

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.
CONTEMPT PETITION NO.53/1999
IN
ORIGINAL APPLICATION NO.1088/1998.

this the 21st day of August 2000.

Coram: Hon'ble Shri D.S.Baweja, Member (A),
Hon'ble Shri S.L.Jain, Member (J).

S.M.Subani,
Department of Atomic Energy,
Anushakti Nagar,
Trombay,
Mumbai.
(By Advocate Shri M.S.Ramamurthy) ...Applicant.

Vs.

1. Union of India,
through the Secretary,
Department of Atomic Energy,
Anushakti Bhavan,
CSM Marg, Near Gateway of India,
Mumbai - 400 001.
2. The Director,
Directorate of Construction Services
& Estate Management,
Department of Atomic Energy,
Vikram Sarabhai Bhavan,
Anushakti Nagar,
Trombay,
Mumbai - 400 094.
3. Shri C.G.Sukumaran,
Director (Personnel & Administration),
Heavy Water Board,
Department of Atomic Energy,
Vikram Sarabhai Bhavan,
4th Floor, Anushakti Nagar,
Mumbai - 400 094.

AND

1. R.Chidambaran,
Secretary,
Government of India,
Department of Atomic Energy,
Anushakti Bhavan,
CSM Marg,
Apollo Bunder,
Mumbai - 400 001.
2. Smt. Sudha Bhave,
Joint Secretary,
Government of India,
Department of Atomic Energy,
Anushakti Bhavan,
CSM Marg, Apollo Bunder,
Mumbai - 400 001.

...2.

3. B.D.Mishra,
Deputy Secretary (A),
Government of India,
Department of Atomic Energy,
Anushakti Bhavan,
CSM Marg, Apollo Bunder,
Mumbai - 400 001. ...Contemnners.
(By Advocate Shri R.R.Shetty)

: ORDER ON CONTEMPT PETITION :

{Per Shri D.S.Baweja, Member (A)}

This Contempt Application has been filed by the applicant alleging deleberate violation of the direction of the Tribunal in order dt. 9.6.1999 in OA 1088/98.

2. The applicant had filed OA No. 1088/98 challenging the order of the Disciplinary Authority dt. 26.11.1998, wherein he had directed the Enquiry Officer to conduct further enquiry on the basis of the fresh evidence received by him in the form of opinion of hand-writing expert. The Bench had found that the order of the Disciplinary Authority was illegal and therefore quashed the impugned order dt. 26.11.1998. After quashing the order, it has been further provided in para 10 as under:

"In the result, the O.A. is allowed. The impugned order dt: 26.11.1998 is hereby set side. Liberty to the Disciplinary Authority to apply his mind to the enquiry report and then take a decision whether to accept it or not? If he accepts the enquiry report then he can drop the disciplinary proceedings and nothing more need to be done. However, if the Disciplinary Authority, is of the opinion that the enquiry report as it stands cannot be accepted and he feels additional evidence is necessary, then he must issue show cause notice by giving tentative reasons for tentative opinion in the light of the judgment of the Supreme Court in the case of Punjab National Bank mentioned above and then after reply or representation of the applicant to the show cause notice, the Disciplinary Authority can pass appropriate order according Rules. All other contentions urged before us are left open. No order as to costs."

...3.

In pursuance of this direction of the Tribunal, the Disciplinary Authority has issued a show cause notice dt. 30.8.1999 which was conveyed to the applicant by the Administrative Officer as per letter dt. 9.9.1999. The applicant is aggrieved by this order on the plea that the Secretary to the Government of India, Department of Atomic Energy (DAE) is not the competent disciplinary authority to take any disciplinary action against the applicant as he is a Group 'A' Officer. The Respondents have therefore not acted as per the directions of the Tribunal and are deliberately trying to harass and victimize the applicant. He, therefore, pleads that the respondents be restrained from taking any further steps in pursuance of the show cause notice dt. 30.8.1999 and also punish the respondents for committing Contempt of Court.

3. The respondents have filed written statement through Shri Bhagwat Das Mishra, Deputy Secretary in the DAE, Government of India. The respondents contend that as per the direction of the Tribunal in order dt. 9.6.1999, after quashing of the impugned order of the Disciplinary Authority, the disciplinary proceedings stand at the stage of issue of show cause notice to the applicant after recording of dis-agreement by the Disciplinary Authority ~~hence~~ earlier order dt. 26.11.1998 had been quashed. It is further stated that only after the completion of enquiry proceedings, the Disciplinary Authority i.e. Secretary, DAE will decide whether minor or major penalty is called for. In case if he comes to a conclusion *prima facie* that a major penalty is called for, then he will have to remit the file to the Prime Minister for further necessary action as per extant rules. The respondents, therefore, submit that there is no infirmity in

issue of show cause notice by the Disciplinary Authority i.e. the Secretary, DAE. The Respondents therefore stated that no Contempt of Court has been committed and the Contempt Application deserves to be dismissed.

4. The applicant has filed Rejoinder reply reiterating his submissions in the Contempt Application while rebutting the respondent's submissions. We have heard the arguments of Shri M.S.Ramamurthy and Shri R.R.Shetty for Shri R.K.Shetty, counsel for the applicant and respondents respectively.

5. After careful consideration of the rival submissions, we are of the considered opinion that the contention made by the applicant that contempt of court has been committed cannot be accepted. As per the order dt. 9.6.1999, the order dt. 26.11.1998 directing ~~the disciplinary authority~~ ^{the enquiry officer to conduct} ordering further enquiry was quashed but liberty was granted to the Disciplinary Authority to apply his mind to the Enquiry Report and then pass an order and issue show cause notice to the applicant as per Rules. The respondents have taken action accordingly by issuing show cause notice dt. 30.8.1999 by the same authority i.e. Secretary to Department of Atomic Energy. The applicant has sought to make out a case in the Contempt Application that the Respondent No.1 in the Contempt Application i.e. the Secretary, DAE is not the competent Disciplinary Authority for the applicant being Group 'A' Officer. We find this was not the issue in the earlier O.A. The applicant had not challenged the competence of the Disciplinary Authority who had passed the impugned order while challenging the same. It is not scope of Contempt Application to go into the merits of the compliance order passed by the respondents and then record findings. If the applicant is

aggrieved that Secretary, DAE is not the Disciplinary Authority for the applicant, then he can challenge the same separately, but cannot seek a decision on the same through Contempt Application. We find that respondents have acted as per the direction of the Tribunal and there is no Contempt of Court committed by them. In this connection, we refer to the Judgment of the Hon'ble Supreme Court in J.S.Parihar Vs. Ganpat Duggar and Ors. {1996 SCC (L&S) 1422} cited by the counsel for the respondents, wherein, the Hon'ble Supreme Court has held that merits of compliance of Court Orders cannot be examined in the Contempt Proceedings.

6. In the result of the above, we do not find any merit in the Contempt Application and the same is dismissed accordingly. No order as to costs. Contempt Notices are discharged.

S.L.Jain
(S.L.JAIN)
MEMBER(J)

D.S.Baweja
(D.S.BAWEJA)
MEMBER (A)

B.

dt 21/8/00
~~Order/Judgement Complied~~
~~to Applicant/Respondent (s)~~
~~on 28/8/00~~
30/8/00