

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 29.1.96.

CP 112/95 (OA 310/93)

Rajesh Kumar Sharma

... Petitioner

Versus

Shri R.C. Sharma

... Respondent

CORAM:

HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR. O.P. SHARMA, MEMBER (A)

For the Petitioner

... Mr. Akhil Simlote

For the Respondent

... Mr. V.S. Gurjar

O R D E R

PER HON'BLE MR. O.P. SHARMA, MEMBER (A)

Shri Rajesh Kumar Sharma has filed this Contempt Petition alleging that the respondent is flouting the orders of the Tribunal wilfully and intentionally, passed on 2.3.94 in OA 310/93, Rajesh Kumar v. Union of India and others. He has prayed that the respondent may be suitably punished for not implementing the order of the Tribunal, as aforesaid.

2. In the order dated 2.3.94, passed in OA 310/93 (Ann.A-1), the Tribunal had directed that if the applicant fulfills the requisite qualification etc. for the post of Meteorological Observer/Messenger and if there is a vacancy, his case may be considered for regularisation in the said post within a period of three months from the date of receipt of a copy of the order.

3. The case of the petitioner is that after the petitioner served a copy of the said order on the respondents, the respondent in the Contempt Petition sent a letter dated 29.3.95 to the petitioner stating that no full time departmental observatory has been established at Tizara and no regular post of Observer/messenger exists there and, therefore, the question of a vacancy at Tizara does not arise. Accordingly, the petitioner was informed that his case for regularisation in the post occupied by him was not possible under the existing rules. According to the petitioner, the respondents were expected to have adjusted the petitioner on any post but just in order to flouting the order of the Tribunal they have refused to consider the candidature of the petitioner and this action of the respondents is nothing but contempt of the order of the Tribunal, for which they

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deserve to be punished. The petitioner has added that he served a notice dated 5.5.95 (Ann.A-3) on the respondent but this has been in vain.

4. The respondent has filed a reply to the Contempt Petition, in which he has taken certain preliminary objections to the maintainability of the Contempt Petition apart from rebutting the averments of the petitioner on merits.

5. During the arguments, the learned counsel for the petitioner was asked to clarify why the Contempt Petition filed on 4.7.95 should not be treated as time barred because the order passed by the Tribunal is dated 2.3.94. The learned counsel for the petitioner stated that the Contempt of Tribunal was committed by the respondents by passing order dated 29.3.95 whereby they have not implemented the directions of the Tribunal in their true spirit. According to him, the direction of the Tribunal was not for consideration of the case of the petitioner for the Observatory at Tisara but his case was to be considered for any place or posting under the respondent. On receipt of reply (Ann.A-2 dated 29.3.95) the petitioner had also served a notice Ann.A-3 dated 5.5.95, through his counsel, calling upon the respondent to consider the case of the petitioner strictly in terms of the order passed by the Tribunal but this has also failed to evoke any satisfactory response from the respondent. He concluded by stating that in the order of the Tribunal no date had been fixed for the petitioner for submitting any representation to the respondent with regard to his prayer and that the petitioner had submitted representation on 9.1.95 and it was in response thereto that the respondent issued order Ann.A-2 dated 29.3.95 declining to consider the case of the petitioner in terms of the directions issued by the Tribunal. Therefore, according to him, the question of reckoning limitation with reference to the date of the order of the Tribunal did not arise in so far as this case is concerned.


6. We have heard the learned counsel for the parties and have perused the material on records.

7. As already stated above, the Tribunal's order is dated 2.3.94 (Ann.A-1) and a direction was given to the respondents to consider the case of the petitioner within a period of three months from the date of receipt of a copy of the order. The date on which copy of the order was received by the petitioner has not been indicated by the

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petitioner. The limitation, in the circumstances, has to be reckoned from the date of the passing of the order with a period of three months, during which the order was required to be complied with, added to it. Thus, the Contempt Petition ought to have been filed by 1.6.95. Section 20 of the Contempt Of Courts Act, 1971, provides that no court shall initiate any proceedings of contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed. As per the order passed by the Tribunal, the contempt could be said to have been committed, if at all, on 1.6.95, when no compliance to the order of the Tribunal, which was satisfactory to the petitioner, had been made by the respondent. The petitioner is not entitled to consider the limitation from the date of a communication sent by the respondent to the petitioner, regardless of the date of the Tribunal's order and the time granted to the respondent for complying with the order of the Tribunal. In our view, the petitioner's sending a notice through his counsel to the respondent subsequently will also not make any difference to the situation and in any case will not extend the period of limitation. In the circumstances, we hold that this Contempt Petition is time barred and it is rejected accordingly.

  
(O.P. SHARMA)  
MEMBER (A)

  
(GOPAL KRISHNA)  
VICE CHAIRMAN

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