

**Central Administrative Tribunal
Principal Bench**

**CP No.229/2016
in
OA No.3327/2013**

New Delhi, this the 7th day of October, 2016

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. V.N. Gaur, Member (A)**

P.C. Mishra, DANICS/Joint Director (Retd.),
Agricultural Marketing,
Govt. of NCT of Delhi,
R/o 186-F, 2nd Floor, Arjun Nagar,
Safdarjung Enclave,
New Delhi-110 029.

...applicant

(In person)

Versus

1. Rajiv Meharshi,
Secretary to Govt. of India,
Ministry of Home Affairs,
UTS-II, North Block,
Central Secretariat,
New Delhi-01.
2. Mrs. Paul,
Secretary,
President Secretariat,
President of India,
New Delhi.
3. Sh. K.K. Sharma,
Chief Secretary,
Govt. of NCT of Delhi,
5th Level, Delhi Sectt.
I.P. Estate,
New Delhi-02.
4. Ms. Soumya Gupta,
Director, Agricultural Marketing,
Govt. of NCT of Delhi,
49, Shyam Nath Marg,
Old Secretariat,
Delhi-110 054.

...respondents

(By Advocate : Shri R.N. Singh)

ORDER (ORAL)

Mr. Justice Permod Kohli, Chairman:

Vide order dated 03.07.2015 passed in OA No.3327/2013, following directions were issued :-

“26. Hence, rejection of the claim of the applicant, vide Order dated 04.03.2014, is contrary to the Rule propounded in Mahinder Dutt Sharmas case (supra). Therefore, we have no option but to set-aside the order dated 04.03.2014, with the following order:

a) The order dated 04.03.2014 is set aside, as it is contrary to the law laid down by the Honble Apex Court, i.e., parameters mentioned in para 13 of the case of Shri Mahinder Dutt Sharma (supra), referred to herein before.

b) The applicant is directed to submit a fresh application giving full particulars of his ownership of property, including family members, within a period of one month from the date of receipt of a copy of this order and thereafter, the respondents are directed to consider the representation of the applicant in terms of the parameters mentioned in para 13 of the case of Mahinder Dutt Sharma (supra), referred to hereinbefore, within one month from the date of receipt of such representation.

c) The OA is disposed of in terms of the aforesaid directions. There shall be no order as to costs.”

2 The respondents have, now, filed compliance affidavit dated 27.09.2016 accompanied with the copy of the order dated

23.09.2016, rejecting the representation of the applicant for grant of compensatory pension with the following averments :-

- “i. The case of Shri Mahinder Dutt Sharma was a case of unauthorized absent on account of personal/ domestic problems which deserves sympathy, whereas in your case, you were convicted by the Court of Special Judge-IV (PC Act) CBI, Tis Hazari, Delhi for commission of an offence under Section 7 of the Prevention of Corruption Act, 1988 vide order dated 24.05.2010 in connection with demand of bribe while working as Assistant Commissioner, Sales Tax Deptt. Further, you were also held guilty for commission of an offence under Section 13(1) (d) of Prevention of Corruption Act, 1998.
- ii. You were awarded the punishment vide order dated 26.05.2010 by the Court of Special Judge-IV (PC Act) CBI, Tis Hazari, Delhi, to undergo rigorous imprisonment for two years in respect of each count i.e. one u/s 7 of the Act and the other u/s 13(1) (d) read with Section 13(2) of the Act. Since you got retired on superannuation on 30.6.2010, as a result, penalty of withhold 100% pension as well as forfeiture of full gratuity on permanent basis has been imposed.
- iii. In the representation (as mentioned in para 12(E) of the judgments dated 03.07.2015) it was stated that **“The applicant does not have any house/property in Delhi or elsewhere in India and presently living in rented accommodation in trans jamuna area in a poverty striking condition.”** Whereas, in every representation, the residence address is mentioned as H.No.186-F, 2nd Floor, Arjun Nagar, Safdarjung Enclave, New Delhi, which reveals that you are living at the

aforesaid address, not in any rented accommodation in Trans Jamuna area.

- Iv Most important thing is that you are a practicing lawyer. It is evident from the case OA No.4459/2016 titled as Jai Kishan Vs UOI, in which you are the advocate of petitioner. Therefore “**living in poverty striking conditions**” does not arise. You have suppressed this fact from the Hon’ble Tribunal.”

3. From the judgment dated 03.07.2015, we find that the only direction issued by the Tribunal was to consider the representation of the applicant in terms of the parameters mentioned in para 13 of the case of ***Mahinder Dutt Sharma Vs. Union of India & Ors.*** (2014) 11 SCC 684, referred to in the said judgment.

4. We have heard the applicant and Shri R.N. Singh, learned counsel appearing for the respondents and perused the compliance affidavit as also the order dated 23.09.2016 passed by the respondents in compliance to the directions of the Tribunal. We do not find any non-compliance of the directions. The respondents have considered the representation of the applicant and passed the compliance order.

5. In view of the compliance of the directions, the present proceedings are dropped. The applicant at this stage, submits that he may be granted liberty to challenge the impugned order.

Needless to say that, if the applicant has any right available under the law, he is at liberty to seek remedial measures.

(V.N. Gaur)
Member (A)
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(Justice Permod Kohli)
Chairman