

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

C.P.NO.603 OF 2011
(In OA No.2126/90)

New Delhi, this the 28th day of July, 2017

CORAM:
HON'BLE SHRI SHEKHAR AGARWAL, ADMINISTRATIVE MEMBER
AND
HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER
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Shri V.S.Tyagi,
s/o late Sh.B.S.Tyagi,
R/o 10/12, Railway Colony,
Sewa Nagar,
New Delhi

í í í ..

Petitioner

(In Person)

Vs.

1. Shri S.K.Budhalkali,
General Manager,
Northern Railway,
Baroda House,
New Delhi
2. Shri Ashwani Kumar Lohani,
D.R.M., Delhi Division,
Northern Railway,
State Entry Road,
New Delhi.
3. Dr.S.K.Gadi,
Chief Medical Superintendent,
Northern Railway,
S.P.Mukherjee Marg,
Delhi

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Opp.Parties

(By Advocate: Shri K.S.Prasad)

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ORDER**Per RAJ VIR SHARMA, MEMBER(J):**

The petitioner has filed this C.P. with the following prayers:

- õi) Allow the Contempt Application with costs.
- ii) Direct the respondents to pay the arrears of consequential benefits etc. along with interest.
- iii) Pass such other and further order or orders as this Honøble Tribunal deems fit and appropriate in the facts and the circumstances of the case.ö

2. O.A.No.2126 of 1990 filed by the applicant-petitioner was disposed of by the Tribunal, vide order dated 29.5.1997, the operative part of which is reproduced below:

- õ(i) The impugned orders of disciplinary authority as well as the appellate authority are quashed.
- (ii) Since the petitioner has already been reinstated by order dated 18.12.1982, the petitioner is entitled to consequential benefits including arrears, if not paid, for the period between 12.6.1989 to 18.12.1992.
- (iii) Respondents shall comply with this order within three months from today.ö

It is stated by the applicant-petitioner that when he was not granted the õconsequential benefits including arrearsö within the stipulated period, representations were made by him requesting the Railway authorities to grant the same, but to no effect. The Railway filed MA under Rule 24 of the CAT (Procedure)Rules, 1987, seeking extension of time to comply with the Tribunal's direction on the ground that C.W.P. (C) No.3320 of 1998 was filed by them challenging the Tribunal's order dated 29.5.1997(íbid). CWP (C) No.3320 of 1998 was dismissed by the Honøble High Court of Delhi,

vide order dated 22.7.2010. Thereafter, representation dated 25.10.2010 was made by him requesting the Railway authorities to grant him the consequential benefits including arrears in compliance with the Tribunal's order dated 29.5.1997(ibid). It is alleged by the applicant-petitioner that in spite of his representation, the Railway authorities also failed to comply with the Tribunal's order dated 29.5.1997(ibid). Hence, the present CP has been filed by him with the prayers referred to above.

3. In response to the notices issued by the Tribunal, the Railway authorities-opposite parties have appeared and have filed status report and affidavits stating that the directions contained in the Tribunal's order dated 29.5.1997(ibid) have been fully complied with by them. The applicant-petitioner has also filed replies thereto refuting the stand taken by the Railway authorities-opposite parties.

4. After the hearing was concluded and order was reserved on 3.3.2017, the applicant-petitioner filed MA No.891 of 2017 for re-hearing of the CP. MA No.891 of 2017 having been allowed, we again heard the applicant-petitioner in person and Shri K.S.Prasad, the learned counsel appearing for the Railway authorities-opposite parties and reserved the order on 1.6.2017.

5. On perusal of the records, it is seen that in compliance with the Tribunal's order dated 29.5.1997(ibid), certain payments were made to the applicant-petitioner by the Railway authorities-opposite parties. However, alleging that the Railway-opposite parties failed to fully implement the

Tribunal's order dated 29.5.1997(ibid), the applicant-petitioner filed CP Nos.168 of 1998 and 66 of 1999 to initiate contempt proceedings against the Railway authorities-opposite parties. CP Nos. 168 of 1998 and 66 of 1999 were rejected by the Tribunal. Thereafter, the applicant-petitioner filed RA No.118 of 1999 and another CP No.90 of 2000 on the very same allegation. RA No.118 of 1999 and CP No.90 of 2000 were also dismissed by the Tribunal, vide order dated 25.9.2001. Instead of challenging the Tribunal's orders dismissing CP Nos.168 of 1998, 66 of 1999, and 90 of 2000 and RA No.118 of 1999, the applicant-petitioner filed RA No.380 of 2001. The Tribunal, by order dated 6.12.2001, dismissed the said RA No.380 of 2001, with the following observations:

