

Central Administrative Tribunal
Principal Bench
New Delhi

C.P.No.439/2015
in
O.A.No.603/2014

Order Reserved on: 09.05.2016
Order pronounced on 03.06.2016

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Dr. Birendra Kumar Sinha, Member (A)

Shri Jagdamba (aged about 45 years)
S/o Late Shri Kedar Nath Singh
R/o E-3/602, Gali No.17,
Sonia Vihar, Delhi-94.

Applicant

(By Advocate: Shri T.D. Yadav)

Versus

1. Sh. A.K.Puthia
General Manager,
Northern Railway, H.Q.,
Baroda House,
New Delhi.
2. Smt. Monika Singh
The Dy. CPO (HQ),
H.Q. Office,
Baroda House,
New Delhi.
3. Sh. Anil Handa
The Chief Mechanical Engineer,
Northern Railway,
H.Q., Baroda House,
New Delhi.

... Respondents

(By Advocate: Shri A.K.Shrivastava)

ORDER

By V. Ajay Kumar, Member (J):

Aggrieved by the Order of the respondents dated 24.06.2013 in treating the period of suspension from 07.06.2011 to 06.02.2013 as '*dies non*' and the subsequent order dated 06.11.2013 denying full pay and allowances for the said period on the ground that he was acquitted by the Criminal Court by giving him '*benefit of doubt*', the applicant filed OA No.603/2014.

2. This Tribunal, after hearing both sides, by its Order dated 15.12.2014 disposed of the OA as under:

"11. We, accordingly, allow this OA and direct the Respondents to treat the period of suspension from 07.06.2011 to 06.02.2013 as duty for all purposes including pay and allowances. He is also entitled for increments from the due dates occurred during the period of suspension. The Respondents shall pass appropriate orders implementing the aforesaid directions within a period of 2 months from the date of receipt of a copy of this order."

3. Alleging non-implementation of the aforesaid order, the present Contempt Petition has been filed.

4. Heard Shri T.D.Yadav, the learned counsel for the applicant and Shri A.K.Shrivastava, the learned counsel for the respondents, and perused the pleadings on record.

5. This Tribunal by its order dated 16.09.2015 in this Contempt Petition, after considering the reply filed by the respondents wherein it was stated that they have complied with the orders of this Tribunal, observed as under:

"2. The respondents have filed their reply stating that the aforesaid Order has been complied with. They have also filed a copy of their Notice dated 3.8.2015 whereby refixing the pay of the petitioner after granting annual increments to him. The relevant portion of the said Notice reads as under:-

"After consulting the matter with Legal Cell, approval has been accorded by the competent authority to implement the above orders of Hon'ble CAT/New Delhi dated 15.12.2014. As a result of this, the period of suspension of Sh. Jagdamba Singh from 07.06.2011 to 06.02.2013 is treated as duty for all purposed including pay and allowances and his increment from the due dates occurred during the period of suspension are fixed as under in PB-I Rs.5200-20200 in G.P. Rs.1900:-

Pay as on 01.07.2011 - 7960+1900 = 9860

Pay as on 01.07.2012 - 8260+1900 = 10160

Pay as on 01.07.2013 - 8570+1900 = 10470

Pay as on 01.07.2014 - 8890+1900 = 10790

Pay as on 01.07.2015 - 9220+1900 = 11120

NOTE:- During the suspension period from 07.06.2011 to 06.02.2013, he was paid subsistence allowance, therefore while charging his pay, this aspect may be kept in view to avoid any over-payment to the employee."

3. According to the learned counsel for the petitioner, even though this Tribunal has ordered that period of suspension has to be counted for all purposes, including pay and allowances, the respondents are yet to make the payment of Rs.17950/-, washing allowance 1800/- and child education fee being Rs.60,000/-. He further submitted that during the period he become eligible for grant of MACP which has not been granted to the petitioner so far.

4. Let the petitioner made a detailed representation claiming the aforesaid benefits. Thereafter, the respondents shall consider the same and pass appropriate orders thereon. If the applicant is entitled for the same, the same shall also be given to him. Thereafter, the respondents shall file their additional affidavit of compliance.

5. List again for our consideration on 23.11.2015."

6. Thereafter, the respondents vide their second compliance affidavit filed on 18.01.2016, submitted that they have fully complied with the orders of this Tribunal and paid all the benefits payable to the applicant under the orders of this Tribunal and in accordance with law.

7. It is further submitted that no action could be taken in respect of the Tuition Fees of the children of the applicant for the year 2010-

2011 as he has not submitted his claim on prescribed proforma, and he is not entitled for payment of Washing Allowance as he has not performed the duty physically during the said period. The applicant has not filed any rejoinder, disputing the said facts.

8. In the circumstances and in view of the substantial compliance of the orders of this Tribunal by the respondents, the CP is closed. Notices are discharged. However, this order does not preclude the applicant from resubmitting his claim for payment of Tuition fees of his children for the year 2010-2011 as per the prescribed proforma and on such an event, the respondents shall consider and pay the same as per rules.

(Dr. Birendra Kumar Sinha)
Member (A)

(V. Ajay Kumar)
Member (J)

/nsnrvak/