

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

C.P.No.03/2014 in O.A.No.1327/1994

Date of Order 25th March, 2014

Between :

R.Gopala Rao
S/o Seshavataram
18-4-3, Kotla Bazar
Chirala-523 155
Prakasam District, AP.

... Applicant.

And

1. Shri. S.C.Misra, Member Services
Department of Telecommunications
Sanchar Bhavan, 20, Ashoka Road
New Delhi-110 001.
2. Shri. M.F.Farooqui, Secretary
Department of Telecommunications
New Delhi-110 001.(Representing U.O.I)
(R3, 4 & 5 are not necessary parties)

... Respondents.

Counsel for the Applicant ... Mr. R.Gopala Rao (party-in-person)
Counsel for the Respondents ... Mr.P.Wilson, ASG(representing Mr.G.Jayaprakash
Babu, Sr.CGSC for R1&2)

CORAM:

Hon'ble Mrs.Minnie Mathew ... *Member (Admn.)*

ORDER

(As per *Hon'ble Mr M Kanthaiah, Member (Judl.)* }

The applicant, party-in-person filed the present Contempt Petition under

Section 17 of Administrative Tribunals Act 1985 r/w Section 10 to 12 of Contempt of Courts Act, 1971 to punish the contemnors for violating the directions of the Tribunal in the main OA 1327/94 dated 26.07.2004. The applicant though filed the CP against the 5 respondents, he sought relief against the respondents 1 and 2 stating that the other respondents are only proforma parties and no relief sought against them.

2. The respondents 1 and 2 have filed their respective replies denying the claim of the applicant stating that they have complied the directions of the Tribunal and thus there is no violation for entertaining the contempt application.

3. Heard both sides.

4. The point for consideration is whether the applicant is entitled for the relief as prayed for.

challenged the impugned order of dismissal dated 10.08.1984 issued by the disciplinary authority and modification of the same by the appellate authority to one of compulsory retirement vide order dated 01.06.1985 and consequently direct the respondents to reinstate him into service with all consequential benefits. On completion of pleadings

and after due contest, the said OA was allowed on 26.07.2004 as follows :

13. In the result, this OA is allowed. The impugned orders passed by the Director, Telecom, Guntur dated 10.08.84 and the impugned order dated 1.6.85 passed by the 2nd respondent are hereby set-aside. As a consequence, the respondents are directed to reinstate the applicant into service. Liberty is reserved to the disciplinary authority to hold fresh inquiry, if he feels it necessary, after service of charge memo on the applicant. Depending on the result of the fresh inquiry to be conducted, the said authority may decide the question of granting any consequential benefits to the applicant. In case it is felt that no fresh inquiry need be held at this distance of time, the competent authority may decide the question of granting consequential benefits to the applicant as per rules, including regularization of absence period, by grant of such leave as may be admissible to the applicant. There shall be compliance with this order within a period of one month from the date of receipt of a copy of this order. In the circumstances, we direct the parties to bear their respective costs."

6. Aggrieved with such decision of this Tribunal, the respondents have filed Writ Petition before the Hon'ble High Court in W.P.No.16258/2004 and the same was dismissed on 24.06.2009. The respondents carried the matter in SLP to the Hon'ble Supreme Court in Special Leave to Appeal (Civil) No.27600/2009 and the same was dismissed on 07.03.2011. In pursuance of the directions of the Tribunal in the main OA, the 1st respondent has issued memo dated 17.08.2012 asking the applicant to submit his representation in respect of the consequential benefits intended to be granted to the same, the applicant submitted representation to the 1st respondent dated 28.02.2013 requesting to treat the period of absence as on duty for all purposes and thus claimed benefits. The 1st respondent after considering the representation of the applicant passed the order dated 16.07.2013 as follows :

Now therefore, having examined the representation of Shri R.Gopala Rao and records of the case and, I, S.C.Misra, Member (Services), Telecom Commission, hereby order that the period from 15.08.1984 to 30.06.2009 of service of Shri R.Gopala Rao shall be regularized by treating the entire period as qualifying service for the purpose of pension only and that he shall be paid pay and allowances equal to leave salary which he would have drawn, if he had been on leave on half average pay, or on half-pay, for the period from 15.08.1984 to 26.04.2004, and thereafter, i.e. for the period 27.07.2004 to 30.06.2009, the pay and allowances shall be paid by increasing the amount by 50 per cent."

