

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

CP No. 758/2015
OA No. 4384/2015

Order reserved on : 04.01.2016
Order Pronounced on: 17.02.2016

**Hon'ble Mr. A.K.Bhardwaj, Member (J)
Hon'ble Mr. V.N. Gaur, Member (A)**

Vinod Kumar
S/o Mr. Ajit Singh
R/o H.No.484/3, Ambedkar Nagar Extn.,
Haider Pur,
Delhi-110088.
(Head Constable/Selected Sub-Inspector
by way of Direct Recruitment in Delhi Police)

...Applicant

(By Advocate : Shri Ajesh Luthra)

Versus

1. Sh. B.S.Bassi,
Commissioner of Police,
PHQ MSO Building,
I.P. Estate, New Delhi.
2. Sh. Joy N. Tirkey,
Deputy Commissioner of Police,
(Recruitment Cell),
New Police Lines, Delhi.
3. Sh. G.S.Awana,
Deputy Commissioner of Police,
Establishment,
PHQ MSO Building,
I.P. Estate, New Delhi.
4. Sh. N.Gnana Sambandan
Principal,
Police Training College,
Jharoda Kalan,
New Delhi-110072.

... Respondents

(By Advocate : Ms. Sangeeta Rai)

ORDER**Hon'ble Shri V.N.Gaur, Member (A)**

The present Contempt Petition No.758/2015 in OA No.4384/2015 was disposed of by this Tribunal on 02.12.2015 with the following order:

“Heard Shri Ajesh Luthra, learned counsel for applicant. Also heard Ms. Sangeeta Rai, learned penal counsel who has entered appearance, as directed by this Tribunal.

2. The applicant, by the present application has challenged the Show Cause Notice dated 16.10.2015 issued by the Additional Deputy Commissioner of Police, Recruitment Cell, MPL Delhi. It has been contended by the learned counsel for applicant that despite the order passed by this Tribunal in on 16.10.2015 in CP No.686/2015, the applicant has been issued the said Show Cause Notice with a view to cancel his candidature as SI (Exe.) in Delhi Police. The learned counsel further submits that though the applicant has filed the reply to the Show Cause Notice, no order has been passed by the authority.

3. The learned counsel appearing for the respondents has submitted that since the applicant has submitted his reply to the Show Cause Notice dated 16.10.2015, necessary decision in this regard would be taken within a reasonable period of time.

4. Having regard to the aforesaid position and also the fact that Show Cause Notice dated 16.10.2015 has been replied to by the applicant, we dispose of the OA directing Additional Deputy Commissioner of Police, Recruitment Cell, NPL, Delhi, to pass a final order on the said Show Cause Notice, having regard to the contention of the applicant in the reply, within a period of one week from today.

5. The OA is accordingly disposed of. No costs.”

2. Sh. Ajesh Luthra, learned counsel appearing on behalf of the applicant submitted that the applicant had been issued show cause notice with a view to cancel his candidature as ASI (Exe.) in Delhi Police on 16.10.2015 on the ground of some alleged pending criminal case against him. In reality, the respondents themselves

have removed his name from the list of employees included in the list of individuals against whom the criminal case was pending earlier. The applicant submitted his representation in response to the show cause notice but the respondents were not taking any decision. This Tribunal vide order dated 02.12.2015 had directed the Addl. Dy. Commissioner of Police, Recruitment Cell, NPL, Delhi to pass a final order on the said Show Cause Notice having regard to the contention of the applicant in the reply, within a period of one week. The respondents were allowed 10 more days to file the compliance report by the Tribunal on 22.12.2015. However, the respondents (contemnors in the CP) have now withdrawn the Show Cause Notice but stated that case of appointment of the applicant had been held in abeyance till the completion of investigation in the case FIR No.114/2008 u/s 13/7 POC Act PS Janakpuri, Delhi. According to the learned counsel, this act of the contemnors was a clear defiance of the order passed by this Tribunal on 02.12.2015. The stand taken by the applicant in his representation in response to the Show Cause Notice, has not been considered by the respondents at all. The respondents were expected to examine those contentions and take a decision regarding inclusion of the name of the applicant in the panel of selected candidates as there was no criminal case pending against him. By withdrawing the Show Cause Notice on 30.12.2015, the respondents have shied away from taking a

decision in compliance of the directions of this Tribunal. This amounted to a contemptuous act on their part.

