

25.10.2007


CP 12/2007 (OA No.48/2004)

Applicant present in person.
Mr. Kunal Rawat, Counsel for respondents.

Heard learned counsel for the parties.

The CP is dismissed by a separate order, for the reasons recorded therein.


(J.P. SHUKLA)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

Jaipur, the 25th day of October, 2007

CONTEMPT PETITION NO. 12/2007
IN
ORIGINAL APPLICATION NO. 48/2004

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. J.P. SHUKLA, ADMINISTRATIVE MEMBER

Davendra Pal Singh son of Shri Amar Singh aged 49 years,
resident of 338-B, Gali No. 4, Raja Park, Jaipur.

Applicant present in person.

.....Applicant

Versus

1. Shri B.S. Darewal Let. General, The Engineer in Chief,
Army Head Quarters, Kashmir House, DHQ, PO New
Delhi.
2. Shri B.B. Sharma Major General, the Chief Engineer,
Head Quarters Southern Command, Engineering
Branch Cant Area, Jaipur.
3. Shri B.B. Dhamija, Chief Engineer, Jaipur Zone. Bani
Parki, MES, Jaipur.

By Advocate: Mr. Kunal Rawat

.....Respondents

ORDER (ORAL)

The Petitioner has filed this Contempt Petition for the
alleged violation of the order dated 28.03.2005, the operative
portion of which reads as under:-

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"In light of above, we feel that the punishment order dated 6.8.1994 (Ann. A/1) and appellate order dated 12.11.2003 (Ann. A/2) deserve to be quashed. Ordered accordingly. We further direct that applicant should be reinstated in service in his original post at the pay and allowances which he was drawing at the time of his dismissal from service, within one month from the date of passing of this order. For regularization of the period of absence, respondents may proceed as per extant rules."

2. The judgement of this Tribunal dated 28.03.2005 was not complied with. Respondents have filed Writ Petition before the Hon'ble High Court which was also subsequently dismissed. Notice of this Contempt Petition was issued to the respondents. Respondents have filed reply whereby it has been stated that applicant has now been reinstated w.e.f. 20.12.2006. Since judgment of this Tribunal was not fully complied with, opportunity was given to the respondents to re-consider the matter in the light of the judgment rendered by this Tribunal. Learned counsel for the respondents has now filed fresh Affidavit. Registry is directed to place the same on record.

3. Learned counsel for the respondents has drawn out attention to Para No. 6 of the reply affidavit whereby it has been stated that in compliance of the judgment passed by this Tribunal, applicant has been allowed wages for the period w.e.f. 31.03.2005 to 24.04.2007 and a sum of Rs.2,09,498/-

has been paid to the applicant vide Cheque No. 616841 dated 18.10.2007. Respondents have also enclosed photocopy of the cheque and the receipt of the applicant as Annexure R/1 and Annexure R/2 respectively.


4. Applicant does not dispute this fact. The grievance of the applicant is that pursuant to the quashing of the impugned order dated 06.08.1994 (Annexure A/1) and Appellate order dated 12.11.2003 (Annexure A/2), he was also entitled for the back wages. Further grievance of the applicant is that as per the order passed by this Tribunal, the applicant was to be reinstated on the original post from which his services were terminated i.e. the post of MT Driver Grade I whereas he has been reinstated on the post of CMT Grade II and was paid wages accordingly. Learned counsel for the respondents on having instructions from the Departmental representatives, who were present in the court, submitted that punishment order was passed against the applicant in the year 1994 and at that time he was holding the post of MT Driver Grade I and this post of MT Driver Grade I was re-designated as CMT Grade II w.e.f. 01.01.1996. As such, he was allowed to be reinstated on the said post. Applicant further submits that the

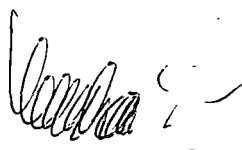
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persons who were re-designated as CMT Grade II were subsequently promoted as CMT Grade I and as such he ought to have been granted promotion to the said post.

5. We have heard the learned counsel for the parties. We are in Contempt Proceedings. We cannot decide this new contention/submission, which has now been raised by the applicant. We are only concerned of the compliance/non-compliance of the order passed by this Tribunal. We are satisfied that the order of this Tribunal has been complied with and in case the applicant has any grievance, as noticed above, he may file substantive OA. The decision of this Contempt Petition will not come ^{in this way} in way.

6. With these observations, this Contempt Petition is dismissed. Notices issued to the respondent are hereby discharged.


(J.P. SHUKLA)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