

Central Administrative Tribunal, Lucknow Bench, Lucknow

CCP No. 332/00057/2015 in O.A. No.406/2010

Reserved on 23.9.2015

Pronounced on 30-9-2015

Hon'ble Mr. Navneet Kumar, Member (J)
Hon'ble Ms. Jayati Chandra, Member (A)

Surendra Kumar aged about 23 years son of late Yogendra Kumar Badshah resident of House No. 596 Gha, Badrakhera, Kanpur Road Police Station- Krishna Nagar, District- Lucknow

Petitioner

By Advocate: Dharmendra Kumar

Versus

1. Arvind Kumar Saxena, Director, Defence Research and Development Organization, Kanpur.
2. Raj Kumar , Senior Administrative Officer Grade I, Defence Material and Stores Research & Development Establishment, Kanpur.

Respondents

By Advocate: Sri Rajendra Singh

ORDER

By Sri Navneet Kumar, Member (J)

The present contempt petition is preferred by the applicant for non-compliance of the order dated 18.12.2015 passed in O.A. No. 406/2010, through which the Tribunal passed the following orders:-

“11. The father of the applicant was given due notice and when no one has responded on the said notice, only thereafter, the respondents have passed an order of compulsory retirement. Hence there is no need for interference. As regard, the payment of retiral dues is concerned, the respondents may consider for release of the same in accordance with law to the applicant within a period of three months from the date of receipt of copy of this order is produced”

2. Learned counsel for respondents filed their compliance affidavit through which it is indicated that the competent authority

vide order dated 7.7.2015, paid the amount of Group Insurance amounting to Rs. 25,320/- and the GPF amounting to Rs. 38045/- as well as gratuity amounting to Rs. 1,14,678/- to the applicant. Apart from this, the pension payment order has already been issued to the applicant on 24.8.2015. Learned counsel for the respondents have also annexed the photo copy of receipt of payment made to the applicant as well as annexed PPO in respect of the applicant. However, this fact are being disputed by the applicant.

3. The bare perusal of the record shows that the order passed by the Tribunal has been fully complied with and the applicant is paid the retiral dues in accordance with law as indicated above, as such there is no willful disobedience of the order on the part of the respondents. In case the applicant is further aggrieved, he may file a fresh O.A.

4. In terms of the decision rendered by the Hon'ble Apex Court in the case of **J.S. Parihar Vs. Ganpat Duggar and others AIR 1997 Supreme Court 113**, the Apex Court has been pleased to observe 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 ²⁹⁴words, 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."

5. The Hon'ble Apex Court in the case of **Chhotu Ram Vs. Urvashi Gulati and others reported in AIR 2001 SC 3468**, has been pleased to observe 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."

6. Considering the observations made by the Hon'ble Apex Court as well as on the basis of facts of the case, it appears that there is no willful disobedience on the part of the respondents and respondents have fully complied with the orders of the Tribunal .

7. As such contempt petition is dismissed. Notices issued to the respondents stands discharged.

J. Chandra
(JAYATI CHANDRA)
MEMBER (A)

Navneet Kumar
(NAVNEET KUMAR)
MEMBER (J)

HLS/-