“It is quite interesting to note that the applicant has been filing application-after-application either in the form of OAs or CPs or RAs on one pretext or another which tantamount to abuse of process of law and such a practice is highly condemnable. Applicant's last CP No.190/2000, along with RA No.118/99, was dismissed by order dated 25.09.2001 as we found nothing survived to initiate action for contempt against the Respondents. Since we do not find any error apparent on the face of record in our judgment dated 25.9.2001 in CP No.90/2000 we have no valid grounds to entertain the present RA and the same is summarily rejected. However, we would like to warn the applicant to approach the appropriate judicial forum, if so advised only if he has got any fresh cause of action.”

5.1 It is also seen that the aforesaid orders passed by the Tribunal were the subject-matter of challenge in W.P. (C) No. 8042 of 2002 filed by the applicant before the Hon'ble High Court of Delhi. W.P. (C) No. 8042 of 2002 was disposed of by the Hon'ble High Court of Delhi, vide judgment dated 30.1.2009, the relevant part of which is reproduced below:

8. It is clear that the tribunal directed that the petitioner would be entitled to consequential benefits including arrears, if not paid, for the period between 12.6.1989 to 18.12.1992, whereas the petitioner contends that the expression 'consequential benefits' would include all the benefits and therefore when the order of dismissal is set aside, the petitioner should be held entitled to the salary w.e.f. 29.7.1980. On the other hand counsel for the respondent submits that no doubt petitioner would be entitled to all other consequential benefits which were even given to him but so far as arrears of salary are concerned, the tribunal specifically limited the period from 12.6.1989 to 18.12.1992 and therefore, the petitioner shall not be entitled to arrears of salary for the period prior to 12.6.1989.

9. The aforesaid directions shall have to be read keeping in view the context in which they were made. As noted above, OA filed by the petitioner was allowed for the first time vide order dated 24.1.1992 and implementing those orders, the petitioner had filed contempt petition, petitioner was reinstated in service on 18.12.1992 though in the meantime, the respondents had filed Special Leave Petition challenging the orders dated 24.1.1992. Thus, the petitioner was taken back in service in pursuance to the first judgment dated 24.1.1992 though it was set aside by the Supreme Court and matter was remanded back to the tribunal for fresh consideration. It is in this backdrop when the OA was decided and allowed vide judgment dated 25.9.2001, with the aforesaid directions came to be passed. Since the petitioner was already reinstated in service w.e.f. 18.12.1992 and was not thrown out from service even after Supreme Court had allowed the appeal of the respondent against the first judgment, the tribunal had not mentioned the period between 12.6.1989 to 18.12.1992, i.e., from the date of dismissal till the reinstatement. It appears that only because of this reason and by way of abundant caution in the order dated 29.5.1997 the period of 12.6.1989 to 18.12.1992 was also specifically mentioned otherwise the order is clear while setting aside the dismissal, the tribunal has held that the petitioner shall be entitled to consequential benefits. If the said expression is to be given its fullest meaning, the petitioner would be entitled to full salary for the period from 29.7.1980 to 12.6.1989 as well otherwise a period when the petitioner remained under suspension on the setting aside of the dismissal. Even the normal consequence is to allow full salary for the intervening period. Therefore, we are of the opinion that merely because the period from 12.6.1989 to 18.12.1992 is mentioned, the intention was not to limit the arrears of pay only of that period are confirmed as fortified by the expression 'include the use of

would not mean that the arrears would be only for the period mentioned thereafter and the expression "consequential benefits" is to be interpreted to mean all benefits to which the petitioner would be entitled to. According to us, this can be the only intention of the directions given in the impugned judgment dated 25.9.2001, the tribunal has considered the directions without keeping in mind the expression of words "consequential benefits". We are, therefore, set aside order dated 25.9.2001 and hold that the petitioner shall be entitled to full salary for the period from 29.7.1980 to 12.6.1989. Arrears of salary shall be computed and given to the petitioner within two months from the date of the receipt of copy of this judgment.

