

Central Administrative Tribunal
Principal Bench
New Delhi

MA 2501/2015 and MA 3388/2014

in

CP 165/2014 in TA No.45/2012

Order Reserved on: 09.10.2015

Order pronounced on 14.10.2015

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Shri P. K. Basu, Member (A)

Sushila Tripathi & Others ... Applicants

(By Advocate: Shri Chandrachur Bhattacharya)

Versus

Shri Jalaj Shrivastav ... Respondent

(By Advocate: Shri Vaibhav Agnihotri)

O R D E R

By V. Ajay Kumar, Member (J):

The applicants, who are working as Special Education Teachers (in short, SET) in the 2nd Respondent – Aanchal School for Mentally Retarded Children, filed CWP No.2593/2003 before the Hon'ble High Court of Delhi, which was later transferred to this Tribunal as TA No.45/2012, seeking granting of pay scale of Rs.5500-9000. This Tribunal by its Order dated 18.12.2013 disposed of the said TA as under:

"12. The TA is, therefore, allowed and the respondents are directed to revise the pay scales of SET teachers in 'Aanchal' school to Rs.5500-9000/- with effect from the date of filing of the Writ petition. The respondents are allowed three months' time for implementation of the directions of this Tribunal. No costs."

2. Complaining the non-implementation of the aforesaid orders, the applicants preferred Contempt Petition No.165/2014. The said Contempt Petition was disposed of by order dated 30.07.2014, which is extracted below:

"T.A. No.45/2012 was disposed by this Tribunal in terms of the Order dated 18.12.2013 with direction to the respondents to revise the pay scales of Special Education Teacher (SET) in 'Aanchal' School to Rs.5500-9000 with effect from the date of filing the writ petition. The respondents were granted three months time for implementation of the directions.

2. Today, learned proxy counsel for respondent produced copy of Office Order No.D/63/ASEO/2014 dated 20.5.2014 whereby the respondent accepted the aforementioned Order of the Tribunal and revised the pay scale of the Special Educators of Aanchal Special School w.e.f. 29.4.2003.

3. We are sanguine that the arrears in terms of the said Office Order would be disbursed to the applicants within six weeks from today and their current salary would also be paid in the revised grade only.

4. In view of aforesaid Office Order dated 20.5.2014 passed by the respondent and the observations made hereinabove, the Contempt Petition is disposed of. In case the arrears of revised grade are not paid to the applicants within six weeks from today, they would be at liberty to revive the present Contempt Petition. In such situation, the Tribunal would be constrained to take a serious view of the matter. Notice issued to the respondent is discharged.

Order dasti."

3. The applicants filed MA 3388/2014 in CP No.165/2014 seeking revival of the CP, as per the liberty granted by this Tribunal while disposing of the CP, by alleging that the respondents have failed to comply with the Order in CP dated 30.07.2014.

4. On 08.05.2015, this Tribunal, after hearing the submissions made by the learned senior counsel for the respondents, Mrs. Jyothi Singh, and after perusing the compliance report dated 27.05.2015, and the Office Orders dated 28.04.2015 (colly.), as the applicants' counsel was not present, recorded its satisfaction that the orders passed in TA No.45/2012 have been complied with. However, in view of the submission made by one of the applicants, i.e., Ms. Meenu Ansari, who was present in the Court, deferred the hearing in the MA, and accordingly the case was deferred to 03.08.2015. Aggrieved by the said recording of satisfaction, though the passing of final orders was deferred, the applicants preferred MA No.2501/2015 for recalling the said order dated 08.05.2015.

5. Heard Shri Chandrachur Bhattacharya, the learned counsel for the applicants, and also Ms. Sushila Tripathi, the 1st Applicant, and Shri Vibhav Agnihotri, the learned counsel for the respondents, and perused the entire pleadings on record.

6. This Tribunal by its order dated 30.07.2014 in CP No.165/2014, after hearing both sides, categorically observed that the respondents, by issuing the Office Order No.D/63/ASEO/2014 dated 20.05.2014 revised the pay scale of the applicants w.e.f. 29.04.2003, have complied with the orders dated 18.12.2013 of this Tribunal in TA No.45/2012, and accordingly, disposed of the CP. However, while doing so, by noting that the arrears in terms of the said Office Order dated 20.05.2014 were not paid to the applicants, directed the

respondents to disburse the arrears in terms of the said Office Order within six weeks and also granted liberty to the applicants to revive the Contempt Petition, if the respondents have not paid the said arrears within the said stipulated time.

7. The respondents vide their counter to the MA and affidavits filed thereto, categorically submitted that they have fully complied with the orders of this Tribunal as well as the Office Order dated 20.05.2014. Accordingly, they have revised the pay of the applicants w.e.f. 29.04.2003, i.e., date on which the applicants filed the Writ Petition before the Hon'ble High Court and also issued various individual Office Orders in respect of each applicant on various dates during April, 2015, copies of which have been filed along with the compliance affidavit. It is also further submitted that though in respect of some of the applicants such as the applicant No.1, in pursuance of the implementation of the orders of this Tribunal in TA No.45/2012 though certain amounts were required to be recovered, but they have not done so. Accordingly, Shri Vibhav Agnihotri, the learned counsel for the respondents, prays for dismissal of the MAs.

8. A careful perusal of the various Office Orders issued by the respondents in respect of each of the applicant whereunder their pay scales were revised w.e.f. 29.04.2003, in pursuance of the orders of this Tribunal in TA No.45/2012 coupled with the order dated 30.07.2014 in CP No.165/2014, reveals that the respondents have fully complied with the orders of this Tribunal and also their own order

dated 20.05.2014. Accordingly, we are satisfied that the respondents have fully complied with the orders of this Tribunal.

9. Further, in spite of the opportunity given to the applicants, who are present in person in the Court, and also to their counsel, none of them could specifically point out in what manner the respondents neither complied with the orders of this Tribunal nor in what manner they have wrongly revised the pay scale of the applicants, except by submitting that some of the applicants have not received any amount in spite of the orders of the respondents. Once the applicants failed to point out how the implementation of the orders of this Tribunal by the respondents is not correct, non-receipt of any arrears cannot be a ground for reviving the CP.

10. It is to be seen that while exercising the contempt jurisdiction, this Tribunal cannot conduct a roving inquiry, as held by the Hon'ble Supreme Court in a catena of cases. It is sufficient, if the respondents substantially comply with the orders of this Tribunal and satisfy that there is no wilful or deliberate disobedience of the orders of the Court.

11. In view of the aforesaid discussion and reasons, we find no merit in the MA Nos.3388/2014 and MA No.2501/2015 in CP 165/2014 in TA No.45/2012, and accordingly, the same are dismissed. However, this order shall not preclude the applicants from questioning the various

orders issued by the respondents, if they are still aggrieved, in accordance with law. No costs.

(P. K. Basu)
Member (A)

(V. Ajay Kumar)
Member (J)

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