

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

CP No. 290/00032/2016 (OA No.290/00082/2012)
 CP No.290/00075/2015 (OA No.290/00353/2011)
 CP No.290/00076/2015 (OA No.290/00029/2012)
 CP No.290/00077/2015 (OA No.290/00354/2011)
 CP No.290/00078/2015 (OA No.290/00382/2011)
 CP No.290/00021/2016 (OA No.290/00020/2012)
 CP No.290/00022/2016 (OA No.290/00077/2014)
 CP No.290/00023/2016 (OA No.290/00320/2012)
 CP No.290/00025/2016 (OA No.290/00428/2013)
 CP No.290/00026/2016 (OA No.290/00429/2013)
 CP No.290/00027/2016 (OA No.290/00359/2013)

Reserved on : 16.11.2018

Pronounced on : 06.12.2018

CORAM

HON'BLE MR. A.MUKHOPADHAYA, MEMBER (A)
HON'BLE SMT. HINA P.SHAH, MEMBER (J)

CP No.290/00032/2016

Har Govind Sharma s/o Shri Gulab Chand Sharma, aged about 63 years, r/o Plot No.02, Roop Nagar, Digarikallan, Jodhpur, Rajasthan.

.. PETITIONER

(BY ADVOCATE: Mr. D.S.Sodha)

VERSUS

1. Smt. Kaveri Barman, Union of India through Secretary Ministry of Communication, Dak Bhawan, Dak Vibhag, New Delhi.
2. Shri D.K.Chouhan, Chief Post Master General Rajasthan Circle, Jaipur
3. Shri Shiuli Barman, Post Master General, Western Region, Jodhpur

4. Shri L.R.Parihar, Superintendent, Railway Mail Service, ST Division, Jodhpur

..RESPONDENTS

(BY ADVOCATE: Mr. K.S.Yadav)

CP No.290/00075/2015

Hardeva Ram Dhaka, S/o Shri Pura Ram Dhaka, aged about 60 years, R/o Vill + PO - H.No.13, Ward No.1, Sujangarh, District Churu (office Address: working as Postal Assistant at Salasar Post Office).

...PETITIONER

BY ADVOCATE : Mr. D.S. Sodha

VERSUS

1. Kaveri Banarjee, Secretary, Govt. of India, Ministry of Communication, Deptt of Posts, Dak Bhawan, New Delhi.
2. Lt. Col. DKS Chauhan, CPMG, Rajasthan Circle, Jaipur.
3. Ram Singh, Superintendent of Post offices, Churu Division, Churu.

..RESPONDENTS

BY ADVOCATE: Mr. K.S. Yadav.

CP No.290/00076/2015

Dana Ram Jat, S/o Shri Nathu Ram Jat, Aged about 60 years, R/o Vill. + PO - Narangarh, District Churu (Office Address: working as Postman at Sujangarh Post Office).

...PETITIONER

BY ADVOCATE : Mr. D.S. Sodha

VERSUS

1. Kaveri Banarjee, Secretary, Govt. of India, Ministry of Communication, Deptt. of Posts, Dak Bhawan, New Delhi.

2. Lt. Col. DKS Chauhan, CPMG, Rajasthan Circle, Jaipur.
3. Ram Singh, Superintendent of Post offices, Churu Division, Churu.

RESPONDENTS

BY ADVOCATE: Mr. K.S. Yadav.

CP No.290/00077/2015

Chauthmal Pareek, S/o late Tulsi Ram, aged about 61 years, R/o Vill + PO Kulasar, District Churu (Office Address: working as Postal Assistant at Sardarsahar Post Office).

...PETITIONER

BY ADVOCATE : Mr. D.S. Sodha

VERSUS

1. Kaveri Banarjee, Secretary, Govt. of India, Ministry of Communication, Deptt of Posts, Dak Bhawan, New Delhi.
2. Lt. Col. DKS Chauhan, CPMG, Rajasthan Circle, Jaipur.
3. Ram Singh, Superintendent of Post offices, Churu Division, Churu.

..RESPONDENTS

BY ADVOCATE: Mr. K.S. Yadav.

CP No.290/00078/2015

Bhanwar Lal Regar, S/o Shri Ghasi Ram Regar, aged about 61 years, R/o Vill + PO - Regar Basti, Ward No.38, District Churu, (Retired from service, worked under Postal Department).

