

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
(CIRCUIT AT PORT BLAIR)

No.CPC.351/00041/2016
(O.A.351/00210/2015)

Date of order : 10.04.2017

Coram : Hon'ble Mr. A.K. Patnaik, Judicial Member
Hon'ble Mrs. Minnie Mathew, Administrative Member

Shri Prabhat Singh
Aged about 26 years,
S/o Shri Jashwant Singh,
R/o Garacharma-II
Port Blair

.....Applicant

- Versus-
Mr. S. Suresh Kumar,
Deputy Director of Education(Perl),
Directorate of Education,
Andaman & Nicobar Administration,
Port Blair

.....Contemnor

For the applicant : Ms. A. Nag, counsel
For the respondents : Mr. S.C. Misra, counsel

ORDER

Per Mr. A.K. Patnaik, J.M.

The applicant has filed the instant contempt petition to punish the respondents/contemnors alleging violation of the order dated 13.04.2016 passed by this Tribunal in O.A.351/00210/2015 and O.A.351/00211/2015.

2. Heard Ms. A. Nag, ld.counsel for the petitioner and Mr. S.C. Misra, ld. Counsel for the alleged contemnor.

3. Ld. counsel for the alleged contemnor, Mr. S.C. Misra has filed compliance report today by filing a memo after serving a copy of the same to Ms. Nag, ld. counsel for the petitioner.

4. Ms. Nag, ld. counsel for the petitioner has drawn our attention to para 8 of the order passed by the Tribunal on 13.04.2016 in O.A.351/00210/2015 and O.A.351/00211/2015 in which it has been reflected as under:-



"8. The Id. Counsel for the respondents submits that experience of teaching in the Library Science subject would be taken into consideration and the professional experience does not include the teaching experience in any other stream."

Ms. Nag, by drawing our attention to the provisions of Contempt of Courts(C.A.T.) Rules, submitted that it is the well settled position of law that the court order should be strictly followed and any deliberate or intentional violation will attract the provisions of Contempt of Courts (C.A.T.) Rules and the authority who acts in a manner not in accordance with the direction of the court or Tribunal should be proceeded with as per the Contempt of Courts(C.A.T.) Rules. By drawing our attention to the Compliance Report and the order No.2984 dated 19.09.2016 passed by the respondent authorities, Ms. Nag submitted that the said respondents have already submitted that while considering the matter, the teaching experience in the library science subject would be taken into consideration and professional experience in other streams would not be considered (as reflected in para 8 of the order dated 13.04.2016), but they have passed the order dated 19.09.2016 in violation of the order dated 13.04.2016 passed by this Tribunal in O.A.351/00210/2015 and O.A.351/00211/2015.

5. Mr. S.C. Misra, Id. counsel for the alleged contemnor submitted that once an order was passed by the Tribunal or court, the said Tribunal/court becomes functio officio and if there is any deliberate or intentional violation of the order, the departmental respondents can be proceeded with as per Contempt of Courts(C.A.T.) Rules., but in the instant case, when the order was passed by the Tribunal it was stated as under:-

"9. We are not aware whether this process is being adopted by the competent authority or not. However, we are of the view that the aforesaid statement of Learned Counsel for the respondents be brought to the notice of the appointing authority before concluding the process of selection. The Learned Counsel shall ensure to communicate the order to selection committee before conclusion of selection process.

10. With this observation, both these petitions are disposed of. There shall be no order as to costs."

Mr. Misra, therefore, submitted that this Contempt Petition is misconceived and liable to be dismissed at the threshold.

6. We find that the authorities have passed an order in this matter on 19.09.2016. and it cannot be said that there was intentional and deliberate violation of the order of this Tribunal.



7. Hon'ble Apex Court from time to time held that in Contempt proceedings, the Tribunal is the accuser as well as Judge of the Accusation. The Tribunal is vested with the power of contempt which needs to be exercised with lot of circumspection and the object is not to punish the official or parties indiscriminately just because interest of an Individual/Applicant has not been served due to certain stand taken by the Respondents/Alleged contemnors. The interest of public justice is always paramount and of greater importance than that of the interest of the individual/applicant laying complaint.. The contempt proceedings may be initiated by the court in exceptional circumstances where the court is of the opinion that a party has intentionally and deliberately violated the orders. There must be grounds of a nature higher than mere surmise or suspicion for initiating such proceedings. Moreso, the court has also to determine as on facts, whether it is expedient in the interest of justice to inquire into the offence which appears to have been committed.

8. We have considered the rival contentions advanced by the respective parties with reference to the pleadings and materials placed in support thereof and analyzed the factual matrix of the case. In the instant case, we find that this Tribunal has not given any positive direction to the Respondents. Therefore, the question of the Contemnors committing any intentional or wilful contempt of the orders of this Tribunal does not arise. The submission made by the learned counsel for the Respondents at the Bar that experience of teaching in the Library Science subject would be taken into consideration and the professional experience does not include the teaching experience in any other stream was recorded and it was added that this Tribunal was not aware whether the process is being adopted by the competent authority or not. It was further observed that the statement of the learned Counsel for the Respondents should be brought to the notice of the Appointing Authority before concluding the process of selection. The order No.2984 dated 19th September 2016 passed in compliance of the aforesaid direction specifically mentions that the submission of the learned Government Pleader was considered by the appointing authority. In this view of the matter, we do not see any contemptuous action on the part of the alleged contemnors. In fact what is the favourable order designed to be achieved by the alleged Contemnor has not been focussed anywhere in the present Contempt Petition. In the case of **R.S. Sujatha v State of Karnataka and**



Ors, 2011 (2) SLR 352 the Hon'ble Apex Court while quashing the order of the Tribunal held that action on the part of a party by mistake, inadvertence or by misunderstanding does not amount to contempt.

9. For the discussions made above, we find no merit in this contempt petition. The contempt petition is accordingly dismissed. However, the petitioner is granted liberty to challenge the order so passed on 19.09.2016 by filing an Original Application.

(Minne Mathew)
Administrative Member

(A.K. Patnaik)
Judicial Member

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