

CP.No.170/00086/2017(OA.No.1298/2014)/CAT/Bangalore Bench
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

**CONTEMPT PETITION NO.170/00086/2017 IN ORIGINAL APPLICATION NO.
 1298/2014**

DATED THIS THE 17th DAY OF APRIL, 2018

HON'BLE DR.K.B. SURESH, MEMBER (J)
HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)

S.S.Biradar
 Aged 33 years
 S/o.Shivappa S.Biradar
 Ex-GDS BPM, Dhanyal BO
 A/w Tikota SO-586130.
 Residing at Bijjargi-586114
 Vijayapura Dist.

... Petitioner

(By Advocate Shri B.Venkateshan)

Vs.

1. Smt.Veena Srinivas
 The Postmaster General
 N.K.Region, Dharwad-580001.
2. Shri.K.Dinakar
 The Superintendent of Post Offices
 Vijayapura Division, Vijayapura-586104.

...Respondents

(By Advocate Shri M.Rajakumar)

ORDER

(PER HON'BLE PRASANNA KUMAR PRADHAN, MEMBER (A))

This Contempt Petition has been filed by the petitioner alleging non-compliance of the order dtd.19.01.2016 passed by this Tribunal in OA.No.1298/2014. In the said order, the Tribunal had set aside the order of the appellate authority and directed the appellate authority to have the applicant medically examined by experts in NIMHANS and decide the appeal afresh by taking into consideration the entire circumstances of the case and opinion of the experts in NIMHANS and pass a speaking order.

2. According to the petitioner, based on a direction issued by the respondents, he had appeared before the concerned doctors at NIMHANS on 16.6.2016 and the doctors at NIMHANS issued a certificate indicating that the applicant is fit to join back to the duties. Thereafter, the 1st contemnor again requested the NIMHANS to constitute a team of experts to examine the applicant and offer their views regarding the reasons for remaining absent from duty by examination of entire medical records in order to take a decision on his reinstatement. The medical board at NIMHANS again examined the petitioner on 3.1.2017 and opined that in view of the IQ test revealing average intelligence on neuropsychological assessment, the patient can resume duty. However, there had no comments on the medical condition of the applicant at that point of time as he was not seen by them at the time of accident. Petitioner alleges that though he was declared medically fit, he has not been reinstated which amounts to willful disobedience on the order of the Tribunal.
3. The respondents in their reply statement have referred in detail to the order of this Tribunal and submitted that in compliance with the order passed by the Tribunal, they have taken up the matter with NIMHANS. The Board after examining the patient and having gone through all available medical records and after discussing in the medical board meeting, opined that in view of the IQ test revealing average intelligence of 93 of BK test on neuropsychological assessment, the patient can resume his duties. They have also opined that since the patient was not seen by them at the time of accident and for a long time subsequent to that they cannot comment upon the medical condition of the patient at that time and following the accident. After considering medical opinion given by NIMHANS, the appellate authority disposed of the appeal preferred by the applicant and passed a detailed speaking order on

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21.12.2017 confirming the order issued by the disciplinary authority
dtd.6.3.2008. Therefore, they contended that they have complied with the
order passed by the Tribunal and there is no willful and deliberate
disobedience as alleged by the petitioner.

4. During the hearing, the Learned Counsel for the petitioner and the respondents practically argued on the line of issues mentioned in the petition and reply statement respectively and which has been explained in detail in preceding paras.
5. We have carefully considered the matter. While setting aside the order of the appellate authority, the Tribunal in its order dtd.19.1.2016 had directed the appellate authority to have the applicant medically examined by the experts in the National Institute of Mental Health and Neuro Sciences(NIMHANS) who shall also examine the entire medical records and offer their views as to whether given the medical condition of the applicant who met with an accident, it is possible that he would not be in a position to respond properly and was not in a proper physical and mental condition in 2007 wherein he appeared before the enquiry officer and admitted the charges. They should also opine whether a person will be in such a state that he becomes oblivious of facts concerning him and may not respond even to the order of his dismissal for long 4 years. We note that pursuant to the order of the Tribunal, the appellate authority had duly taken up the matter with the Director, NIMHANS and the applicant was medically examined by experts. We have also seen the records submitted by the NIMHANS. While experts in NIMHANS are of the view that the applicant is having average intelligence and in a position to resume duties now, they could not comment upon his mental condition at that point of time as to whether the applicant was in a

position in 2007 to respond properly in the context of physical and mental condition as they had not examined the patient any time during that period. We also note that the appellate authority after taking into consideration the report of the experts in NIMHANS passed a detailed speaking order dtd.21.12.2017 which is enclosed along with reply statement.

6. After considering all the records, we are of the view that the respondents have taken necessary action pursuant to the order of the Tribunal dtd.19.01.2016 and there is no instance of any willful disobedience of the order passed by this Tribunal. We had only directed the appellate authority to have opinion of experts from NIMHANS and decide the appeal of the applicant in a proper perspective by passing a speaking order. There was no direction for reinstatement. If the applicant is still aggrieved by the order passed by the appellate authority, he may approach the appropriate forum against the order passed by the appellate authority. However, there is no case of any violation of the order and thereby commitment of contempt by the contemnors. Therefore, we hold that there has been no violation of the order passed by the Tribunal and hence the contempt petition stands closed. Notices issued are discharged. No order as to costs.

(P.K. PRADHAN)
MEMBER(A)

(DR. K.B. SURESH)
MEMBER (J)

/ps/

Annexures referred to by the petitioner in CP.No.170/00086/2017(OA.1298/2014)

Annexure-CP1: Order dated 19.1.2016 in OA.No.1298/2014

Annexure-CP2: PMG NK Region Lr.No.NKR/STA-4/Appeal/SSB/2016, dt.11.4.2016

Annexure-CP3: NIMHANS Lr.No.NIMH/HOS/MS/2015-16, dated 29.3.2016

Annexure-CP4: NIMHANS-Psychologist report dated 16.6.2016

Annexure-CP5: Certificate of Fitness of NIMHANS dt.22.6.2016

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Annexure-CP6: Petitioners representation dt.30.6.2016

Annexure-CP7: PMG NK Lr.No.NKR/STA-4/Appeals/2016, dt.4.10.2016

Annexure-CP8: Applicant's representation dated 24.11.2016 to the Director,
NIMHANS, Bangalore

Annexure-CP9: Applicant's representation dt.24.11.2016 to PMG NK Region,
Dharwad

Annexure-CP10: NIMHANS-Medical Board Report dt.3.1.2017

Annexure-CP11: PMG's Lr.No.SKR/STA-4/Appeals/2016, dt.23.2.2017

Annexure-CP12: NIMHANS Lr.No.NIMH/HOS/NS Unit-11/SS, dt.2.5.2017

Annexure-CP13: PMG's Lr.No.NKR/RTI/OA-082/2017, dt.22.9.17.

Annexures with reply statement:

Annexure-R1: Copy of the letter dated 4.10.2016 of 1st respondent

Annexure-R2: Copy of the letter dated 23.02.2017 of 1st respondent

Annexure-R3: Copy of the order dated 21.12.2017 passed by the appellate authority

Annexure-R4: Copy of the Daily Order sheet

Annexure-R5: Copy of the Acknowledgment