7. Thereafter, the applicant filed the present CP stating that the order passed by the Tribunal dated 16.07.2013 is not in consonance with the direction given by the Tribunal in the OA dated 26.07.2004, thus stating that the respondents have violated the directions of the Tribunal, while implementing the same and thus stated that the authorities have committed an act of contempt. The respondents 1 and 2 have filed their reply stating that they have complied with the directions of the Tribunal and not committed any act of contempt.

8. A perusal of the portion of the judgement in OA.1327/94 clearly shows that the impugned order of dismissal of the applicant from service and the order dated 01.06.1985 issued by the appellate authority modifying the penalty into compulsory retirement are quashed and set aside with a direction to the respondents to reinstate the applicant into service. Further liberty is reserved to the disciplinary authority to hold fresh inquiry if he feels necessary, and to file a charge memo on the applicant and to conduct a fresh inquiry to be conducted, the said authority may

decide the question of granting any consequential benefits to the applicant. Admittedly no fresh inquiry has been held by the disciplinary authority and as such taking any decision basing on fresh inquiry does not arise. The judgement of this Tribunal also further says that in case no fresh inquiry need be held at this distance of time, the competent authority may decide the question of granting consequential benefits to the applicant as per rules, including regularization of absence period by grant of such leave as may be admissible to the applicant. Because of subjudice of the matter, there was no fresh inquiry conducted by the authority. In view of such reasons, the competent authority may grant consequential benefits to the applicant vide order dated 16.07.2013 after hearing the applicant by way of receiving his representation to the authority. In the order dated 23.07.2013 the respondents ordered that the period from 15.08.1984 to 30.06.2009 of service of the applicant shall be regularized by treating the entire period as qualifying service for the purpose of pension only and that he shall be paid pay and allowances equal to leave salary which he would have drawn, if he had been on leave on half average pay or on half-pay for the period from 15.08.1984 to 26.07.2004 and thereafter i.e. for the period from 27.07.2004 to 30.06.2009 the pay and allowances shall be paid by increasing the amount by 50 percent.

9. But it is the case of the applicant that such order of the 1st respondent dated 16.07.2013 is not in compliance of the directions given by the Tribunal.

stating that grant of such consequential benefits is not in accordance with rules.

10. The finding of this Tribunal in main OA i.e. OA.No.1327/1994 is clear in respect of grant of consequential benefits to the applicant in case there was no fresh enquiry. The order says giving liberty to the competent authority to decide the granting of consequential benefits as per rules including regularization of absence period by grant of such leave as admissible to the applicant. Accordingly the competent authority has taken decision vide order dated 16.07.2013 in respect of entitlement of such consequential benefits as per rules. But the applicant contends that the order is not in accordance with

Rules and thus find fault in respect of grant of consequential benefits to him. The scope of the contempt application is only in respect of compliance of the direction of the Tribunal dated 26.07.2004 but not in respect of correctness of grant of consequential

benefits and seeking finding on such issue is also not within the scope of contempt application. Thus the arguments advanced by the applicant on such grounds is not at all valid and justified, since liberty was given to the competent authority to decide the grant of consequential benefits as per rules.

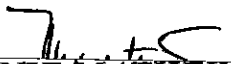
From the reading of the order dated 16.07.2013 issued by the competent authority, it is clear that the authorities have complied the direction of the Tribunal in OA.1327/1994 dated 26.07.2004 and if the applicant is aggrieved with such consequential

he is at liberty to file fresh OA. With such observation, the contempt

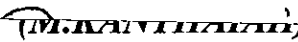
application has to be closed stating that there is no act of contempt on the part of the respondents.

11. The applicant relied on the decision of the Hon'ble Supreme Court reported in the case of *In Promotee Telecom Engineers Forum & others Vrs.D.S.Mathur, Secretary, Department of Telecommunications, 2008 Cr LJ 2999*. But the said decision is not applicable to the facts of this case on hand and further there is no act of contempt on the

12. In the result, contempt application is dismissed. NO ORDER AS TO COSTS.


(MINNIE MATHEW)
MEMBER (ADMN.)

sd/ps/


(M. K. MATHUR)
MEMBER (JUDL.)