

CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

order in CP 60196

OPEN COURT / PRE DELIVERY JUDGMENT IN OA 437/95

~~Hon'ble Vice Chairman / Member (J) / Member (A)~~

may kindly see the above Judgment for

approval / signature.

Parry
~~V.C. / Member (J) / Member (A) (K/S)~~

Hon'ble Vice Chairman

Hon'ble Member (J)

Hon'ble Member (A) (K/S)

Parry

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
 MUMBAI BENCH, GULESTAN BUILDING NO. 6
 PRESCOT ROAD, FORT, MUMBAI 400 001.

CONTEMPT PETITION NO. 60/96 IN O.A. 437/95.

Dated this 27 day of September 1996.

CORAM : 1) Hon'ble Shri B.S. Hegde, Member (J)
 2) Hon'ble Shri P.P. Srivastava, Member (A).

V.S. Paulraj)
Asstt. Provident Fund)
Commissioner (Grade I))
Office of the Regional)
Provident Fund Commissioner,)
Maharashtra & Goa,)
341, Bhavishyanidhi Bhavan)
Bandra (E), Mumbai - 400051.)
(By advocate Shri R.R.)
Dalvi))
 Applicant

v/s

1) H.D. Sharma, Regional)
Provident Fund)
Commissioner, Maharashtra)
& Goa, 341, Bhavishyanidhi)
Bhavan, Bandra (E))
Mumbai - 400 051.)
2) R.S. Kushik, Central)
Provident Fund Commissioner)
25, Business Park, Shivaji)
Marg, New Delhi 110 015.)
3) Laxmidhar Misra)
Secretary to the Govt. of)
India, Ministry of Labour)
New Delhi - 110 001.)
(By advocate Shri R.R. Shetty,)
Central Govt. Standing Counsel))
 Respondents

O R D E R

I Per: Shri B.S. Hegde, Member (J) I

Heard Shri Dalvi for the applicant and Shri R.K. Shetty for the Respondents. The applicant has filed C.P. 60/96 in

O.A. 437/95. The Tribunal had passed ad-interim order vide dated 29-5-1995 on the basis of submission made by the learned counsel for the applicant that the applicant has not been relieved from the post at Bombay and the representation dated 28-4-95 made by him has not been disposed ^{of} by the Respondents. Accordingly, the Tribunal directed the Respondents to dispose of the representation by ~~passing~~ a speaking order within a period of one month from the date of receipt of this order. When the matter appeared for further hearing on 23-6-1995, the Respondents had not passed any order; accordingly, they have been given two months' time to pass the required order, further stating that the applicant shall not be transferred to Bangalore. The Tribunal after considering the pleadings vide order dated 4-8-1995 passed the following order -

"The only direction that need be given in this case is to direct the Disciplinary Authority to take an early decision in the present case since the Inquiry Officer has submitted his report. We therefore, direct the disciplinary authority to decide the disciplinary proceedings within four months from the date of communication of this order. With this direction the OA is disposed of."

The Respondents filed an M.P. 285/95 on 27-3-1996 seeking extension of time for implementing the Tribunal's orders dated 4-8-1995, which came up for hearing on 15-4-1996.

The Respondents sought ~~six~~ months' extension after a lapse of three months of the stipulated period as per the directions of the Tribunal. However, after considering the contentions of both the parties, the Tribunal directed the Respondents to pay a cost of Rs. 500/- for delay in

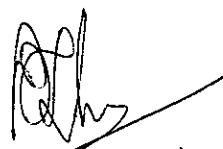
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filing the M.P. seeking extension of time and they are given time to implement the Tribunal's directions by 30-6-1996. Accordingly, the M.P. of the Respondents was allowed, and the reply filed by them was taken on record.

2. The contention of the learned counsel for the applicant is that the Respondents intentionally misled the Court and not adhered to the directions given by the Tribunal and as such they have committed contempt of the Tribunal's orders. The Respondent No. 3 i.e. the Secretary to the Government of India filed an affidavit narrating the events by which they were handicapped to implement the directions of the Tribunal within the specified time and tendered an unconditional apology for the delay in complying with the Tribunal's orders vide dated 4-8-95/15-4-96 respectively. The Respondents further submitted that the delay is not intentional and advanced various explanations for not complying with the directions. Though there is some delay in complying with the directions of the Tribunal, it is not intentional. However, on perusal of the reasonings advanced by the Respondents, we are satisfied, that the delay, if any, is not intentional. Prima facie, we do not find that the Respondents have committed any contempt of the Tribunal's orders and pursuant to the directions of the Tribunal, they have passed the final orders though not within 30-6-1996 but immediately thereafter on the basis of available documents. It is true, that

the charge levelled against the officer is a serious one and it requires probe and consultations between the various Ministries which hampered the respondent department to take a final decision in the matter.

3. For the reasons stated above, we are of the view, that the action of the respondents in passing the final order pursuant to the direction of the Tribunal though was belated, but not intentional, delay and we are satisfied with the reasons advanced by the respondents in this respect. In this connection, the respondents have filed an M.P. seeking for condonation of delay in implementing the directions of the Tribunal. Therefore, we hold that there is no intentional disobedience of the Tribunal's Order and as such there is no contempt committed by the Respondents. Accordingly, the C.P. is discharged with no order as to costs.


(P.P. SRIVASTAVA)
MEMBER(A)


(B.S. HEGDE)
MEMBER(J).

B.

dt : 21/9/96
order/Judgement despatched
to Applicant/Respondent(s)
on 7/10/96

(S)
9/10/96