

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

C.P.No.44/95

Dt. of order: 28-03-1995

Kanhiya Lal Maena

: Applicant

Vs.

Mr.R.K.Takkar & Anr.

: Respondents

Mr.Surendra Singh

: Counsel for applicant

CORAM:

Hon'ble Mr.Gopal Krishna, Member(Judl.)

Hon'ble Mr.O.P.Sharma, Member(Adm.)

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

In this application, which has been described as a Contempt Petition, the applicant/petitioner has prayed that the respondents may be directed to implement the Tribunal's order dated 17.3.'93 passed in T.A. No.119/87 whereby the judgment and decree dated 5.5.81 passed by the learned Additional Munsif Magistrate, Court No.2, Jaipur city, Jaipur in Civil Suit No.169/78 was up-held.

2. There is no provision in the Administrative Tribunals Act, 1985, under which the Tribunal can secure implementation of its orders. The only mode available is that of filing a Contempt Petition or by the Tribunal taking a suo moto notice of nonimplementation of its orders and there upon initiating contempt proceedings. Since the present application has itself been described as a Contempt Petition by the applicant, we treat it as a Contempt Petition and proceed accordingly.

3. The circumstances leading to filing of this Contempt Petition as stated by the applicant are that by an order dated 8.1.'75, a penalty of stoppage of 3 increments without cumulative effect was imposed on the applicant. The appeal preferred by the applicant was rejected by the appellate authority who in fact enhanced the penalty. The Reviewing Authority restored the penalty to the one originally imposed by the Disciplinary Authority. On account of the disciplinary proceedings and the penalty imposed, the applicant could not be promoted as Telephone Operator. The applicant filed a civil suit against the disciplinary proceedings in which he was challenged the denial of promotion to him. The learned Additional Munsif Magistrate, Court No.2, Jaipur City, Jaipur, vide his

judgment and decree dated 5.5.'81 set aside the orders passed by the departmental authorities in disciplinary proceedings and declared that the penalty imposed will not have any effect on the applicant's promotion. The respondents filed an appeal against the judgment of the learned Additional Munsif Magistrate before the District Judge, Jaipur District, Jaipur, which was transferred to the Tribunal and registered as T.A.No.119/87. The Tribunal by its order dated 17.3.'93 (Annx.A2) dismissed the appeal and upheld the order passed by the learned Additional Munsif Magistrate. The Tribunal's order was partially implemented by the respondents by their order dated 2.9.'93 (Annx.A3) but the applicant has not been granted promotion as Telephone Operator, although the learned Addl. Munsif Magistrate had declared that the penalty order will not have any adverse effect on his promotion. Several juniors of the applicant have been promoted. The applicant served a notice dated 19.5.'94 on the respondents but the reply dated 3.8.'94 given by the respondents (Annx.A4) is incorrect. Accordingly, the applicant desires that the Tribunal should direct the respondents to implement its order dated 17.3.'93 (Annx.A2).

4. We have heard the learned counsel for the applicant on the point of admission and have gone through the material on record.

5. The learned counsel for the applicant stated that the order of the learned Addl.Munsif Magistrate got merged with the order of the Tribunal passed on 17.3.'93. Therefore, what the applicant is now seeking to have implemented is not the judgment and decree of the learned Additional Munsif Magistrate but the judgment of the Tribunal dated 17.3.'93. According to him, there is no limitation for filing an application for initiation of contempt proceedings for non-implementation of the Tribunal's order. He added that if however the Tribunal is of the view that the applicant should move to the learned Addl.Munsif Magistrate for implementation of his judgment and decree, it may order accordingly so that the applicant can take necessary action thereafter.

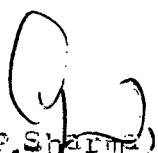
6. We have considered the matter carefully. In our view, it is not necessary for us to decide in this case the question whether the judgment and decree of the learned Addl.Munsif Magistrate got merged with the order of the Tribunal Annx.A2 dated 17.3.'94, and whether the applicant should move for implementation of the order of the learned Addl.Munsif Magistrate at this stage or whether he can move a contempt application on account of non-implementation of the order of the Tribunal. If the applicant were to approach this Tribunal for implementation of the judgment and decree of the learned Addl.Munsif Magistrate, the said judgment and decree were passed on 5.5.'81 and therefore the Tribunal cannot direct the applicant to move for implementation of the judgment and decree which was passed in '81 even if it is assumed that the Tribunal has the power to direct implementation of the judgments and decrees passed by the judicial authorities in the suits tried by them. As far as this case is concerned, the Tribunal upheld ~~by Annx~~ the said judgment and decree. The learned counsel for the applicant argued that the judgment and decree of the learned Addl.Munsif Magistrate got merged with that of the order of the Tribunal dated 17.3.'93 and the present Contempt Petition is ^{for} securing implementation of the Tribunal's order. Even if it is so, the Tribunal's order is dated 17.3.'93 whereas the present contempt application has been filed on 10.2.'95. Sec.20 of the Contempt of Courts Act, 1971, reads as under:

"20. Limitation for action for contempt.-No Court shall initiate any proceedings for 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."

Since the application for contempt has been filed by the applicant long after the expiry of the period of one year from the date of passing of the order by the Tribunal, this application is liable to be rejected on the ground of limitation alone. It may be added here that Sec.17 of the Administrative Tribunals Act, 1985, which confers on this Tribunal the power to punish for contempt expressly states that the provisions of the Contempt of Court Act, 1971 shall apply subject to certain modifications mentioned in that section.

As far as the limitation is concerned, there is no modification provided therein in respect of the position in Sec.20 of the Contempt of Courts Act. Therefore, this Tribunal in exercising its powers to punish for contempt has to have regard to the provisions of Sec.20 of the Contempt of Courts Act. No justifiable ground for approaching the Tribunal for a contempt at such a belated stage was given and on the other hand the argument of the learned counsel for the applicant was that there is no limitation for filing contempt applications which is a clearly untenable ground in view of the provisions of Sec.20 of the Contempt of Courts Act.

7. We accordingly reject this application for contempt on the ground of limitation at the admission stage.


(O.P.Sharma)
Member (A).


(Gopal Krishna)
Member (J).