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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 18/7/2000

CP 21/98 (OA 404/95)

R.R.Das, retired Supdt. in the O/o Salt Commissioner, Jaipur.

... Applicant

Versus

- 1., Shri T.R.Prasad, Secretary, Department of Industries, Udyog Bhawan, New Delhi.
2. Shri R.Prakash, Salt Commissioner, Lavan Bhawan, 2-A, Lavan Marg, Jhalana Doongri, Jaipur.

... Respondents

CORAM:

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

HON'BLE MR.S.BAPU, ADMINISTRATIVE MEMBER

For the Petitioner

... Mr.P.P.Mathur, proxy counsel
for Mr.R.N.Mathur

For the Respondents

... None

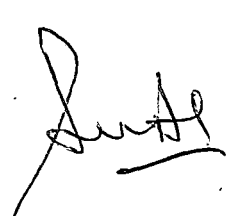
O R D E R

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

This Contempt Petition has arisen out of an order dated 27.11.97 passed in OA 404/95.

2. In the aforesaid OA, decided on 27.11.97, this Tribunal gave following directions :-

"In the circumstances of the case we direct the respondents to consider the case of the applicant for promotion to the post of Assistant with effect from the date on which Shri Malhotra's case was considered for promotion and shall thereafter pass necessary order granting the notional promotion to the applicant if he is found eligible in accordance with the extant rules, on the post of Assistnat. The applicant shall be granted notional revision of pay, etc. and be granted necessary pensionary benefits to him, as he retired from service on 31.12.1993. Annx.A1 dated 1.3.1985, rejecting the applicant's representation is quashed. The respondents shall implement this order within 4 months from the date of the receipt of a copy of this order."

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3. It is stated by the petitioner that the opposite parties wilfully and deliberately did not obey the order of this Tribunal dated 27.11.97 and,

therefore, committed contempt.

4. Show-cause notice was given to the opposite parties and reply was filed. In the reply it is stated that in compliance of the order of this Tribunal, passed on 27.11.97, the respondents have issued an order dated 25.3.98, by which the compliance was made by the respondents of the directions given by this Tribunal, as referred above. Therefore, the respondents have not committed any contempt and this CP having no merits is liable to be dismissed.

5. Heard the learned counsel for the petitioner and also perused the whole record.

6. It is an admitted fact that in pursuance of the directions given by this Tribunal, on 27.11.97, the respondents have issued an order dated 25.3.98. The learned counsel for the petitioner submits that it is not full compliance of the order passed by this Tribunal on 27.11.97.

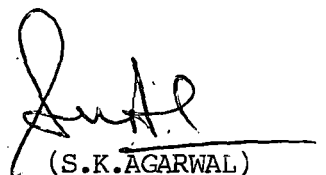
7. Disobedience of court's order amounts to contempt only when it is deliberate and wilful. Unless the petitioner establishes the fact that there was a deliberate and wilful disobedience on the part of the respondents, no action for contempt is sustainable in law. Merely that there was a different interpretation on the part of the petitioner regarding compliance of the order passed by this Tribunal does not amount to contempt. It is the bounden duty on the part of the petitioner to establish the fact that there was wilful and deliberate disobedience on the part of the respondents. If the petitioner fails to establish the fact of deliberate and wilful disobedience, contempt application fails. In Indian Airport Employees Union v. Ranjan Chatterjee, SLR 1999 (1) SC 612, it was held by Hon'ble the Supreme Court of India that in order to prove civil contempt there must be wilful disobedience. If there is no proof of flouting the orders of the court deliberately, there could not be a case of contempt. Mere misrepresentation of executive instructions will not be sufficient to hold guilty for civil contempt. In the instant case, the petitioner failed to establish any deliberate or wilful disobedience on the part of the opposite parties. Therefore, we are of the considered opinion that no case of contempt could be established against the respondents/opposite parties. Therefore, this CP fails and is liable to be dismissed.

8. We, therefore, dismiss this contempt petition and the notices issued against the opposite parties are hereby discharged.



(S.BAPU)

MEMBER (A)



(S.K.AGARWAL)

MEMBER (J)