3. Learned counsel for the respondents, on the other hand, submitted that the direction of the Tribunal was to pass a final order on the Show Cause Notice having regard to the contentions of the applicant. The respondents have already complied with that direction by passing the order dated 30.12.2015, a copy of which has been filed with the compliance affidavit. The respondents took note of the contentions raised by the applicant in the reply to the Show Cause Notice and decided to withdraw that notice. There was nothing more to be done in terms of the order of this Tribunal dated 02.12.2015. However, if the applicant is not satisfied with their decision, he has legal remedies available to him. Learned counsel referred to **J.S.Parihar vs. Ganpat Duggar and others**, (1996) 6 SCC 291 in this regard.

4. We have considered the submissions made by the learned counsel of both the sides. This Tribunal had directed the respondents vide order dated 02.12.2015 “to pass a final order on the said Show Cause Notice, having regard to the contention of the applicant in the reply within a period of one week from today”. The Tribunal gave further 10 days time to file the compliance report on 22.12.2015. The respondents have filed a compliance affidavit on 01.01.2016 enclosing a copy of the order dated

30.12.2015 issued by Dy. Commissioner of Police, Recruitment Cell, NPL, Delhi. The aforesaid letter reads thus:

“In compliance to the order dated 22.12.2015 passed by the Hon’ble CAT in Contempt Petition No. 758/2015 in O.A. No.4384/2015-Vinod Kumar Vs. C.P. Delhi, and as per the directions of PHQ vide memo No.4137/Rectt. Cell (AC-II)/PHQ dated 29.12.2015, the Show Cause Notice issued to you vide this office memo No,10196/Rectt. Cell (SI)(DA-I)/NPL dated 16.10.2015 is hereby withdrawn. It is also to inform you that your case for appointment as SI (Exe)- 2012 has been held in abeyance, till the completion of investigation of the case FIR No. 114/2008 u/s 13/7 POC Act PS Janakpuri, Delhi, filing of charge sheet/challan by the SIT (Crime Branch) before court. In case no chargesheet/challan is filed against you, your case will be referred to the Screening Committee for deciding your suitability for the post as per Standing Order No.398/2010.”

5. It can be seen from the order of this Tribunal dated 22.12.2015 that the main grievance is espoused by the applicant before this Tribunal that the respondents have not taken any final view on the Show Cause Notice even after the applicant had submitted his reply to the same. The Tribunal in this background directed the respondents to take a final decision on the Show Cause Notice. In our view, once the respondents after considering the reply of the applicant have decided to withdraw the Show Cause Notice, sufficient compliance of the order of the Tribunal dated 02.12.2015 has been made. The subsequent statement in the order dated 30.12.2015 that the case of appointment of the applicant would be kept in abeyance till the completion of the investigation in the criminal case is not linked to the direction

given by this Tribunal. The respondents have taken a decision on the Show Cause Notice and have withdrawn the same. The situation resulting from such withdrawal may or may not be favourable to the applicant. This issue was neither a subject matter considered and discussed in the order dated 02.12.2015 nor it is within the scope of this CP to examine the same and issue any direction.

6. In **J.S.Parihar** (supra) the Hon'ble Supreme Court observed thus:

“6. The question then is whether the Division Bench was right in setting aside the direction issued by the learned single Judge to redraw the seniority list. It is contended by Mr. S. K. Jain, learned counsel appearing for the appellant, that unless the learned Judge goes into the correctness of the decision taken by the Government in preparation of the seniority list in the light of the law laid down by three Benches, the learned Judge cannot come to a conclusion whether or not the respondent had wilfully or deliberately disobeyed the orders of the Court as defined under Section 2(b) of the Act. Therefore, the learned single Judge of the High Court necessarily has to go into the merits of that question. We do not find that the contention is well founded. It is seen that, admittedly, the respondents had prepared the seniority list on 2-7- 1991. Subsequently promotions came to be made. The question is : whether seniority list is open to review in the contempt proceedings to find out, whether it is in conformity with the directions issued by the earlier Benches. It is seen that once there is an order passed by the Government on the basis of the directions issued by the Court, there arises a fresh cause of action to seek redressal in an appropriate forum. The preparation of the seniority list may be wrong or may be right or may or may not be in conformity with the directions. But that would be a fresh cause of action for the aggrieved party to avail of the opportunity of judicial review. But that cannot be considered to be the wilful violation of the order. After re-exercising the judicial review in contempt proceedings, a fresh direction by the learned single judge cannot be given to redraw the seniority list.”

7. In the light of the foregoing discussion, we do not find any act on the part of the respondents that could be classified as

wilful defiance of the order of this Tribunal dated 02.12.2015. The present Contempt Petition is accordingly dismissed and the noticees are discharged. No costs.

(V.N. Gaur)
Member (A)

(A.K.Bhardwaj)
Member (J)

February , 2016

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