

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI****C.P. No.596/2017 In
O.A No.2764/2017****Reserved On:07.09.2017
Pronounced on:13.09.2017****Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)**

1. Dheeraj Kumar,
S/o Late Shri Rampal Singh,
Aged about 34 years,
R/o H .No.3, Gali No.22,
Village Gokalpur,
Delhi-110094.
(Working as Income Tax Officer, New Delhi)
2. Mukesh Kumar,
S/o Late Shri Jai Singh,
Aged about 35 years,
R/o C-1/32, Sec-16, Rohini,
Delhi-110089.
(Working as Income Tax Officer, New Delhi)
3. Pradeep,
S/o Late Shri Ved Prakash,
Aged about 35 years,
R/o D-51, 2nd Floor,
Bali Nagar, New Delhi-110015.
(Working as Income Tax Officer, New Delhi)
4. Subhash Chand,
S/o Shri Sheesh Ram Singh,
Aged about 32 years,
R/o Village Chand & Post Bisahra,
Distt. Gautam Budh Nagar,
U.P.-201008.
(Working as Income Tax Officer, New Delhi)
5. Naveen Kumar,
S/o Shri Bhikham Lal,
Aged about 38 years,
R/o RZ D-II, 95, Street No.5,
Mahavir Enclave, Delhi-110045.
(Working as Income Tax Officer, New Delhi)

6. Sh. Amit Kumar,
Aged about 33 years,
S/o Sh. Jaipal Singh,
R/o C-110A, Street No.1,
Chand Bagh, Delhi-110094.
(Working as Income Tax Officer, New Delhi)
7. Ms. Sheetal,
Aged about 45 years,
D/o Risal Singh Indora,
R/o RZ-35, Raj Nagar,
Palam Colony, New Delhi-110045.
(Working as Income Tax Officer, New Delhi)
8. Sh. Orichand,
Aged about 31 years,
S/o Late Narayan Mandal,
R/o B-551, J.J.Colony,
Bawana, Delhi-110039
(Working as Income Tax Officer, New Delhi)
9. Sh. Vasy Jajoria,
Aged about 33 years,
S/o Sh. Vijender Jajoria,
R/o H.No.410, Pocket-2,
Pashchim Puri, New Delhi-110063.
(Working as Income Tax Officer, New Delhi)
... Petitioners

(By Advocate: Shri S.K. Gupta)

Versus

1. Sh. Sushil Chandra,
Chairman,
Central Board of Direct Taxes,
Department of Revenue,
Ministry of Finance,
North Block, New Delhi .
2. Sh. S.S.Rathore,
Principal Chief Commissioner of Income Tax(CCA),
Delhi, CR Building, New Delhi.
... Respondents

ORDER

By Hon'ble Ms. Nita Chowdhury, Member (A)

This Contempt Petition has been filed by the petitioners alleging disobedience of the order passed by the Tribunal in OA No.2764/2017 on 18.08.2017. The order reads as under:-

“Heard Shri S.K. Gupta for the applicants, Shri Rajeev Kumar, learned counsel appeared on advance notice on behalf of official respondents No.1 to 3 and Shri M.K. Bhardwaj, appeared on behalf of private respondent No.4.

2. MA 2905/2017 filed for joining together is allowed.

3. It is submitted that all the applicants, who are working as Income tax Officers (ITOs) in pursuance of their selection in the qualifying examinations conducted by the official respondents during various years, filed the instant O.A. questioning the Annexure A-2, i.e. Minutes of meeting held on 14.03.2016 in withdrawing of concept of grace marks based upon the Clarification dated 13.12.2012 (Annexure A-1). They have also sought for quashing of Annexure A-1, Clarification dated 13.12.2012.

4. Learned counsel appearing for the applicants, while drawing our attention to various decisions of the Hon'ble High Court of Rajasthan and also various Benches of this Tribunal, submits that the applicants' promotion to the post of ITOs was protected and the respondents are now proceeding to convene a Review DPC by acting against the said protection and thereby they may revert the applicants from the post of ITOs.

5. On the other hand, learned counsel appearing for the respondents, while opposing grant of any interim orders, submits that since this Tribunal permitted the respondents to proceed with the Annexure A-2, Minutes dated 14.03.2016 in O.A. No. 2707/2016, the O.A. itself is liable to be dismissed.

6. In the circumstances, issue notice to all the remaining respondents, returnable on 01.09.2017.

7. In the meanwhile, the respondents are at liberty to proceed as per law, however, there shall not be any reversion of the applicants.

Order by **DASTI.**”

2. Immediately after passing of the aforesaid order by this Tribunal, the applicant No.1 has informed vide his letter dated 18.08.2017 indicating that Hon'ble CAT, Principal Bench has passed interim order in OA No.2764/2017 on 18.08.2017 that "no reversion order shall be passed in case of the applicants". The applicant No.1 has also stated in his letter dated 18.08.2017 that order of the Tribunal dated 18.08.2017 be implemented in letter and spirit and no reversion order be passed in case of all the applicants while conducting any DPC/Review DPC for any recruitment year(s) unless an order contrary is passed by the Tribunal. Petitioners further submit that respondents have now passed an order on 30.08.2017 vide which review DPCs have been held for promotion to the grade of ITO from RY 2006-07 to 2016-17 and nine officers have been dis-empanelled from their respective DPCs. However, as these officers could not get empanelled in any subsequent DPCs in view of the interim order passed by the Tribunal in OA No.2764/2017, the promotions of nine persons have been made only on ad hoc basis as ITOs without any adverse final impact and subject to final outcome of the Tribunal's order in OA No.2764/2017.

3. The petitioners have preferred the instant Contempt Petition (CP) on the ground that since the respondents have not complied with the directions contained in the order dated 18.08.2017, so they are liable to be punished under the provisions of Contempt of Courts Act, 1971.

4. Heard the learned counsel for the petitioners.

5. In a Contempt Petition, we have only to see whether the directions issued by the court have been complied with or not. Since the

respondents have substantially complied with the order of this Tribunal, passed in OA No. 2764/2017 on 18.08.2017, and as respondents have neither reverted the applicants nor reduced their pay, so they have not committed any contempt. Further, it may also be mentioned that OA is still pending which is coming up for hearing on 04.10.2017 and interim order is also continuing, so petitioners would be at liberty to agitate their grievance at the time of arguments in the OA. Moreover, the Hon'ble Apex Court in **Lalith Mathur v. L. Maheswara Rao (2000) 10 SCC 285** has held that "once the Court direction to consider the employee's representation was complied with and his representation was rejected on merits, contempt petition would not be maintainable".

6. Thus, seen from any angle, no case for issuing notice in CP is made out. Hence, CP is rejected.

(NITA CHOWDHURY)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

Rakesh