

CENTRAL ADMINISTRATIVE TRIBUNAL
AMHEDABAD BENCH

C.P. NO. 30/2016 in OA No. 552/2016

Dated the 24th September, 2018

CORAM :

Hon'ble Ms. Archana Nigam, Member (A)

Hon'ble Sh. M.C. Verma, Member (J)

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Shri Ladharam S/o Shri Prabbudas Talsani Aged about 60 years, Ex. Assistant of the respondents, residing at L/5/54, Nav Nirman Nagar, Pragati Nagar, Naranpura, Ahmedabad- 380 013.**Applicant**
(By Advocate : Mr. M.S.Trivedi)

VERSUS

1. Shri U. Venkateswarlu, The Financial Commissioner, O/o F.C., (A/cs-IV) ESIC, Ministry of Labour & Employment, Government of India, CIG Marg, New Delhi – 11 0001.

2. Shri Akshay Kala, or his successor, Regional Director, O/o RD, ESIC, Ministry of Labour & Employment, Government of India, Ashram Road, Ahmedabad – 380009. ...Respondents

(By Advocate:None)

O R D E R (ORAL)

Per M.C.Verma, Member (Judicial)

The instant Contempt Petition has been preferred by applicant Shri Ladharam Prabbudas Talsani for alleged non-compliance and violation of order dated 10th August, 2016 passed in O.A. No. 552/2016 by this Tribunal. Operative portion of said order passed in O.A. No. 552/2016 reads as under:

“4. Looked at from this view point there is no reason for this Tribunal to interfere in the case at this point of time. However, we are of the opinion that it would be appropriate to consider the reply of the applicant dated 1.7.2016 vide Annexure A/8 and take a final view in the case as expeditiously as possible, but not later than two months of receipt of copy of this order. As the applicant's

retirement benefits are withheld, the respondents are further directed that the given time frame should be strictly adhered to.”

2. The brief controversy in case in hand is that applicant while working as Assistant retired on superannuation on 30.6.2016 and on even date of his retirement, he was issued a Memorandum of Charges i.e. on 30th June, 2016 for the incident of 2009. The applicant had denied the charges and prayed for personal hearing. Since applicant's pensionary were not released, therefore, he has filed OA No. 552/2016 which was disposed of by this Tribunal on 10.8.2016 directing the respondents to consider applicant's reply to the Memorandum of Charges dated 1.7.2016 (Annexure A/8) and take a final view in the case as expeditiously as possible, but not later than two months of receipt of copy of this order. Applicant did not receive any response from the respondent. Thereupon, a legal notice was sent by the applicant through his Advocate in October 2016 mentioning therein that if the respondents are failed to release all legal dues of his client within 10 days from the date of receipt of this notice and fail to obey, implement, comply with the

directions of the Learned Tribunal, his client/applicant will constrain to take file, lodge appropriate contempt proceedings against them.

3. After part arguments, learned counsel for applicant submits that he is not pressing this Contempt Petition and that appropriate order may be passed.

4. Considered the submissions and perused the record. It is evident that this Tribunal had given directions to the respondents to consider Annex. A/8 of O.A. No. 552/2016 and to decide the same expeditiously latest in two months from date of receipt of the order passed. It is not obvious from record as to when respondents receive the copy of order passed in O.A. No. 552 of 2016 nor from material available it can be construed to. Applicant has sent legal notice to respondents through his counsel which is Annexee-2 of the C.P. but unfortunately date mentioned therein is not legible and only it can be said that it was sent on October 2016. Respondents at present have considered and have taken decision on Annexure A-8 of O.A. No. 552/2016 and the order therein has been passed on 8.11.2016.

5. Legal notice to respondents was given by applicant through his counsel Mr. M.S.Trivedi, Advocate, who is also the advocate of applicant in this C.P. Notice appears to be suffering from exaggeration and is not revealing the true spirit of order passed in O.A. No. 552/2016. As noted above, the only direction of the Tribunal was to consider Annex. A/8 of O.A. as expeditiously as possible, but not later than two months but notice is reflecting colourful use of the order passed. The content of notice indicates that cunningly what has not been stated in the Order was tried to be posed as part and parcel of order passed by the Tribunal. The relevant extract of legal Notice given by applicant to respondent of O.A. is reproduced verbatim hereinbelow :

“ I, undersigned M.S. Trivedi, advocate, on behalf of and under the instructions of my client Shri L.P. Talsani, Ex. Assistant of your office, who retired w.e.f. 30.6.2016, give you this notice as under:

1.xxxx

2.xxxx

3.xxxx

4. I, therefore, hereby call upon you and inform you that if you will fail to release all legal dues of my client within 10 days from the date of receipt of this notice and fail to obey, implement, comply with the directions of the Learned Tribunal, my client will constrain to take file, lodge appropriate contempt proceedings against you at your risk and responsibilities, take note of it.”

6. At the cost of repetition it is noted herein again that Annexure A/8, which was directed to be considered have since been considered and has been disposed of by the respondents on 8th November, 2016. From material available on record, it cannot be held that order dated 8th November, 2016 was wilfully violated or was wilfully disobeyed by the respondents and rather on other hand it appears that legal notice issued to respondents by applicant, through his counsel, as noted above, was not in consonance of spirit of order passed by the Tribunal and is indicative of colourful exercise under the camouflage of order of Tribunal. It appears that applicant tried to intimidate the respondents by wrongly representing the context. If a person misused the order passed by the Tribunal and/or deliberately mistorted the content of the Order, which in fact was not the part of the order, definitely can said to commit Contempt. It was inquired from the learned counsel Mr. M.S.Trivedi why the contempt proceeding be not initiated against the persons who appears to have misused the order and Learned counsel apologising for the way in which order passed by the Tribunal

was used in the Notice, requested to close further proceedings in the matter.

7. In this view of the matter, proceedings of instant C.P. No. 30/2016 are dropped and C.P. is dismissed accordingly. Notice issued to the respondents are discharged.

[M.C.Verma]
Member (J)

[ArchanaNigam]
Member (A)

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