

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

**M.A. No.100/3591/2016 In
C.P. No.100/546/2016 In
O.A No.100/3131/2016**

New Delhi this the 13th day of December, 2016

Hon'ble Mr. Justice M. S. Sullar, Member (J)
Hon'ble Mr. P. K. Basu, Member (A)

Pardeep Kumar
Aged about 36 years
S/o Shri Joginder Singh
R/o H.No.59, V&PO Tikri Kalan,
Near Old Chaupal Tikri Kalan,
New Delhi.Petitioner

(Argued by: Mr. Anmol Pandita, Advocate)

Versus

1. Shri G.C. Mishra,
Director,
Delhi Fire Service Headquarters,
Connaught Place,
New Delhi.
2. Shri Vipin Kantal
Chief Fire Officer,
Delhi Fire Service,
Connaught Place,
New Delhi-110001. ..Respondents

(By Advocates: Mrs. Harvinder Oberoi for respondents)

ORDER (ORAL)

Justice M. S. Sullar, Member (J):

M.A. No.100/3591/2016

Tersely, the facts and material, which need a necessary mention for resolving the present controversy of reliving the petitioner (till the next date of hearing, i.e., 11.01.2017), to enable him to pursue the Fire Technology and Industrial Safety Management Course (for brevity "FTISM Course"), and

exposited from the record, is that, initially, petitioner, Pradeep Kumar, has preferred the main **Original Application** (OA) bearing **No.100/3131/2016**, challenging the impugned order dated 29.06.2016 (therein) (Annexure A-1), whereby his request to pursue the FTISM Course, was rejected by the Head Office of Delhi Fire Service.

2. After hearing the learned counsel for the parties, going through the record and keeping in view the principle of parity with case of similarly situated employee, Manoj Kumar S/o Shri Satvir Singh, respondents were directed to issue provisionally “No Objection Certificate” to him, vide order dated 24.10.2016, which reads as under:-

“At the very outset, learned counsel for the applicant has contended, with some amount of vehemence, that although the concerned department has already granted , No Objection Certificate, to one, Shri Manoj Kumar, S/o Shri Satvir Singh, to complete the certificate course in Fire Technology and Industrial Safety during session 2016-17 from Delhi College of Fire and Safety Engineering, Mundka, New Delhi (Respondent No.5), but the No Objection Certificate was denied to the applicant by the same department for the reason best known to it.

2. Learned counsel for the respondents seeks time to clarify this matter.

3. Adjourned to 12.12.2016 for arguments, at the request of learned counsel for the respondents. Meanwhile, applicant may file rejoinder with an advance copy to the learned counsel for the respondents.

4. At the same time, keeping into consideration the urgency of the matter, the respondents are directed to issue provisional No Objection Certificate to the applicant forthwith as has been done in the case of Shri Manoj Kumar, at his own risk and responsibility.

Copy **DASTI**.”

3. According to the petitioner, the respondents did not comply with the direction contained in the order of this Tribunal, which necessitated him to file the **Contempt Petition** (CP) bearing **No.100/542/2016**. The following order was passed in CP on 02.11.2016 by this Tribunal:-

“Learned counsel for petitioner has submitted that the respondents have not complied with the directions contained in the order dated 24.10.2016, passed in OA No.100/3131/2016, by this Tribunal. According to learned counsel, that the petitioner can only apply for the said course till 5th November, 2016, provided the respondents issued him no objection certificate and not otherwise.

Therefore, taking into consideration the nature of the litigation and urgency of the matter, the respondents are directed to comply with the indicated order in letter and spirit immediately, failing which, they are directed to be present in person in the Court on 03.11.2016, to explain their conduct, in this regard.

Order **Dasti**.”

4. In the wake of notice, the respondents appeared and have placed on record the copy of the provisional, “No Objection Certificate” dated 02.11.2016 issued in favour of the petitioner, in compliance of the order of this Tribunal. In that view of the matter, and without prejudice to the rights of the parties in any manner, during the course of hearing of the main OA, the CP was dismissed as having become infructuous, vide order dated 03.11.2016 by this Tribunal.

5. Now the petitioner, has filed the instant MA, for revival of the CP, inter alia, pleading that after issuing the provisional “No Objection Certificate” and dismissal of the CP, the respondents have not relieved him from the office to enable him to join the pointed course, despite repeated requests/representations and reminder (Annexure A-2 Colly).

6. At the same time, it will not be out of place to mention here, that the respondents have also filed **RA** bearing **No.100/275/2016** to review the interim order dated 24.10.2016. In OA & RA, the parties have been directed to complete the pleadings and the matters have already been listed for final arguments on 11.01.2017.

7. The notice of the instant application was issued to the respondents. At this stage, Mrs. Harvinder Oberoi, Advocate, appears, accepts notice and seeks time to file the reply on behalf of the respondents. However, she has opposed the prayer, to relieve the petitioner to join the above mentioned course, during the interregnum period, i.e. upto 11.01.2017

8. We have heard the learned counsel for the parties and have gone through the record.

9. What cannot possibly be disputed here is that, in the wake of indicated orders, no doubt, the respondents have issued provisional "No Objection Certificate, but at the same time, they have not relieved the petitioner, to enable him to pursue his course. On the one hand, the respondents have issued provisionally, "No Objection Certificate", on the contrary, they are not relieving the petitioner, to pursue his course. The respondents cannot be permitted to blow hot and cold in the same breath. In case, the petitioner is not relieved, the issuance of provisional "No Objection Certificate", would pale into insignificance and renders the order of this Tribunal ineffective, which is not legally permissible. Therefore, since the main OA, RA and instant MA have already been slated for final arguments on 11.01.2017, so we are of the firm view that meanwhile, the petitioner should provisionally be relieved in this regard, to enable him to pursue his FTISM Course, failing which it will inculcate and perpetuate injustice to him.

10. In the light of the aforesaid reasons and without commenting further anything on merits, lest it may prejudice the case of either side, during the course of hearing of main OA, RA and MA, meanwhile the respondents are directed to provisionally relieve the petitioner forthwith, to enable him to pursue the indicated course.

Copy **DASTI**.

(P.K. BASU)
MEMBER (A)

(JUSTICE M.S. SULLAR)
MEMBER (J)
13.12.2016

Rakesh