

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

RA No. 9/2018
CP 758/2017
OA No. 4164/2014

New Delhi this the 30th day of August, 2019

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)

Hari Mohan Meena ...Applicant

(By Advocate: Ms. Akshita Rao for Mr. Naresh Kaushik)

Versus

1. Deepak Mohan Spolia, The Chief Secretary
Govt. of NCT
Players Building, IP Extension, New Delhi.
2. V.K. Singh, The Secretary
Delhi Subordinate Services Selection Board
FC-18, Institutional Area
Karkardooma (Near Railway Reservation Centre)
Delhi – 110092.
3. Puneet Kumar Goel, The Commissioner
West Delhi, Corporation of Delhi
Civic Centre, 4th Floor, Minto Road, ITO
New Delhi – 110002.

(By Advocate : Mr. RK Jain and Mr. Anuj Kr. Sharma)

ORDER (ORAL)

Ms. Nita Chowdhury:

The review applicant has filed this RA seeking review and recall of the order dated 15.12.2017 in CP No. 758/2017 on the ground that the respondents had not apprised the Tribunal that exactly the similar order issued by them in compliance with the directions of the Tribunal in OA No. 4027/2018 was not accepted by the Tribunal and the Tribunal, on the contrary, vide their order dated 24.07.2017 had observed that the order was issued by the

respondents in a manner as if they were an appellate authority over the orders passed by the Tribunal. The review applicant has averred that not only pursuant to the aforesaid order dated 24.07.2017, the respondents issued a revised order whereby directions in similar OA No. 4027/2013 were implemented by issuing recommendation letter to the review applicant. The review applicant has thus submitted that it was incumbent upon the respondents to apprise this Tribunal of the aforesaid facts which were very germane for the judicious adjudication of the Contempt Petition.

2. The respondents have filed a detailed reply in which they are able to clearly bring out the factual situation in this matter and which reads as under:-

“Later, the Ld. CAT didn’t accept the speaking order and still heard the matter, on 24.7.2017 directed that there was clear direction contained in Para 11 of CWP No. 7977 of 2012 in the matter of Babita Kumar vs. DSSSB & Ors which read as under :

“In the list of our above discussions, we direct the respondent to extend the benefit of the judgment of Hon’ble High Court of Delhi in the case of Ms. Babita Kumari (supra) to applicants herein as well. This benefit shall be extended to them within a period of 90 day from today.”

In the matter of Mausam & ors in C.P. No. 172/2017, the Board has observed that the applicants of O.A. 4027/2013 namely Mausham, Sunita and Rashma Kachhap were having their merit within top 75 ST candidates, as such they were provisionally selected to the post. However, in the instant matter, the rank of applicant Hari Mohan Meena is 266 in ST category. Further out of 1000 vacancies advertised for the postcode 16/08, only 75 vacancies were reserved for ST category. Therefore the applicant being very lower in merit is not having place in top 75 rank, therefore not otherwise eligible for selection under ST category for the post of Teacher (Primary) under postcode 16/08.”

3. It is to be noted that in the case of **Lalit Mathur Vs. L. Maheshwara Rao** reported in (2000) 10 SCC 285 and **J..S. Parihar Vs. Ganpat Duggar** reported in (1996) 6 SCC 29, it was held by the Hon'ble Supreme Court that correctness of an order passed by a statutory authority on the directions of the writ court cannot be examined under the contempt jurisdiction. No doubt the resultant order may give rise to a fresh cause of action. Similarly in the case of **Shall Raj Kishore, Secretary, Education Basic, U.P. Lucknow and others** reported in 2004(3) AWC 2444, the Hon'ble Allahabad High Court held that "if the applicants feel that the order passed by the opposite party is not in accordance to the intent or desire of the court or otherwise illegal and arbitrary, the same can only be challenged before the appropriate forum. In various cases, the Apex Court has held that "Contempt court cannot go into the merit of the order. Various grounds raised by the learned counsel for the applicant to submit that the order is bad in law required consideration and adjudication, which can only be done by the appropriate court and not by this Court." Likewise in the case of **Anil Kumar Sahi(2) Vs. Prof Ram Sewak Yadav** reported in (2008) 14 SCC 115, the Hon'ble Apex Court held that "When the court direct the authority to consider a matter in accordance with law, it means that the matter should be considered to the best of understanding of an authority to whom direction is given, therefore, mere error of judgment

with regard to legal position does not constitute contempt of court. There is no willful disobedience, if the best efforts are made to comply with the court order.”

4. In view of the above categorical situation as explained by the respondents in their detailed counter affidavit and in view of judgments referred to in Para 3 above, we do not find any merit in the present RA and the same is accordingly dismissed.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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