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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

C.P.No.48/95

Date of order: 16/11/99

In O.A No.509/89

Hanuman Sahai Sharma, S/o Shri Chhitermal Sharma, R/o E428, Prem Nagar, Jhotwara, Jaipur

...Petitioner.

Vs.

1. Shri P.N.Uppal, Chief General Manager, Telecom, Rajasthan Circle, Sardar Patel Marg, Jaipur.
2. Shri R.K.Gupta, General Manager Telecom District, M.I.Road, Jaipur.

...Respondents.

Mr.P.V.Calla - Counsel for petitioner

Mr.U.D.Sharma - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.N.P.Nawani, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

This is an application under Sec.17 of the Administrative Tribunals Act, 1985, arising of the order passed in O.A No.509/89 dated 28.4.94. This Tribunal vide its order dated 28.4.94, issued the following directions:

"10. We direct that the applicants may also be given notional benefits from those dates in 1974 and 1976... However, it is not a workable proposition to deny benefits of seniority for the period during which their promotion stood refused. Hence notional seniority may be granted to them on the assumption that they had not refused promotion. Since there are different dates on which the applicants would be eligible for their notional seniority during 1974 to 1976 and since there are different dates on which their promotion orders were passed, which were refused by them, the respondents shall have to work out the position precisely with a view to properly implement this order. The respondents shall take necessary action in the light of the above directions within a period of six months from today."

2. It is stated by the petitioner that the judgment of the Tribunal dated 28.4.94 was not complied with by the opposite parties with a view to harass the applicant. Therefore, a prayer has been made to punish the alleged contemners for contempt.

3. Reply was filed by the alleged contemners. It is stated by the opposite parties in the reply that the respondents with a view to implement

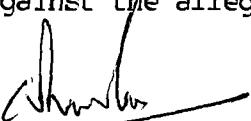
the order dated 28.4.94 had issued order 18.8.94 wherein the petitioner had been shown at Sl.No.1 with the date of promotion as 1.4.1975. Thus the petitioner has admitted the fact that the respondents by issuing the said order dated 18.8.94 had implemented the order dated 18.4.94 passed by this Tribunal. It is further stated that the respondents issued the order dated 18.8.94 for implementing this Tribunal's order and the petitioner has received an amount of Rs.40,151/- on refixation of the pay. Therefore, the opposite parties have complied with the orders of this Tribunal and the contention of the petitioner that the opposite parties have disobeyed or flouted the orders of this Tribunal is wrong. The order dated 18.8.94 was issued in bona fide compliance of the orders passed by this Tribunal, therefore, the present Contempt Petition has no merit and deserves to be dismissed.

4. Heard the learned counsel for the parties and also perused the whole record.

5. Disobedience of Court's orders constitute contempt only when it is wilful or deliberate. It is the duty of the applicant to prove that the action of the alleged contemners to disobey the order of this Tribunal was intentional. If this is not proved, then it can be said that the petitioner failed to establish the contempt against the alleged contemners. Merely that the alleged contemners did not comply with the orders of this Tribunal in time is not sufficient unless it is proved that the delay is intentional or deliberate.

6. In the instant case no wilful/deliberate disobedience of this Tribunal's order/direction could be established by the petitioner against the opposite parties. Merely that the compliance was not done in time is not sufficient to hold that the delay was intentional or deliberate. If the opposite parties has bona fide complied with the orders although according to the petitioner the order has not been complied with fully does not mean that there was deliberate and wilful disobedience of the orders of this Tribunal. Therefore, we are of the considered opinion that the petitioner failed to make out a case of wilful/deliberate disobedience on the part of the opposite parties.

7. We therefore, dismiss this Contempt Petition and the notices issued against the alleged contemners are hereby discharged.


(N.P.Nawani)

Member (A).


(S.K.Agarwal)

Member (J).