

(10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

C.P No.3/2000

Date of order:15.2.2001

Nahan Singh Gurjar, S/o Sh.Hukam Singh Gurjar, working as Messenger, O/o Chief Engineer (North Zone)-III, CPWD, Jaipur, R/o Bhondagaon, Teh Vair, Bharatpur.

...Petitioner.

Vs.

1. Sh.Vijay Kumar, Dy.Director cum Deputy Secretary, CPWD, Nirman Bhawan, New Delhi.
2. Shri D.N.Bhargava, Chief Engineer, North Zone-III, CPWD Nirman Bhawan, Sector 10 Vidyadhar Nagar, Jaipur.
3. S;hri L.R.Yadav, Asstt.Director (Official Language) CPWD, Nirman Bhawan, Vidyadhar Nagar, Jaipur.

...Respondents.

Mr.P.V.Calla - counsel for the applicants.

Mr,T.P.Sharma - Counsel for respondents.

CORAM:

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

Hon'ble Mr.Gopal Singh, Administrative Member.

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

This Contempt Petition has arisen out of an order passed in O.A No.562/99 dated 15.12.99.

2. In O.A No.562/99, Nahan Singh Vs. Union of India, this Tribunal on 15.12.99, issued the following interim order:

"In view of the submissions made by the learned counsel for the applicant, we direct that order of termination dated 30.11.99 is hereby stayed so far as the applicant of this O.A is concerned till the next date."

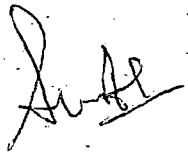
3. It is stated by the petitioners that the opposite parties have wilfully and deliberately disobeyed the orders passed by this Tribunal, therefore, they should be punished for contempt.

4. A show cause notice was given to the opposite parties

and reply was filed. In the reply, it is stated that the services of the applicants were terminated by order dated 30.11.99 in terms of the provisions of Rule 5(1) of the CCS (Temporary) Service Rules, 1965 and notice of termination was sent on 2.12.99 on registered post. It is stated that after issuance of the interim order dated 15.12.99 by this Tribunal, an instruction was given to move an application for vacation of stay and in pursuance of that an application for vacation of stay was filed, which is pending. It is also stated that the O.A pending before Principal Bench of the Tribunal at New Delhi, was dismissed after considering the averments made by the parties. Therefore, the respondents' department did not commit any illegality in issuing the order dated 30.11.99 for cancellation of the appointment order under Rule 5(1) of the CCS (Temporary) Rules, 1965. It is stated that the alleged contemnors are having highest regard for this Tribunal and there has not been any wilful and deliberate disobedience on the part of the opposite parties. Therefore, it is requested that the Contempt Petition be dismissed.

5. Heard the learned counsel for the parties and also perused the whole record including the averments made by the parties.

6. On a perusal of the interim order dated 15.12.99 passed by this Tribunal, it appears that the request of the applicant was for staying the operation of order of termination dated 30.11.99 and support of the contention of the counsel for the applicant has referred O.A No.2568/99 pending before the Principal Bench of the Tribunal at New Delhi in which the Principal Bench has stayed the operation of the order of termination and submitted that in the instant case the applicant is similarly situated, therefore, in view of the above submissions, the interim order was issued staying the

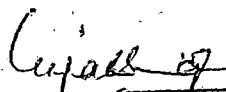


operation of the order dated 30.11.99, till the next date. Admittedly, the O.A as referred by the counsel for the applicant was dismissed by the Principal Bench, as per the averments made by the opposite parties to which no counter was filed. Therefore, in view of O.A No.2568/99 pending before the Principal Bench, has already been dismissed, we are of the view that there cannot be any wilful and deliberate disobedience on the part of the opposite parties.

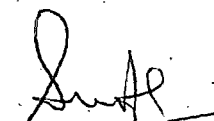
7. Disobedience of the Tribunal's order amounts to contempt only when it is wilful and deliberate. If the action of the opposite party is not deliberate and wilful, no contempt can be said to have been established.

8. In the instant case, we are of the considered view that the petitioners failed to establish wilful or deliberate act on the part of the opposite parties. Therefore, this contempt petition fails.

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


(Gopal Singh)

Member (A).


(S.K. Agarwal)

Member (J).