

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW**C.C.P. No. 56 of 2013
In****Original Application No. 146 of 2011****Order Reserved On 28.10.2014****Order Pronounced On 11-11-2014****HON'BLE MR. NAVNEET KUMAR MEMBER (J)
HON'BLE MS. JAYATI CHANDRA, MEMBER (A)**

1. Ajai Kumar, aged about 63 years, son of Late D. N. Srivastava, R/o F-1/B, River Bank Colony, Lucknow.
2. P.K. Tripathi, aged about 44 years, son of Sri M. P. Tripathi, R/o1/257B, Priyadarshini Colony, Sitapur Road, Lucknow.
3. Rajan Singh, aged about 56 years, son of Late Sri Bhagwant Singh, R/o 13/13, Vikas Nagar, Lucknow.
4. S.G. Bhartariya, aged about 42 years, son of Late V. G. Saxena, R/o Type-IV/15, Kendranchal Colony, Sector-K, Aliganj, Lucknow.
5. Prashant Kumar Rai, aged about 42 years, son of Sri Sumangal Prakash Rai, R/o Type IV Q. No. 50, Akanksha Colony, Jankipuram, Lucknow.
6. Dr. Ram Prakash, aged about 52 years, son of Sri Sant Prasad, R/o 532A/402, Gulab Badi, Aliganj, Lucknow.
7. DR. S. K. Srivastava, aged about 49 years, son of Sri J. C. Srivastava, R/o C-44/4, Paper Mill Colony, Lucknow.

Applicant**By Advocate Sri N. C. Srivastava.****Versus**

1. Alok Rawat, Secretary, Ministry of Water Resources, Govt. Of India, Shram Shakti Bhawan, New Delhi.
2. Sushil Gupta, Chairman, Central Ground Water Board, Bhujal Bhawan, N M-4, Faridabad-121001.
3. S. R. Chauhan, Administrative Officer, Central Ground Water Board, Bhujal Bhawan, NH-IV, Faridabad.
4. Dr. Shyamal Kumar Sarkar, Secretary, Ministry of Personnel and Training, New Delhi.

Respondents**By Advocate Sri S. P. Singh.****ORDER****By Hon'ble Mr. Navneet Kumar, Member (J)**

The present contempt petition is preferred by the applicant for non compliance of the order dated 17th July, 2012 passed in O.A. No. 146 of 2011 through which, the Tribunal quashed the impugned order dated 31.12.2010 and directed the respondents to grant the benefits of FCS Scheme to the applicants in the light of decisions within two months from the date of receipt of a certified copy of the order along with all consequential benefits. The learned counsel



appearing on behalf of the applicant has categorically indicated that the respondents have passed an order dated 20th October, 2014 through which the effective date of promotion of Scientist 'D' is shown but the respondents have not indicated anything in regard to the consequential benefits as directed by the Tribunal. As such, it is argued that the order passed by the Tribunal is not been fully complied with.

2. On behalf of the respondents, it is indicated that after the orders of the Tribunal, the respondents proceeded with the case and finally received an order dated 20th October, 2014 through which, the applicant were promoted from the grade of Scientist 'C' to the Grade of Scientist 'D' from their due dates. As such, the order passed by the Tribunal is fully complied with and delay in filing the compliance report is bonafide and liable to be condoned in the interest of justice. It is also pointed out by the respondents that since the promotion orders are passed the consequential benefits will automatically flow.

3. Heard the learned counsel for the parties and perused the record.

4. The Tribunal through order dated 17.7.2012 issued a directions which reads as under:-

"Finally, in view of the above, the impugned order dated 31.12.2010 (Annexure-12) issued by the Respondent No. 3 is set aside and the respondents are directed to grant the benefits of FCS Scheme to the applicants in the light of above decisions within two months from the date of receipt of a certified copy of this order along with all consequential benefits as has been granted to other similarly situated persons."

