

Central Administrative Tribunal
Principal Bench
New Delhi

C.P.No.484/2015

in

O.A.No.2616/2012

M.A.No.1826/2013

Order Reserved on: 01.09.2016

Order pronounced on 07.09.2016

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

Shailendra Sharan Singh
S/o Late Shri Mahima Sharan Singh
R/o VP-145-C, Pitam Pura
Delhi 110 034. Applicant

(By Advocate Shri Yogesh Sharma)

Versus

Sh. Dineshwar Sharma
Director Intelligence Bureau
IB, Headquarters, New Delhi. ... Respondent

(By Advocate: Shri Gyanender Singh)

O R D E R

By V. Ajay Kumar, Member (J):

Heard the learned counsel for both sides and perused the pleadings on record.

2. The OA No.2616/2012 filed by the applicant questioning the imposition of a minor penalty of censure on him, was disposed of by this Tribunal by an Order dated 14.11.2014, as under:

"9. Admittedly, the inquiry officer held that the charge leveled against the applicant vide charge memorandum dated 07.06.2006 is not proved. Further, the disciplinary authority vide the disciplinary order dated 11.04.2007 specifically agreed with the said findings of the inquiry officer. However, by observing that 'it has been established that the applicant made the complainants to wait for a quite long period of time without plausible reason', imposed the penalty of 'censure'. The said observation was neither part of the charge levelled against the applicant and that no finding was given by any authority to that effect. Even the perusal of Annexure R1 on which the respondents placed reliance to state that the applicant has admitted that he made the complainants (passengers) to wait for undue long period, is found to be incorrect. On the other hand, in the said Annexure R1, the applicant has denied the charge levelled against him was totally baseless and false.

10. In any event, no employee can be punished for a charge which was not levelled against him at any point of time and without providing him any opportunity to defend himself on the said charge. In the present case, it is admitted that the applicant was imposed with the minor penalty of censure on an allegation which was not forms part of the charge memorandum in pursuance of which an inquiry was conducted, wherein it was held that the charge levelled against him is not proved.

11. In the circumstances and for the aforesaid reasons, the OA is allowed, and the impugned orders are quashed with all consequential benefits. No order as to costs."

3. The respondents filed a Writ Petition (C) No.9637/2015 before the Hon'ble High Court of Delhi against the said orders of this Tribunal.

4. During the pendency of the aforesaid Writ Petition, the applicant filed the present Contempt Petition on 21.07.2015 alleging non-compliance of the aforesaid orders of this Tribunal.

5. It is noticed that the Hon'ble High Court of Delhi dismissed the said Writ Petition vide its Judgement dated 09.10.2015, by observing that there is no infirmity in the order of the Central Administrative Tribunal which would require interference.

6. On receiving the notices by the respondent in the said Contempt Petition, the respondent filed a compliance affidavit on 24.05.2016, stating that the orders of this Tribunal have been fully complied with vide Order dated 13.04.2016, whereby the petitioner was notionally promoted to the rank of Deputy Central Intelligence Officer/Exe in the Pay Band of Rs.15600-39100 plus Rs.5400/- as Grade Pay in Intelligence Bureau w.e.f. 02.09.2013 (FN), i.e, the date on which his immediate junior Shri Parthapratim Mandal, ACIO-I/Exe assumed the charge of the post of DCIO/Exe., however, monetary benefit would accrue from the date of assumption of charge as DCIO/Exe.

7. The petitioner filed rejoinder to the aforesaid compliance affidavit and stated that the junior of the petitioner was promoted from 11.06.2013 whereas he was promoted from 02.09.2013 that too without monetary benefits from the date of promotion, i.e., notionally.

8. It is now an admitted fact that the respondent have complied the directions of this Tribunal and passed an order. It is to be seen that this Tribunal while quashing the penalty order of censure with all consequential benefits, has not given any finding about the consequential date of promotion of the applicant or the nature of the same. Hence, in our considered view, the respondents have substantially complied with the orders of this Tribunal.

9. In the circumstances and in view of the substantial compliance, the CP is closed. Notice issued to the respondents is discharged. However, this order shall not preclude the applicant from challenging

the order passed by the respondent, if so advised, in accordance with law. No costs.

(Dr. Birendra Kumar Sinha)
Member (A)

(V. Ajay Kumar)
Member (J)

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