

C.P.No.86/02 in OA.NO.542/01

Shri G.S.Walia, Advocate for the petitioner and Shri V.S.Masurkar, counsel for the respondents.

2. We have heard the counsel for the parties.

3. A Contempt Petition was filed for non compliance of the judgement/order dated 27.2.2002 in OA.NO.542/2001. The respondents were directed to complete the enquiry within a period of six months from the date of receipt of a copy of the order of 27.2.2002 failing which the sealed cover shall be opened and acted upon without reference to the pending enquiry, subject to the outcome of the enquiry. Time was granted on 21.10.2002 for completion of enquiry by 7.12.2002. It was extended to 15.4.2003 by order of 17.1.2003. While disposing of the MAs.327/2003 and 328/2003 on 11.6.2003 further time was allowed and it was extended to 31.8.2003 with the stipulation that no further extension of time on grounds whatsoever will be allowed to the official respondents. Respondents have submitted M.P.No.597/03 for further extension of time on 1.9.2003.

4. The learned counsel for the petitioner has argued that no further extension of time on any grounds can be given and completion of enquiry means finalisation of the disciplinary proceedings. He has further emphasised that the application for extension of time has not been submitted on 31.8.2003 or before,

and therefore, it should not be allowed. Learned counsel for the respondents has argued that the enquiry report has been submitted on 9.12.2002 and the matter has been referred to U.P.S.C. which generally takes three months time in consultation. Extension of time for six months has therefore been sought.

5. We have heard the arguments at length. The order dated 27.2.2002 is clear about the completion of the enquiry. The order consists of two parts, one is the completion of enquiry within six months and the other in case it is not completed then opening of the sealed cover. Since time has been extended for completion of the first part of the order, the question of taking action on the second part does not arise. The Tribunal was on vacation on 1st, 2nd and 3rd September, 2003, therefore filing of the petition on 1.9.2003 cannot be disallowed only on this ground that it was not filed on 31.8.2003. Article 320 of the Constitution of India makes it mandatory for Disciplinary/ Appointing Authority to consult UPSC in all disciplinary matters. It is not the option of the respondents to consult or not to consult UPSC but it is obligatory on them to consult UPSC. Ex.MP.3 is the letter of Deputy Secretary to the Govt. of India, Ministry of Finance, Department of Revenue asking for a time of 2-3 months. It would, therefore, be in the interest of justice to allow the M.P. and give the time till 30.11.2003 for finalising the disciplinary proceedings. The respondents are directed to follow up of the matter closely and diligently so that final orders in the disciplinary proceedings issue by that date. M.P. is disposed of accordingly.

6. List in the first week of December, 2003. (05-12-03)

(S.P.ARYA)

MEMBER (A)

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(S.G.DESHMUKH)

MEMBER (J)