5. After the order of the Tribunal, the same was duly intimated to the respondents and the respondents through their compliance report has categorically indicated that the benefit of promotion to the applicants as Scientist 'D' is accorded from their due dates and accordingly they have passed an order on 20th October 2014. As regard, the arguments advanced by the learned counsel for the applicant is concerned that any direction in regard to the consequential benefits is not passed in order dated 20th October, 2014. It is needless to say that once the effective date of Scientist 'D' is mentioned in the order dated 20th October, 2014, the respondents will grant the consequential benefits to the applicants as well. Since the respondents have already passed an order on 20th October, 2014 and grant of promotion to the applicants as scientist


D from the effective date, as such there appears to be no willful disobedience of the order of this Tribunal.

6. The learned counsel for the respondents also relied upon the case of **J.S. Parihar Vs. Ganpat Duggar and others AIR 1997 Supreme Court 113**, and indicated that the Hon'ble Apex Court has been pleased to hold as under:-

"The question then is whether the Division Bench was right in setting aside the direction issued by the learned Single Judge to redraw the seniority list. It is contended by Mr S.K. Jain, the learned counsel appearing for the appellant, that unless the learned Judge goes into the correctness of the decision taken by the Government in preparation of the seniority list in the light of the law laid down by three Benches, the learned Judge cannot come to a conclusion whether or not the respondent had wilfully or deliberately disobeyed the orders of the Court as defined under Section 2(b) of the Act. Therefore, the learned Single Judge of the High Court necessarily has to go into the merits of that question. We do not find that the contention is well founded. It is seen that, admittedly, the respondents had prepared the seniority list on 2-7-1991. Subsequently promotions came to be made. The question is whether seniority list is open to review in the contempt proceedings to find out whether it is in conformity with the directions issued by the earlier Benches. It is seen that once there is an order passed by the Government on the basis of the directions issued by the court, there arises a fresh cause of action to seek redressal in an appropriate forum. The preparation of the seniority list may be wrong or may be right or may or may not be in conformity with the directions. But that would be a fresh cause of action for the aggrieved party to avail of the opportunity of judicial review. But that cannot be considered to be the wilful violation of the order. After re-exercising the judicial review in contempt proceedings, a fresh direction by the learned Single Judge cannot be given to redraw the seniority list. In other ²⁹⁴ words, the learned Judge was exercising the jurisdiction to consider the matter on merits in the contempt proceedings. It would not be permissible under Section 12 of the Act."

7. 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."



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

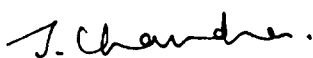
"Court directed for considering the case of the applicant for promotion. The case of the petitioner was duly considered but his claim for promotion was rejected and in that event, since the case of the applicant was considered as such, the contempt proceedings cannot be proceeded as there is no violation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

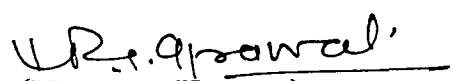
9. The Hon'ble Apex Court in the case of **Anil Kumar Shahi and others Vs. Prof. Ram Sevak Yadav and others reported in (2008) 14 SCC 115** in which the Hon'ble Apex Court has been pleased to observe as under:-

"In other words, while exercising its power under the Act, it is not open to the court to pass an order, which will materially add to or alter the order for alleged disobedience of which contempt jurisdiction was invoked. When the Court directs the authority to consider a matter in accordance with law, it means that the matter should be considered to the best of understanding by the authority and, therefore, a mere error of judgment with regard to the legal position cannot constitute contempt of court. There is no willful disobedience if best efforts are made to comply with the order."

10. In view of the pronouncements of the Hon'ble Supreme Court cited above and on the basis of facts of the case, 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 17.7.2012 passed in O.A. No.146 of 2011.

11. Considering the observations of the Hon'ble Apex Court and factual position of the case, the contempt petition is dismissed. The notices issued stand discharged. No order as to costs.


(Jayati Chandra)
Member (A)


(Navneet Kumar)
Member (J)

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