6. In the present proceedings, on 29.9.2016 the Railway authorities-opposite parties also filed a compliance affidavit along with a statement showing the details of cases filed by the applicant-petitioner and payments made to the applicant-petitioner by the Railway even before filing of the present CP in compliance with various orders passed by the Tribunal and the judgment passed by the Hon'ble High Court in W.P. (C) No. 8042 of 2002. Although the applicant-petitioner did not file any reply thereto specifically disputing the payments made to him by the Railway as per the statement enclosed with the compliance affidavit dated 29.9.2016, yet in paragraphs 5 and 6 of MA No.891 of 2017 filed by him on 6.3.2017 for re-hearing of the CP, he has stated thus:

5. That Respondent has filed an affidavit vide D.D.No.8285 dated 29.09.2016 which have annexed by bill for Rs.99,759/- and Rs.86,147/- as part and parcel of this affidavit bearing page No.6,7,8 and 9 particularly therein and placed on court booklet running court file page No.212, 213,214 and 215.

6. That the said amount of Rs.99,759/- and Rs.86,147/- as shown therein and are neither paid in cash nor paid by cheque, hence the false, fabricated and malicious evidence/statement by own oath or affirmation intentionally given by the Respondents herein, hence Respondents are liable to be taken up in accordance with the law read with corresponding provisions

under Section 181 I.P.C. and 193 I.P.C. herein because in Section 30 of the Administrative Tribunal Act, 1985, clearly described/stated wherein that all proceedings before a Tribunal shall be deemed to be judicial proceedings within the meaning of Section 193, 219 and 228 of the I.P.C.(45 of 1860).ö

Considering the totality of the facts and circumstances of the case, and the fact that the applicant-petitioner has failed to file reply to the Railway's compliance affidavit dated 29.9.2016(ibid) specifically disputing the disbursement of the aforesaid sums of Rs.99,759/- and Rs.86,147/-, we are not inclined to accept the statements made by the applicant-petitioner in paragraphs 5 and 6 of MA No.891 of 2017, which was filed by him on 6.3.2017 only for re-hearing of the CP. Had the applicant-petitioner filed reply to the Railway's compliance affidavit dated 29.9.2016(ibid) specifically disputing the disbursement of the aforesaid sums of Rs.99,759/- and Rs.86,147/-, the opposite parties would have been in a position to lead rebuttal evidence and/or to produce contemporaneous documents in support of their claim of disbursement of the aforesaid sums to the applicant-petitioner.

7. After carefully perusing the materials available on record, and upon hearing the applicant in person and Shri K.S.Prasad, the learned counsel appearing for the Railway authorities-opposite parties, we are satisfied that the directions contained in the order and judgment passed by the Tribunal and by the Hon'ble High Court of Delhi have been complied with by the Railway authorities-opposite parties. Therefore, we do not find

any case of contempt to have been made out by the applicant-petitioner against the opposite parties.

8. Contempt jurisdiction is exercised for the purpose of upholding the majesty of law and dignity of judicial system as also of the Courts and Tribunals entrusted with the task of administering delivery of justice. Power of contempt is invoked as a step in that direction for enforcing compliance of orders of Courts/Tribunals and punishing for lapses in the matter of compliance. Availability of jurisdiction to punish for contempt provides efficacy to functioning of the judicial forum and enables the enforcement of the orders on account of its deterrent effect on avoidance.

9. The power vested in the Courts/Tribunals to punish for contempt is a special and rare power available both under the Constitution as well as the Contempt of Courts Act, 1971. It is a drastic power which, if misdirected, could even curb the liberty of the individual charged with commission of contempt. The very nature of the power casts a sacred duty in the Courts/Tribunals to exercise the same with the greatest of care and caution. This is also necessary as, more often than not, adjudication of a contempt plea involves a process of self-determination of the sweep meaning and effect of the order in respect of which disobedience is alleged. Courts/Tribunals must not, therefore, travel beyond the four corners of the judgment/order which is alleged to have been flouted or enter into questions that have not been dealt with or decided in the judgment or the order violation of which is alleged. Only such directions which are explicit in a

judgment or order or are plainly self evident ought to be taken into account for the purpose of consideration as to whether there has been any disobedience or willful violation of the same. Courts/Tribunals must also ensure that while considering a contempt plea, the power available to the Tribunals/Courts in other corrective jurisdictions like review or appeal is not trenched upon. No order or direction supplemental to what has been already expressed should be issued by the Courts/Tribunals while exercising jurisdiction in the domain of the contempt law.

10. In the light of our above observations, we are of the view that this is not a fit case where proceedings for contempt should be initiated against the opposite parties or where the directions as prayed for by the applicant-petitioner should be issued by the Tribunal. Accordingly, the Contempt Petition is dismissed. The notices issued against the opposite parties are discharged. No costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SHEKHAR AGARWAL)
ADMINISTRATIVE MEMBER

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