

B.S.

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

C.F. NO. 98/96 IN O.A. 545/89 & 593/94.

Dated this 29/2 the Twenty day of February, 1997.

CORAM : HON'BLE SHRI B. S. HEGDE, MEMBER (J).  
HON'BLE SHRI P. P. SRIVASTAVA, MEMBER (A).

Amarnath Batabyal ... Applicant

(By Advocate Shri K.K. Singhvi  
alongwith Shri M.S. Ramamurthy,  
Shri Sanjay Singhvi and  
Shri Ramesh Ramamurthy).

VERSUS

Union Of India & Others ... Respondents.

(By Advocate Shri P.M. Pradhan  
alongwith Shri V.S. Masurkar).

TRIBUNAL'S ORDER :

¶ PER.: SHRI B. S. HEGDE, MEMBER (J) ¶

The applicant has filed this contempt petition against the order of the Tribunal dated 09.02.1996 in O.A. Nos. 545/89 and 593/94. After considering the rival contentions of the parties, the Tribunal had quashed the Punishment Order imposed on the applicant vide dated 24.02.1994 and it was agreed between the parties that the outcome of O.A. No. 593/94 will also determine the outcome of O.A. No. 545/89. Accordingly, the punishment order passed by the respondents vide dated 19.04.1989 was also quashed. The Tribunal directed the respondents to reinstate the applicant in service from the date he was ordered to be compulsorily retired

with all consequential benefits. However, liberty was given to the respondents to initiate action aforesaid from the stage of supplying the copies of C.V.C. report and recommendations and comments of the State Government on Inquiry Officers report to the applicant and given him an opportunity to represent thereon. It is clarified that the UPSC report was already available with the applicant. The Tribunal directed the order to be complied within four months from the date of receipt of the order.

2. Pursuant to the direction of the Tribunal, the respondents issued a show cause notice dated 15.11.1996 against which the applicant has sent a reply vide dated 30.11.1996 contending that no further enquiry can be conducted against him by the respondents, as he has attained the age of superannuation and in terms of the AIS (DCRB) Rules, 1958, the respondents cannot proceed against him in disciplinary case, as the limitation of four years will come into operation. It is also stated that the comments on his representation leading to the passing of the second order of retirement has not been supplied to the applicant and accordingly requested for supply of the comments of the State Government.

3. The respondents in their reply dated 21.01.1997 stated that in terms of rule 6(1) of the AIS(DCRB) Rules,1958 it is possible for them to proceed with the disciplinary

enquiry against the applicant and the charge-sheet dated 30.10.1985 was issued while he was in service, thereby, the enquiry is deemed to have continued as per the above mentioned provision, pursuant to the direction of the Tribunal in this case. This provision was reiterated by the Tribunal in its order dated 12.7.1996 while dismissing the review petition filed by the applicant on the ground of superannuation from service on 30.09.1995. However, in para 2 of the reply it is stated that the documents identified by the C.A.T. vide para 9, 20, 22 and 23 of the order is not supplied to him because of the reasons that the applicant has not taken this plea before the Tribunal. It would thus appear that reply of the applicant is uncalled for and the respondents are duty bound to supply the comments of the State Government as per the direction of the Tribunal, failing which the provisions of principles of natural justice is not being complied with.

4. The first respondent has filed reply to the contempt petition and stated that pursuant to the direction of the Tribunal the applicant was reinstated and liberty was granted to the department to initiate action from the stage of supplying to the applicant, copies of CVC's report and recommendations and comments of the State Government on the Inquiry Officer's report, and by giving him an opportunity to represent thereon. As against the order of the Tribunal, the department had

approached the Hon'ble Supreme Court by filing Special Leave Petition which was dismissed on 23.09.1996 and therefore, the order passed by the Tribunal on 09.02.1996 was required to be implemented. It is also stated that pursuant to the direction of the Tribunal, all the documents mentioned at para 43 of the order dated 09.02.1996 have been supplied and the applicant was supposed to represent against the same. However, till the affidavit is filed, no representation has been made by the applicant against any of those documents as per liberty granted by the Tribunal. The respondents state that it is nothing/but continuation of the earlier proceedings which were initiated against the applicant by the State Government vide Memorandum of charges dated 30.10.1985. Therefore, it cannot be said that the action initiated against the applicant is uncalled for. It is nothing but continuation of the old proceedings and therefore, no contempt has been committed by the respondents and the contempt petition be dismissed.

5. In the light of the above, the question to be seen is, whether the respondents have committed any contempt in continuing the proceedings initiated while he was in service. The question whether the action taken by the respondents does come within the purview of Rule 6(1) of the AIS (DCRB) Rules, 1958, is a matter to be decided by the Competent Authority by passing a final order in the case.

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However, further action was taken pursuant to the direction of the Tribunal and in pursuance with the rules applicable to the applicant. We have rendered a judgement on 19.09.1997 in O.A. No. 142/97 wherein we have upheld the contention of the respondents in initiating the disciplinary proceedings and therefore, under any circumstances, we do not see any contempt committed by the respondents in initiating the disciplinary proceedings pending against him, though he retired subsequently. Whether it is permissible to take further action after the retirement, is a matter to be decided by the competent authority keeping in view the various service rules applicable to the applicant.

6. In the result, we do not see any merit in the contempt petition filed by the applicant and the same is discharged.

MEMBER (A):

MEMBER (J):

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