

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

C.P. NO.: 49/2001 IN O.A. No.: 240/2000.

Dated this Tuesday, the 23rd day of October, 2001.

CORAM : Hon'ble Shri Justice B. Dikshit, Vice-Chairman.
Hon'ble Shri B. N. Bahadur, Member (A).

M. V. S. Murthy ... Applicant

VERSUS

Shri Y. P. Pathak,
Director,
R & DE (ENGRS),
Dighi, Pune - 411 015. ... Contemnor.

TRIBUNAL'S ORDER

Applicant present in person. Shri R. R. Shetty for Shri R. K. Shetty, Counsel for Contemnor/Respondents.

2. Contemnor Respondents has filed a reply. The applicant has gone through the affidavit and he states that he would not like to file any rejoinder and, therefore, we proceed with the hearing of contempt petition. Shri R. R. Shetty has pointed out that Shri Y. P. Pathak, Contemnor, is present in the Court. Learned Counsel, Shri Shetty is heard for the alleged contemnor. Shri M.V.S. Murthy is also present in person to assist us in the consideration of the C.P.



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3. The order in respect of which disobedience is alleged, is sub-para (iii) of para 14 specifically. This sub-para reads as follows :

"(iii) Notwithstanding any decision taken, as directed above, it is held that no recovery should be made from the amounts paid already to the applicant in respect of any benefit, except that relating to commutation of pension. For the purpose of pension itself, the benefit will be available only upto 30.05.1999 (para 13 above)."

The only point in dispute is that such of the portion of recovery amount, as was already recovered, has not been refunded. The stand of the Contemnor taken by his Learned Counsel, Shri Shetty, is that the operative portion only stated that "no recovery should be made from the amounts paid already".

b/s

4. In this respect, no detail or long winded argument is needed to convince us that the stand is absolutely wrong. This is clear from the fact that even in the operative portion i.e. para 14 (iii), the order is explained to operate with reference to para 13 and the words "para 13 above" have been clearly put in this operative portion. In para 13, it has been clearly stated, inter alia, that "Hence, no recovery of the pension paid from the date of retirement to 30.05.1999 shall be made, and if already made, shall be refunded." It is, therefore, clear that the interpretation being made is totally incorrect and should not have been made by any reasonable person. Learned Counsel,

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Shri R. R. Shetty, points out that the alleged contemnor is a high ranked Scientist and depended on the Audit which had advised as per the stand already taken. In view of the fact that this stand was taken on the advise from the Audit, we do not hold the alleged Contemnor as being personally and wilfully inclined to disobey the order and since there is no wilful disobedience apparent, we do not hold him guilty of contempt.

5. However, by an interpretation that is inadequate in its ability to stand by itself and the fact that the Original Applicant has been made to come before us again for seeking implementation of the order, we feel that this is a fit case for awarding costs, which in the above explained circumstances, shall be paid by the Government and not by the alleged Contemnor. Thus, we award cost to the Original Applicant, M.V.S. Murthy, ^{the} an amount of Rs. 5,000/- (Rupees : Five Thousand only). Government should pay this amount within a period of four weeks from the date of receipt of a copy of this order.

6. Copy of this order shall be provided to the Counsel for Contemnor/Respondents, Shri R. R. Shetty, by 24.10.2001.

N.B. Bahadur

(B. N. BAHADUR)
MEMBER (A).

B. Dikshit

(B. DIKSHIT)
VICE-CHAIRMAN.

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