

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

C.P.No.80/2003 in OA.NO.590/2001

Tuesday this the 7th day of October, 2003.

CORAM : Hon'ble Shri Justice B.Panigrahi, Vice Chairman

Hon'ble Shri S.P.Arya, Member (A)

D.E.Vanarase,

...Applicant

By Advocate Shri P.A.Prabhakaran

vs.

Union of India & Ors.

...Respondents

By Advocate Shri V.S.Masurkar

TRIBUNAL'S ORDER

{Per : Shri Justice B.Panigrahi, Vice Chairman}

This is an application under Section 17 of the Administrative Tribunal's Act for taking appropriate action against the respondents for disobeying the orders passed in OA.NO.590/2001. The parties approached third round of litigation. This case has a checkered history also. The applicant was working as an unarmed Head Constable in the State Police and he was taken on deputation as Sub-Inspector of Police : CBI w.e.f. 28.2.1986. Notwithstanding completion of 10 years of service on deputation basis with CBI, he was, however, not considered for permanent absorption in the CBI. Therefore, the CBI authorities had directed repatriation of the applicant to his

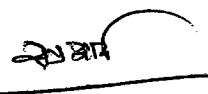
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parent department as Head Constable although he was promoted as Inspector of Police in the CBI. The applicant, therefore, moved this Tribunal in OA.No.220/2000 challenging the order of repatriation. The Tribunal by virtue of its order dated 13.11.2000 quashed and set aside the order of repatriation of the applicant and directed the respondents to take back the applicant in their organisation forthwith and further directed to consider the case of the applicant for further absorption on merits and in accordance with the rules. The order of the Tribunal challenged by the respondents before the Hon'ble High Court by filing a Writ Petition being No.369/2001. The applicant preferred to initiate contempt proceedings in Contempt Petition No.7/2001 complaining non implementation of the Tribunal's order. It is stated here that the Writ Petition filed by the respondents was dismissed whereby the Hon'ble High Court also directed the respondents to comply with the orders within six weeks. By virtue of the order passed by the Hon'ble Court, the contempt proceedings also came to an end. In the meantime, the respondents have passed an order directing the applicant to join at Bhubaneshwar. After the applicant joined in his new Station, a fresh order of repatriation was thereafter passed. Therefore, the applicant has challenged the validity of the second order of repatriation before the Tribunal in OA.No.590/2001. The Tribunal vide judgement dated 15.2.2002 again quashed the repatriation order. Challenging the said order once again, the respondents filed Writ Petition being Writ Petition No.2265/02 and the Hon'ble High Court by judgement dated 29.1.2003 set aside the judgement and

remanded the matter back to the Tribunal for fresh hearing. After the matter was remanded back to this Court, the matter was once again heard and the order of repatriation was once again quashed on 29.4.2003. The applicant sought a clarification from the Tribunal by filing an M.P. being M.P.No.363/2003 which was disposed of by directing the respondents to carry out their previous order. Even after such order was passed, when the respondents did not ostensibly pass the order by giving the applicant a posting order, therefore, he has filed this application.

2. The learned counsel Shri V.S.Masurkar appearing for the alleged contemnors argued vehemently that since there was no time limit given by the Tribunal, therefore, it takes six months to comply the exercise in giving a regular posting to the applicant otherwise also it is open to the department to question the validity of the order before the Hon'ble High Court. In so far as the right of the respondents is concerned, nothing come in its way to vindicate their right before the appropriate forum but that is not an appropriate approach to nullify the order. The applicant seems to be sitting idle for all these period without a regular posting order being given to him. Notwithstanding several directions being given to the authorities, it is followed more in its breach than observance.

3. We, accordingly, hereby direct the authorities to comply with the directions issued by the Tribunal in the order dated 29.4.2003 within two weeks from the date of communication of this order and file affidavit showing compliance. With the aforesaid discussion, the application is disposed of. Accordingly, the contempt application is disposed of.


(S.P. ARYA)
MEMBER (A)

mrj.


(B. PANIGRAHI)
VICE CHAIRMAN