

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 1229/96

Date of Decision: 7.8.97

Shri Chandrakant Shankar Rao Marne .. Applicant

Shri R.C. Ravlani .. Advocate for
Applicant

versus

Union of India and others .. Respondent(s)

Shri R.K. Shetty .. Advocate for
Respondent(s)

CORAM:

The Hon'ble Shri. P.P. Srivastava, Member (A)

The Hon'ble

(1) To be referred to the Reporter or not ?

(2) Whether it needs to be circulated to
other Benches of the Tribunal ?

(P.P. Srivastava)
Member (A)

NS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH 'GULESTAN' BUILDING NO:6
PRESOT ROAD BOMBAY: 1

Original Application No. 1229/96

Thursday the 7th day of August 1997.

CORAM: Hon'ble Shri P.P. Srivastava, Member (A)

Chandrakant Shankar Rao Marne
Orderly, Ammunition Factory
Khadki, Pune.

Residing at 1197/2,
Ramnarayan Bungalow,
Shivaji Nagar,
Pune.

... Applicant.

By Advocate Shri R.C. Ravlani.

V/s.

Union of India through
The Secretary,
Ministry of Defence,
South Block,
New Delhi.

The Chairman
Ordnance Factory Board
10A, Auckland Road,
Calcutta.

The General Manager,
Ammunition Factory
Khadki, Pune.

... Respondents.

By Advocate Shri R.K. Shetty.

O R D E R (ORAL)

{ Per Shri P.P. Srivastava, Member (A) }

The applicant has filed this O.A. seeking
the following relief:

- (i) To direct the respondents to pay, the pay and allowances, for the period, he has not been taken on duty, inspite of Hon'ble Tribunal's orders i.e. from 5.8.1994 to 3.8.1995.
- (ii) To direct the respondents to pay the cost of this application.
- (iii) To pass any other orders, as deemed necessary in the interest of justice.

...2...

The learned counsel for the applicant mentions that in view of the judgement of the Tribunal the applicant has reported for duty on 24.8.94 and obtained the acknowledgement from the office of the Addl General Manager, Ammunition Factory, Khadki, Pune. The applicant has brought out this fact in para 4.6 of the O.A. In reply to this the respondents have not denied that the applicant has reported for duty on 24.8.94.

The respondents for the first time has sent the communication to the applicant on 28.4.95 to join the duty. The learned counsel for the applicant states that the applicant has not received this letter or any other letters. The respondents further stated that they have sent another letter dated 1.6.95 which has been returned by the postal authority with the remark that the applicant was not found at the address. The learned counsel for the applicant mentions that the address of the applicant is correct.

Since there is no denial from the respondents that the applicant had reported for duty on 24.8.94, he would be entitled to wages from that date upto 28.4.95 which is the date of letter sent by the respondents to the applicant. Between the period from 24.8.95 to 29.4.95 the date the applicant was taken on duty i.e. on 3.8.95, the applicant would be entitled to half the wages. The payment of the dues be made to the applicant within a period of four months from the date of receipt of this order. If the payment is not made within four months,

(Signature)

(Signature)

(Signature)

(Signature)

(Signature)

: 3 :

the respondents are liable to pay interest at the rate of 12% thereafter. With the above directions the O.A. is disposed of.



(P.P. Srivastava)
Member (A)

NS

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GULESPAN BLDG. NO. 6, 4TH FLR, PRESCOT RD, FORT,

MUMBAI - 400 001.

C.P.No. 47/98

in OA-1229/96.

1st Feb, 1999.

CORAM: Hon'ble Shri Justice R.G.V. ^aidyanatha, Vice Chairman.

Hon'ble Shri D.S. Baweja, Member(A).

Shri Chandrakant Shankarrao Marne ... Applicant

By Advocate Shri D.V. Gangal

v/s.

Shri S. Ramratan and Others ... Respondents.

By Advocate Shri R.K. Shetty

I ORDER ON CP-47/98 I

This is a Contempt Petition filed by original applicant alleging that the respondents have not complied with the order of Tribunal dated 7/8/97. Respondents have filed reply to CP-47/98.

2. By order dated 7/8/97 in OA-1229/96, this Tribunal granted certain monetary benefits to the applicant ^{that} with a direction to respondents ⁱⁿ it should be paid within a certain time. Now the applicant's contention is that in not making the payment ⁱⁿ the time as mentioned in the order, the respondents have committed contempt of this Court.

3. The respondents have denied the allegation of the applicant. They have also stated that they have sent a cheque of Rs. 20,143/- to the applicant.

Learned Counsel for applicant presses ~~xx~~ two points in support of Contempt Petition. The first point is that there was delay on the part of administration in making payment, which means contempt., and the second point is calculation of interest made by respondents is wrong and they have not obeyed the order of the Tribunal. Respondents have refuted both the contentions.

4. After hearing both the sides, as far as question

of delay is concerned, we notice that in order dated 7/8/97 payment was directed to be made within 4 months from the date of receipt of order. Admittedly, the direction in the order that wages for the period from 24/8/94 to 3/8/95 to be paid was ~~wrong~~ direction and it was not executable therefore the respondents have not executed/complied with the order which is per se incorrect.

On applicant's review petition, the said portion of the order came to be amended and respondents were directed to make payment from 29/4/95 by the order in the RP dated 8/1/98 which is only modification of the original order dated 7/8/97 and it became executable and operative. After receiving of copy of the order, for which we may allow one or two weeks, the respondents should have made payment sometime in May, 98 but the respondents have made payment in November, 98. The respondents have ~~no doubt claimed that~~ the applicant has filed another OA where he has challenged the legality and validity of the order dated 7/8/97 and therefore, the administration was in doubt whether to make any payment or not in pursuance of order dated 7/8/97. In the circumstance, if there is a delay of three to four months, it does not give rise to contempt. Having regard to the facts and circumstances of the case, though there is some delay in making payment, the respondents have paid the interest and it does not invite action under the law of contempt.

5. Now, the dispute between the parties is regarding the period from which is to be paid. According to applicant's counsel, interest should be paid after expiry of four months from 7/8/97, but according to respondents they are liable to pay interest only after expiry of four months from the date of order of RP (8/1/98).

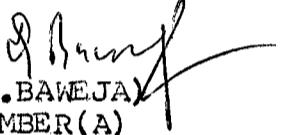
6. After hearing both the sides, we find that there is some merit in the respondents' contention. On the fact of it, order dated 7/8/97 was not an executable order and so

for

respondents need not pay interest. It is only in the order on RP dated 8/1/98, an executable order came to be passed. Now only the liability of the respondents starts. They were bound to comply with the order on RP sometime in May,98. Respondents have paid the interest from some time in May,98 till the date of issuing the cheque which they have now done and it appears to be correct.

We find that no case is made out and hence nothing survives and CP-47/98 deserves to be discharged.

7. In the result, CP-47/98 is discharged. No orders as to costs.


(D.S.BAWEJA)
MEMBER(A)

abp.


(R.G.VAIDYANATHA)
VICE CHAIRMAN