

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, AT MUMBAI.

Review Petition No.12/2004  
in  
C.P. No.23/2003  
arising out of O.A.No.247/2001

Date - 17-8-2004

CORAM: HON'BLE SHRI A.K. AGARWAL, VICE CHAIRMAN  
HON'BLE SHRI S.G. DESHMUKH, MEMBER (J)

S.P. Saxena & 10 Ors. ... Petitioners/Original  
(By Shri R.G.Walia, Advocate) Applicants

vs.

The Union of India through  
the Secretary, Railway Board  
& ors. ... Respondents.

(By Shri V.S. Masurkar, with Shri V.D.Vadhavkar, Advocates)

O R D E R

[Per: S.G. Deshmukh, Member (J)]:

The present R.P. is filed by the applicants in OA No.247/01 for reviewing the order in C.P.No.23/2003 dated 9.2.2004. O.A.No.247/2001 was decided by this Tribunal vide order dated 6.5.2001. The Tribunal observed while deciding the O.A. that the applicants shall be entitled their first upgradation to the scale of Rs.6500-105000 on completion of 12 years and Rs.7450-11500 on completion of 24 years of service subject to fulfilment of other conditions as laid down under the ACP scheme. Accordingly, the respondents shall accord the proper pay scale to the applicants by treating the scale of Rs.6500-10500 and Rs.7450-11500 as first and second higher grades, to which the applicants shall be upgraded under the ACP Scheme. Subject to fulfilling other conditions they shall be entitled to the same with effect from 01.01.1996 with all consequential benefits. The arrears due to the difference in pay scale be payable within a period of three months from the date of receipt of a copy of the said order. ..2/-

2. The respondents had preferred a Writ Petition dated 16.2.2003 which was dismissed by the High Court by order dated 10.9.2003. The applicant due to non compliance of the order, filed a Contempt Petition bearing NO.23/2003 in which the Tribunal has passed the following order:

*"Since major portion of the Tribunal's order has been complied with, we drop the contempt proceedings and discharge the contemner. However, it would be open to the two applicants mentioned in the above para to approach the Tribunal again in case further action to do justice with them is not taken by the contemnors within next three months."*

3. The respondents filed their reply to the R.P. The respondents contended that the review petition is not maintainable against the original judgement and certainly not against the order in contempt petition.

4. Heard the learned counsel Shri R.G.Walia for the applicants/petitioners and Shri V.S. Masurkar with Shri V.D. Vadhavkar for the respondents at length.

5. We have considered the rival submissions by both sides. In this R.P. the two points which need consideration are:

(1) whether this Review Petition to review an order in C.P. is maintainable or not; and (2) whether the grounds taken to review the order dated 9.2.2004 in C.P.No.23/2003 are within the scope of review ?

*mv*

6. On the question that the review application is maintainable, the learned counsel for the applicant submitted that the power to review is an inherent power of the Tribunal. On the other hand, learned counsel for the respondents submitted that the Tribunal has no power to review an order <sup>by</sup> ~~which~~ which the contempt petition has been disposed of.


7. Sec.17 of the CAT Act, provides that Tribunal shall have and exercise the same jurisdiction, power and authority in respect of contempt of itself, as a High Court has and may exercise and for this purpose the provisions of Contempt of Courts Act 1971, shall have effect subject to the modification that the reference therein to High Court, shall be construed as including a reference to such Tribunal. Thus, Section 17 give this Tribunal power to punish for Contempt of itself in the matters now falling within the jurisdiction of the Tribunal. The punishment for contempt can be as per Sec.12 of the Contempt of Courts Act. Under the Contempt of Courts Act, in case of punishment appeal is provided under Sec.19 of the Contempt of Courts Act.

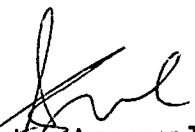
8. Section 23 of the Contempt of Courts Act provides power of Supreme Court and High Court to make rules. Reading the word Tribunal, in place of High Court, section provides that Tribunal may make rules not inconsistent with the provisions of the Act provided for in matters relating to its procedure. In exercise of the powers conferred by Sec.23 of the Contempt of Courts Act, 1971, read with section 17 of the Administrative Tribunals Act, 1985, the Central Administrative

Tribunal, to regulate the proceedings<sup>9</sup>, framed rules called "Central Administrative Tribunal (Contempt of Court) Rules, 1986." In supersession of the Rules of 1986, the Rules called "Contempt of Courts (CAT) Rules, Act 1992 were notified. Under the Contempt of Courts, Act, there is no provision to review an order. Thus, though rule 7 of the C.A.T. (Procedure) Rules, 1987 provides for review but the Contempt of Courts (C.A.T.) Rules 1992 does not provide procedure for review of an order passed on a Contempt Petition.

9. In *Baljeet Singh vs. Shambhoo Nath Chaturvedi and Ors.* 2002 (1) ATJ 657 the Division Bench of Lucknow Bench of the Tribunal has held "that the Tribunal cannot review an order passed in C.P. and hence review petition not maintainable." In the absence of any statutory provisions, to review an order passed in contempt petition, this Tribunal has no jurisdiction as the review is not maintainable, it would be futile to examine the grounds taken in the Review Application as it is in respect of the scope of Review.

10. Thus, in view of what is stated above, we are of the considered view that the present Review Petition is not maintainable and is accordingly rejected. No cost.

  
(S.G. Deshmukh) 7.8.2004  
Member (J)

  
(A.K. Agarwal)  
Vice Chairman

sj\*