...PETITIONER

BY ADVOCATE : Mr. D.S. Sodha

VERSUS

1. Kaveri Banarjee, Secretary, Govt. of India, Ministry of Communication, Deptt. of Posts, Dak Bhawan, New Delhi.

2. Lt. Col. DKS Chauhan, CPMG, Rajasthan Circle, Jaipur.
3. Ram Singh, Superintendent of Post offices, Churu Division, Churu.

..RESPONDENTS

BY ADVOCATE: Mr. K.S. Yadav.

CP No.290/00021/2016

LR's of Pukhraj Sharma

1. Vimla Devi W/o Pukhraj Sharma
2. Lalit Kishor Sharma S/o Pukhraj Sharma
3. Ganga Shankar Sharma S/o Pukhraj Sharma

R/o H.No.233, Near Ganesh Temple, Ward No.29,
Suratgarh, District Sriganganagar (Office Address:
Worked as Mailguard at SRM, ST Division, Jodhpur.)

...PETITIONER

BY ADVOCATE : Mr. S.P. Singh

VERSUS

1. Kaveri Banarjee, Secretary, Govt. of India, Ministry of Communication, Deptt of Posts, Dak Bhawan, New Delhi.
2. Lt. Col. DKS Chauhan, CPMG, Rajasthan Circle, Jaipur.
3. Ladu Ram Parihar, SRM, ST Division, Jodhpur.

..RESPONDENTS

BY ADVOCATE: Mr. K.S. Yadav.

CP No.290/00022/2016

Ram Chandra Purohit, S/o Shri Bhawar Lal Purohit, Aged about 63 years, b/c – Brahman, R/o Dedoji ka Kuan, Back to Alok Cinema, Churu District – Churu. (Official Address: Worked as SA at RMS Churu under SRM ST Division Jodhpur, under Postal Department.)

...PETITIONER

BY ADVOCATE : Mr. S.P. Singh

VERSUS

1. Kaveri Banarjee, Secretary, Govt. of India, Ministry of Communication, Deptt of Posts, Dak Bhawan, New Delhi.
2. Lt. Col. DKS Chauhan, CPMG, Rajasthan Circle, Jaipur.
3. Longa Ram Parihar, SRM ST Division, Jodhpur.

..RESPONDENTS

BY ADVOCATE: Mr. K.S. Yadav.

CP No.290/00023/2016

Bansi Lal Nai, S/o Shri Narain Lal, Aged about 57 years, R/o Pratap Nagar, Mitharamji ka Khera, Chittorgarh (Official Address: Working as Sorting Assistant, RMS, 'J' Division, Chittorgarh).

...PETITIONER

BY ADVOCATE : Mr. S.P. Singh.

VERSUS

1. Kaveri Banarjee, Secretary, Govt. of India, Ministry of Communication, Deptt. of Posts, Dak Bhawan, New Delhi.
2. Lt. Col. DKS Chauhan, CPMG, Rajasthan Circle, Jaipur.
3. Ratan Lal Balotia, RMS, 'J' Division, Ajmer.

..RESPONDENTS

BY ADVOCATE: Mr. K.S. Yadav.

CP No.290/00025/2016

Shankar Das Vaishnav, S/o Late Shri Mul Das Vaishnav, Aged about 60 years, b/c Brahman, R/o Kumharo ka Bas, Post Desuri, District Pali (Official Address: Worked as APM Post Office Nana, under Postal Department).

...PETITIONER

BY ADVOCATE : Mr. S.P. Singh

VERSUS

1. Kaveri Banarjee, Secretary, Govt. of India, Ministry of Communication, Deptt of Posts, Dak Bhawan, New Delhi.
2. Lt. Col. DKS Chauhan, CPMG, Rajasthan Circle, Jaipur.
3. D.R. Suthar, SPO, Pali Division, Pali.

..RESPONDENTS

BY ADVOCATE: Mr. K.S. Yadav.

CP No.290/00026/2016

Fayaz Ali, S/o late Shri Anwar Ali, Aged about 63 years, b/c-Muslim, R/o Vill. + PO- Ahore, District – Jalore. (Official Address: Worked as SPM Post Office Jalore, under Postal Department).

...PETITIONER

BY ADVOCATE : Mr. S.P.Singh

VERSUS

1. Kaveri Banarjee, Secretary, Govt. of India, Ministry of Communication, Deptt of Posts, Dak Bhawan, New Delhi.
2. Lt. Col. DKS Chauhan, CPMG, Rajasthan Circle, Jaipur.
3. Deva Ram Purohit, SPO, Sirohi Division, Sirohi.

..RESPONDENTS

BY ADVOCATE: Mr. K.S. Yadav.

