

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

C.P.NO.261 of 2016

(In O.A.NO.4036 OF 2012 and T.A.NO.104 OF 2013)

New Delhi, this the 4th day of May 2018

CORAM:

HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

&

HON'BLE MS.PRAVEEN MAHAJAN, ADMINISTRATIVE MEMBER

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Ms. Saroj Kumari,
House No.4/23, Street No.4,
Shalimar Park Extension,
Shahdara,
New Delhi -32(Applicant in OA 4036/12 & TA 104/13)....Petitioner
(By Advocate: Mr.Rakesh Dhingra)
Vs.

1. Sh.Bhanu Pratap Sharma,
Secretary to the Government of India,
Ministry of Health & Family Welfare,
GOI, Nirman Bhawan,
New Delhi 1
 2. Sh.Vinod Kumar,
Under Secretary to the Government of India,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi-1 (Respondents
in OA 4036/12 & TA 104/13)Opp.Parties
- (By Advocate: Mr.Rajeev Kumar)

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ORDER

Per RAJ VIR SHARMA, MEMBER(J):

The petitioner of this Contempt Petition was applicant in OA No.4036 of 2012 and TA No.104 of 2013. This Contempt Petition was filed

by the applicant on 3.5.2016 with the following prayers:

- “a) issue necessary directions for contempt of court to the concerned officers of the respondents and to direct the respondent no.1/Contemnor to issue necessary orders for appointment of applicant as Assistant Professor (Bio-Chemistry/Physiology/Pharmacology) in the reserved quota on regular basis who has been scrutinized & called for interview on 10.04.2012, 18.04.2012 and 13.12.2012 by contemnor in consonance with the orders and judgment of this Hon’ble Tribunal.
- b) issue necessary directions for consequential benefits including modification of the seniority list.
- c) direct respondents to take appropriate steps in following the GOI guidelines for filling the post of SC/ST.
- d) issue any other order or directions as deemed fit in the facts and circumstances of the case.”

It has been contended by the applicant-petitioner that the respondent-opposite parties have deliberately and willfully flouted the Tribunal’s order dated 27.11.2015 passed in OA No.4036 of 2012 and TA No.104 of 2013 by not examining the proceedings of the Selection Committee, which interviewed her for the posts of Assistant Professor (Physiology) and Assistant Professor (Biochemistry) on 14th and 18th April 2012 pursuant to the Advertisement dated 28.12.2011, and by not considering her case for appointment to the post of either Assistant Professor (Physiology) or Assistant Professor (Biochemistry) against the reserved category post for SC available in any of the new six AIIMS. It has also been contended by the applicant that the order dated 16.3.2016 has been passed by respondent-opposite parties without considering her claim in proper perspective and in

the light of the findings arrived at by the Tribunal in order dated 27.11.2015 (ibid).

2. In response to the notices issued by the Tribunal in CP, the respondent-opposite parties filed a compliance affidavit on 13.7.2016 and an additional affidavit on 16.4.2018. The applicant has also filed rejoinder reply to the said compliance affidavit on 18.10.2016 and a rejoinder reply to the said additional affidavit on 9.3.2017.

3. We have carefully perused the materials available on record and have heard Mr.Rakesh Dhingra, learned counsel appearing for the applicant-petitioner and Mr.Rajeev Kumar, learned counsel appearing for the respondent-opposite parties.

4. Mr.Rakesh Dhingra, learned counsel appearing for the applicant-petitioner took us through the order dated 27.11.2015 passed in OA No.4036 of 2012 and TA No.104 of 2013 and submitted that none of the findings arrived at by the Tribunal have been kept in mind by the respondent-opposite parties while passing the order dated 16.3.2016(ibid) and, therefore, the respondent-opposite parties cannot be said to have examined the proceedings of the Selection Committee and considered the applicant's case for appointment to the post of either Assistant Professor (Physiology) or Assistant Professor (Biochemistry) against the reserved category post for SC available in any of the new six AIIMS. Therefore, it is a fit case where appropriate proceedings under the Contempt of Courts Act should be initiated against the respondent-opposite parties, and the

directions, as prayed for by the applicant in the CP, should be issued to the respondent-opposite parties.

5. *Per contra*, it has been contended by Mr. Rajeev Kumar, learned counsel appearing for the respondent-opposite parties that the Tribunal's order dated 27.11.2015 (ibid) has been duly complied with by the respondent-opposite parties, and that in the CP there is no scope for issuance of any further direction to the respondent-opposite parties in the matter.

6. The Tribunal, by its order dated 27.11.2015 (ibid), directed the respondent no.1-Union of India to re-examine the proceedings of the Selection Committee, which interviewed the applicant for the posts of Assistant Professor (Physiology) and Assistant Professor (Biochemistry) on 14th and 18th April 2012 pursuant to the Advertisement dated 28.12.2011 (ibid), and to consider the case of the applicant on the basis thereof, and take a decision by passing a reasoned and speaking order with regard to selection, or otherwise, of the applicant to the post of either Assistant Professor (Physiology), or Assistant Professor (Biochemistry) against the reserved category post for SC available in any of the new six AIIMS within a period of three months from 27.11.2015, i.e., the date of the order. Admittedly, in compliance of the Tribunal's order dated 27.11.2015 (ibid), the respondent-opposite parties, vide order dated 16.3.2016 (ibid), examined the proceedings of the Selection Committee and considered the case of the applicant on the basis thereof, but did not accede to the applicant's claim. If at all the applicant-petitioner is not satisfied with the order dated

16.3.2016(ibid) passed by the respondent-opposite parties and has still some grievance, she is free to challenge the order dated 16.3.2016(ibid) and seek redressal of her grievance by initiating fresh proceedings in accordance with law, but she cannot be allowed to seek any further relief/direction in the present CP beyond the scope of the order dated 27.11.2015(ibid). The power vested in the Courts/Tribunals to punish for contempt is a special and rare power available both under the Constitution as well as the Contempt of Courts Act, 1971. It is a drastic power which, if misdirected, could even curb the liberty of the individual charged with commission of contempt. The very nature of the power casts a sacred duty in the Courts/Tribunals to exercise the same with the greatest of care and caution. This is also necessary as, more often than not, adjudication of a contempt plea involves a process of self-determination of the sweep meaning and effect of the order in respect of which disobedience is alleged. Courts/Tribunals must not, therefore, travel beyond the four corners of the judgment/order which is alleged to have been flouted or enter into questions that have not been dealt with or decided in the judgment or the order violation of which is alleged. Only such directions which are explicit in a judgment or order or are plainly self evident ought to be taken into account for the purpose of consideration as to whether there has been any disobedience or willful violation of the same. Courts/Tribunals must also ensure that while considering a contempt plea, the power available to the Tribunals/Courts in other corrective jurisdictions like review or appeal is not trenched upon. No order or direction supplemental to what has been

already expressed should be issued by the Courts/Tribunals while exercising jurisdiction in the domain of the contempt law. In the instant case, the Tribunal's order dated 27.11.2015 (ibid) having substantially been complied with by the respondent-opposite parties, we do not find any merit in the CP.

7. Accordingly, the CP is dismissed. The applicant-petitioner is, however, granted liberty to initiate fresh proceedings in accordance with law challenging the order dated 16.3.2016(ibid) passed by the respondent-opposite parties, if she is so advised. The notices issued against the respondent-opposite parties are discharged. No costs.

(PRAVEEN MAHAJAN)
ADMINISTRATIVE MEMBER

(RAJ VIR SHARMA)
JUDICIAL MEMBER

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