

CENTRAL ADMINISTRATIVE TRIBUNAL

JABALPUR BENCH, JABALPUR

Caravs Building, 15, Civil Lines, Post bag No. 6, JABALPUR- 482 001

Dated 24.4.06

Registration No. CCP46/05

Ritesh Kumar Gupta Applicant (s)

VERSUS

A.K. Ambastha Respondent (s)

A copy of the ORDER dated 4.4.06 passed by the Hon'ble Tribunal in the above mentioned case is forwarded herewith for necessary action.

4.4.2006

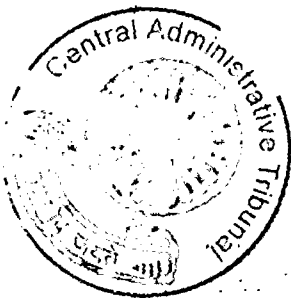
Applicant by Shri R. Shrivastava.

The learned counsel for the applicant has stated that memo of parties have been amended and the officer who is at present ^{in service} serving has been impleaded.

By order dated 15th July, 2004 in OA No. 30/2003 the Tribunal has quashed the orderx dated 19.7.2002 and have given the following directions :

"5. After hearing the learned counsel for both sides and carefully perusing the records, we find that the arguments advanced by the applicant's counsel is that the applicant's case has been considered for appointment on compassionate grounds under the policy of 1998. The applicant's father died in the year 1996. Hence his case should have been considered under earlier policy of 1987. This argument advanced by the learned counsel for the applicant seems to be legally correct. The applicant has relied upon the judgement of the Tribunal in OA No. 20/03 dated 28.10.2003 and the judgement of the Hon'ble High Court of Madhya Pradesh in the case of T. Swami Das Vs. UOI & Ors. Hence this OA is allowed. Impugned order dated 19.7.2002 is quashed and set aside and the respondents are directed to consider the application of the applicant for appointment on compassionate grounds according to the policy of 30.6.1987 and in view of the aforesaid order of CAT in OA No. 20/03 and the ruling of the Hon'ble High Court of MP, within a period of three months from the date of receipt of the copy of this order. No costs."

The present application is filed by the applicant ~~complainant~~ complaining that the
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order of the Tribunal has been wilfully disobeyed and the respondents are in contempt and should be punished under the Contempt of Courts Act.

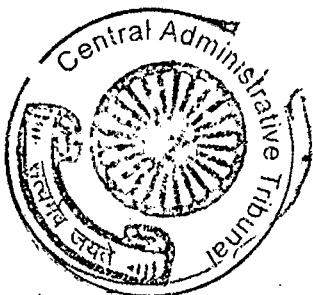
Notices were issued to the respondents. In the meantime the noticee was transferred and another officer has joined the post. He was allowed to be brought on record. Notices has not been issued to him as yet.

A perusal of the file shows that in compliance with the aforesaid order of this Tribunal the respondents had passed a detailed order dated 22nd December, 2004, copy of which is at Annexure C-5, by which the respondents have rejected the claims of the applicant on merit.

The learned counsel for the applicant has submitted that the Tribunal vide its order dated 15th July, 2004 has directed the respondents to decide the claim of the applicant in accordance with the policy dated 30th June, 1987 and in view of the order of this Tribunal and the Honble High Court of MA. It is submitted that instead of taking note of the policy dated 30th June, 1987 the respondents have decided the case of the applicant on the basis of the latest policy dated 5.5.2003. He has submitted that on the basis of the earlier policy 20% vacancies were reserved for compassionate appointment, whereas as per the latest policy only 5% vacancies are reserved for compassionate appointment which has caused prejudice to the right of the applicant. The respondents have not complied with the directions of the Tribunal.

We have given due consideration to the ^{submissions} ~~arguments~~ made on behalf of the applicant. On perusal of the order dated 22nd

Contd.....



December, 2004 it does not show that the case of the applicant for compassionate appointment has been considered and decided on the basis of OM dated 5.5.2003. This OM has been referred in the last paragraph of this order simply to state that as per the latest ~~MX~~ policy the name of the candidate is to be kept ~~XX~~ under consideration for compassionate appointment for three years and the committee will review the penurious condition of the applicant at the end of the first and second year, and after three years, if compassionate appointment is not possible, the case will be finally ~~XX~~ closed and will not be considered again.

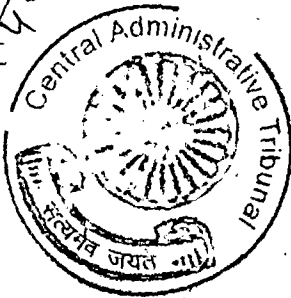
But this is not the only reason the claim of the applicant has been rejected. ~~XX~~ It has been rejected on consideration of other factors also. The Tribunal in a contempt proceeding cannot go into the merit of the order whether it is sustainable in accordance with the rules and instructions applicable or not. It can be decided only in a substantive petition if this order is challenged.

Having regard to the above contentions we do not find that the contempt ~~XXXXXXXXXX~~ proceedings should proceed any further in the matter. Therefore, we dismiss the contempt petition and discharge the notices.

However, we grant liberty to the applicant to challenge the order dated 22nd December, 2004 in an appropriate proceedings in accordance with law.

(Dr. G.C. Srivastava)
VC

(M.A. Khan)
VC



सत्य प्रतिलिपि

उप रजिस्ट्रार
DY. REGISTRAR
केन्द्रीय प्रशासनिक अधिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL
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JABALPUR BENCH, JABALPUR

To
Sh. Ramesh Chandra V. D. V.
Dr.
DBA

Filed
24.12.06