

**CENTRAL ADMINISTRATIVE TRIBUNAL
 PRINCIPAL BENCH**

**M.A. No.856/2016 In
 O.A. No.16/2013
 With
 M.A. No.857/2016 In
 O.A. No.15/2013**

New Delhi this the 9th day of May, 2016

**HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)
 HON'BLE MR. V.N. GAUR, MEMBER (A)**

**M.A. No.856/2016 In
O.A. No.16/2013**

Shri Narinder Kumar

...Respondent in
 MA/Applicant in OA

(By Advocate: Shri M.S. Reen)

Versus

Union of India and Others

..Petitioners in

MA/Respondents in OA

(Argued by Applicant: Dr. Chaudhary Sahmsuddin Khan,
 Advocate).

**M.A. No.857/2016 In
O.A. No.15/2013**

Shri Laxman and Others

...Respondents in
 MA/Applicants in OA

(By Advocate: Shri M.S. Reen)

Versus

Union of India and Others

..Petitioners in

MA/Respondents in OA

(Argued by Applicant: Dr. Chaudhary Sahmsuddin Khan,
 Advocate).

ORDER (ORAL)

Justice M. S. Sullar, Member (J)

MA No. 856/2016 In OA No.16/2013 and MA
No.857/2016 in OA No.15/2013

As identical questions of facts are involved, we propose to dispose of both the Miscellaneous Applications (MAs) by this common order, to avoid the repetition of the facts.

2. The contour of the facts and material, which needs a necessary mention to decide the MAs, is that initially, applicants had filed the main OAs bearing No.15 and 16 of 2013, in which notices were issued to the respondents vide order dated 02.01.2013 by this Tribunal.

3. In the wake of notices, Dr. Chaudhary Sahmsuddin Khan, Advocate appeared on behalf of the respondents and sought 3 weeks time to file the reply. The OAs were repeatedly adjourned on one pretext or the other. Consequently, while granting further one week's time to comply with the order, a cost of Rs.20,000/- was imposed on the respondents by way of order dated 17.02.2016 by a Coordinate Bench of this Tribunal.

4. Instead of paying the costs and complying with the order passed by this Tribunal, the respondents have filed the present MAs No.856 and 857 of 2016 to waive the

costs, mainly on the ground that the present Director, DOP&T took the charge of the post only on 15.02.2016. As soon as he received the copy of the order, he deputed the officers of the Directorate but by the time they reached the court, the order was passed on 17.02.2016. That being so, respondent No.2 prayed that the costs of Rs.20,000/- be waived.

5. The prayer of the respondent No.2 was refuted by the learned counsel for the applicant.

6. After hearing the learned counsel for the parties, going through the record with their valuable help, we are of the considered opinion that there is no merit in the instant MAs.

7. As is evident from the record that considering the repeated defaults and non-compliance of the order by the respondents, the following order was passed on 17.02.2016 by a Coordinate Bench of this Tribunal:-

Order dated 17.02.2016

“On 10.08.2015, we passed the following order :-

“Dr. Ch. Shamsuddin Khan, the learned counsel for the respondents submitted that may be the ramification of the orders passed by the Hon'ble High Court of Delhi in Writ Petition (C) No.26/2009 was to redraw a list of empanelled candidates not on the basis of their merit but on the basis of the date of completion of apprenticeship, but subsequently in O.A. Nos.983/2008, 1927/2008 and 612/2009, a view was taken by this Tribunal that the order of Hon'ble High Court of Delhi in aforementioned cases should be made applicable to UR categories also. As per order passed in O.A. No.1927/2008, the respondents were to consider the case of

the applicants in the O.A. and take action in terms of the direction of the Hon'ble High Court. The orders passed in the two other O.As. No.983/2008 and 612/2009 are not before us.

2. The counsel for the respondents is directed to produce the copies of the orders passed in the WPC, OAs or CCP referred to in para 2 of the reply, within one week. The learned counsel for the respondents is also directed to explain that how PH/OBC/SCs are included in the panel of UR category candidates. The applicant would also produce a chart indicating the names of such candidates who were included in original panel but not in the redrawn panel as well as a separate list of the candidates, who were not included in original panel but were added in redrawn panel.

3. List on 26.08.2015 as Part-Heard.

Order by **DASTI.**"

On 26.08.2015, learned counsel for respondents was granted last opportunity to produce orders sought to be relied upon by him to buttress his stand. The order read thus:-

"As prayed by Dr. Ch. Shamsuddin Khan, learned counsel for respondents, one last opportunity is granted to produce the orders sought to be relied upon by him to buttress his stand.

List on 07.10.2015.

I.R. to continue till then."

Again on 18.12.2015, learned counsel for respondents requested for adjournment. Thereafter on 29.01.2016, when we found that the respondents had not carried out the order dated 10.08.2015, we passed the following order:-

"Despite opportunities, respondents have not complied with the order dated 10.08.2015. Let respondent No.2 remain present in person in the Court on the next date of hearing with the information sought from the respondents in terms of the aforementioned order.

List on 17.02.2016."

Today again, neither the respondent No.2 is present in person nor the order dated 10.08.2015 has been complied with by the respondents. Further to appal us, learned counsel for respondents submitted that the orders he was required to produce are already on record as Annexures to the OA. When he referred to page 95 of the paper book, we could find the order in OA No.1927/2008 and not the order in OAs Nos. 983/2008 and OA No.612/2009. When the position was made clear to learned counsel for respondents, he expressed his regret and again sought extension of time to produce the orders. We deplore such attitude and conduct of the

respondents. The respondents are granted further one weeks' time to comply with the aforementioned order, subject to payment of cost of Rs.20,000/- to be recovered from the salary of respondent No.2 and 3. Let a copy of this order be sent to the Secretary, Ministry of Urban Development and Poverty Aviation, Nirman Bhawan, New Delhi, for his information.

List on 25.02.2016".

8. Similar order was passed in OA No.857/2016.
9. Meaning thereby, taking into consideration the serious and repeated defaults and non-compliance of the order by this Tribunal, the cost of Rs.20,000/- was imposed by this Tribunal. Therefore, the mere fact that the present incumbent has joined on the post only on 15.02.2016 and he is not liable to make the payment, ipso facto, is not a ground much less cogent, to waive the cost. This Tribunal has not personally directed the present incumbent to pay the cost but directed Respondents No.2 and 3, who were at fault, at the relevant time to make the payment of indicated cost. It was for the respondents to pay the costs, then to fix the responsibility and to recover the amount from the salaries of erring officer(s) [respondents No.2 and 3].
8. It cannot possibly be disputed that tendency and frequency of some of the officers not to comply the directions of the courts have been tremendously increasing day by day, which is not in public interest.
9. Be that as it may, in any case, no ground to waive the cost is made out in the obtaining circumstances of the case.

10. In the light of above, both the MAs bearing No.856 and 857 of 2016 are hereby dismissed being devoid of merit.

(V.N. GAUR)
MEMBER (A)

(JUSTICE M.S. SULLAR)
MEMBER (J)

Rakesh