.05.2010 for appearance of Respondent No.4 i.e. Brigadier H.S. Dhanny, Chief Engineer, Lucknow Zone, Lucknow in order to explain as to why he may not be punished for non-compliance and disobedience of the order of this Tribunal dated 18.03.2009 passed in O.A.No.130/2005. The learned counsel for respondents continues to plead for granting extension of time although the order has already been passed. It is unjustified.

Copy of this order be given to the counsel for respondents today.

Member (A)

Member (S)

C.P.  
M.P. 764/10  
application for  
extension of time  
filed.  
Amit/  
28.4.10