CP No.290/00027/2016

Safi Mohd K Bhati, S/o late Shri Karim Bax, Aged about 62 years, b/c-Muslim, Nadole, District – Pali. (Official Address: Worked as SPM Post Office Rani, under Postal Department).

...PETITIONER

BY ADVOCATE : Mr. S.P. Singh

VERSUS

1. Kaveri Banarjee, Secretary, Govt. of India, Ministry of Communication, Deptt of Posts, Dak Bhawan, New Delhi.
2. Lt. Col. DKS Chauhan, CPMG, Rajasthan Circle, Jaipur.
3. D.R. Suthar, SPO, Pali Division, Pali.

..RESPONDENTS

BY ADVOCATE: Mr. K.S. Yadav.

ORDER

PER HON'BLE SMT. HINA P.SHAH

These Contempt Petitions have been filed by the petitioners u/s 17 of the Administrative Tribunals Act, 1985 alleging non-compliance of the orders dated 22.5.2012, 13.9.2012, 9.5.2013 and 5.11.2015 (CP/1 in the respective Contempt Petitions) alleging that the respondents have wilfully disobeyed the orders passed by this Tribunal.

2. The respondents have challenged the decisions passed in the cases of petitioner, Har Govind Sharma, Chauthmal Pareek, Bhanwar Lal Regar, Hardeva Ram Dhaka, Pukhraj Sharma, Dana Ram and Bansi Lal Nai by way of filing D.B.Civil Writ Petition Nos. 11709/2013, 11321/2012, 11336/2012, 11414/2012, 364/2013, 1218/2013 and 14230/2013 respectively before the Hon'ble Rajasthan High Court at Jodhpur. The Hon'ble High Court vide order dated 10th August, 2015 has dismissed the Writ Petitions. It appears that the respondents in the cases of petitioner,

Shankar Das Vaishnav, Fayaz Ali and Safi Mohd K. Bhati did not approach the Hon'ble High Court. The DB Civil Writ Petition No. 6097/2018 filed in the case of petitioner Ram Chandra Purohit is pending before the Hon'ble Rajasthan High Court.

3. It is stated that in an identical issue CAT-Jaipur Bench has dismissed OA No.321/2011 on 4.7.2013, which has been affirmed by Hon'ble High Court at Jaipur in DB Civil Writ Petition No.16150/2013 decided on 10.12.2015. Thereafter the Union of India approached the Hon'ble Supreme Court in SLP (Civil) Diary No. 22650/2018 and the Hon'ble Apex court vide its order dated 30.07.2018, has dismissed the said SLP filed by the Union of India.

It is further stated that OA No. 354/2011, Chauthmal Pareek vs. Union of India and Ors. was allowed by this Bench on 22.5.2012, which was confirmed by the Hon'ble High Court of Rajasthan as DB CWP No.11321/2012 filed by Union of India was dismissed on 10.8.2015 and the said matter attained its finality as Hon'ble Apex Court has dismissed the SLP (Civil) Diary No. 23265/2018 filed by Union of India vide order dated 20.9.2018.

It is also stated that the identical case of D.Shiva Kumar vs. Union of India & Ors. was also allowed by the CAT-Madras Bench on 14.3.2013 in OA No. 1088/2011, which was further challenged by the Union of India before Hon'ble Madras High Court by way of Writ Petition No.30629/2014 and MP No.01/2014 and the same was dismissed vide order dated 04.02.2015. Also the SLP No.4848/2016 filed by Union of India in the said matter was dismissed by the Apex Court on 16.8.2016 and the Review Petition filed in the said matter by the Union of India bearing No. RP (C) No.1939/2017 in SLP (C) No.4848/2016 was also dismissed on 13.9.2017.

Further, the CAT-Bangalore Bench has allowed the OA No. 361/2014 filed by Basanna Nayak vide order dated 9th October, 2015 and the Writ petition No. 200807/2016 (S-CAT) filed by Union of India was dismissed on 20.9.2016. It is also stated that in another identical matter filed by Union of India in WP No.8628/2016 before the Hon'ble High Court at Hyderabad was also dismissed on 13.2.2017 in the case of Union of India vs. Sri S.Rama Chandraiah on the same issue.

It is stated that the Hon'ble High Court at Jodhpur in its judgment and order dated 10.8.2015 in DB Civil Writ Petition No. 11709/2013 and 22 others while deciding the cases of CAT, Jodhpur Bench had observed that the respondents failed to point out any provisions for promotion to the post of Postman/Sorting Assistant before the Hon'ble High Court at the time of passing the order dated 10.08.2015 and a Review Petition filed in W.P.No.11709/2013 before the Hon'ble High Court at Rajasthan is pending consideration.

On the other hand, in similar issue, Ahemadabad Bench of this Tribunal had dismissed OA No.219/2015 filed by Shri B.C.Dutt on 17.11.2015. It is also stated that Hon'ble Rajasthan High Court at Jodhpur has dismissed DB Civil Writ Petition No.3968/2008 filed by the applicant Ram Karan Kumhar on 31.5.2016 which had been dismissed by this Bench on 11.05.2007. It is noted that in the similar matter DB Civil Writ Petition No. 14457/2016 filed by the Union of India & Ors. vs. Kulwant Singh which was dismissed by Hon'ble High Court of Rajasthan at Jaipur, against which the D.B. Review Petition No.328/2017 was allowed vide its order dated 12.7.2018.

Therefore, it appears that in some identical matters some Writ Petitions were allowed and in other identical matters, the Writ Petitions were dismissed. The learned counsel for the respondents produced before us a judgment dated 10.5.2018 passed in DB Civil Writ Petition No. 18488/2016, wherein the Hon'ble High Court at Jaipur has considered the judgment passed by the Hon'ble High Court at Jodhpur in Writ Petition No. 11709/2013, Union of India vs. Har Govind Sharma decided on 10.8.2015 which was followed by the Karnataka High Court against which SLP (C) No.4848/2016 was preferred which was also dismissed vide order dated 16.8.2016. The Hon'ble High Court after considering the judgement passed by the Principal Seat of High Court at Jodhpur in DB Civil Writ Petition No.3968/2008, Ramkaran Kumhar vs. Union of India decided on 31.5.2016; the judgment in the case of Union of India and Ors. vs. D.Shivkumar and Anr. in Writ Petition No.30629 of 2014 with MP No. 01/2014 decided on 4.2.2015 and SLP (C) No.4848/2016 decided on 16.8.2016 and Review Petition (C) No.1939 of 2017 in SLP (C) No.4848/2016 decided on 13.9.2017; the judgment in the case of Union of India and Ors. vs. Shakeel Ahmad Burney, W.P.(C) No.4131/2014 decided by the Hon'ble Delhi High

Court on 5.8.2017; the judgment in DB Civil Writ Petition No.11709/2013 in case of Union of India & Ors. vs. Har Govind Sharma decided on 10.8.2015; the judgment in DB Writ Review Petition No. 171/2016, Union of India and Ors. vs. S.N.Singh Bhati decided on 31.1.2018; the judgment in Union of India and Ors. vs. Shri Basanna Nayak, Writ Petition No. 200807/2016 (S-CAT) decided on 20.9.2016; Union of India vs. Jagdish Prasad Sharma, DB Writ Review No. 181/2016 in DB Civil Writ Petition No. 16150/2013 decided on 15.2.2018 and in para 12 observed as under:-

“12. In our opinion, the Tribunal has seriously committed an error in allowing original application relying upon the judgment of Har Govind (supra) which is now diluted by the subsequent decision of the Division Bench judgment. In view of the Rules, we are very clear that in view of promotion first benefit is to be granted from 10 years from the promotion post or from the new recruitment taken as confirmed. In that view of the matter, the petitions deserve to be allowed. ”

5. In view of above development, since we are dealing with the contempt proceedings only to the extent of wilful and deliberate disobedience of the order passed by this Tribunal, therefore, without going into other aspects of the matter, we are of the view that there is no wilful disobedience on the part of the respondents in compliance of the order of this Tribunal as the said matter cannot be

said to have attained finality as it is clear from the order of the Hon'ble Apex Court in SLP (C) No.4848/2016, where the Hon'ble Apex Court while dismissing SLP, vide order dated 16.8.2016 observed that – however, the question of law is kept open. Thereafter the Hon'ble Rajasthan High Court has considered all the judgments on the issue while deciding DB Civil Writ Petition No.18488/2016 vide order dated 10.5.2018 and after this order, it is not clear as to whether the respondents in the said Writ Petition have approached the Hon'ble Apex Court.

6. Therefore, in view of above discussions, it is clear that there is no question of any contempt in these Contempt Petitions and accordingly, these Contempt Petition are liable to be dismissed. However, the petitioners are at liberty to approach this Tribunal as and when the matter attains finality on the question of law, by way of a fresh OA.

7. Accordingly, all the Contempt Petitions are dismissed. Notices are discharged.

(HINA P.SHAH)
JUDL. MEMBER

(A.MUKHOPADHAYA)
ADMV. MEMBER

R/