

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Contempt Petition No.54/2016

in

Original Application No.290/00314/2016

Jodhpur, this the 28th August, 2019

Reserved on 29.07.2019

CORAM

Hon'ble Smt Hina P. Shah, Judicial Member

Hon'ble Ms Archana Nigam, Administrative Member

Smt. Brij Lata W/o Shri Moti Lal Sirvi, aged 49 years, Water Man, Post Office, Shastrinagar, Jodhpur R/o 10/97, DDP Nagar, Madhuban, Basani 1st Phase, Jodhpur.

.....petitioner

By Advocate : Mr. Vijay Mehta.

Versus

- (1) Shri B.R. Suthar, Senior Superintendent of Post Offices, Jodhpur.
- (2) Shri Shiuli Barma, Post Master General, Rajasthan Western Region, Jodhpur.
- (3) Shri Babu Lal Paliwal, Post Master, Shastringar Post Office, Jodhpur.
- (4) Shri Ashuthosh Tripathi, Secretary, Ministry of Communication, (Department of Posts) Sanchar Bhawan, New Delhi.

By Advocate : Mr. B.L. Tiwari.

ORDER

Per Smt. Archana Nigam, Member (A)

This Contempt Petition has been filed by the petitioner under Section 17 of the Administrative Tribunals Act, 1985 against the respondents for disobeying/non-compliance of the interim order dated 08.07.2016 passed by this Tribunal, by which this Tribunal has stayed the effect and operation of termination of order dated 27.06.2016.

2. It is submitted by the petitioner in his Contempt Petition that after she obtained copy of the interim order dated 08.07.2016, she went many a times to join duties in the Post Office, Shastrinagar, Jodhpur, but she was not allowed to join the same. It is further submitted that even though the interim order was extended in the presence of learned counsel for the respondents vide order dated 21.07.2016, but the respondents despite repeated requests of the applicant did not allow her to join the duties, and therefore, they have failed to make compliance of the order of this Tribunal dated 08.07.2016 and 21.07.2016. Thus, there is wilful disobedience on the part of the respondents and for which they should be punished.

3. In reply, the answering respondents submit that after passing of the interim order by this Tribunal, the respondents immediately filed a Misc. Application for vacation of interim order, which is still pending. It is submitted that the since the applicant was only performing the duty of part time water woman and paid salary as contingent worker. The respondent No.1 in his reply also mentioned that the applicant never went to join duties in the post of Shastri Nagar, Jodhpur. It is again submitted that applicant was only

performing the duty of contingent paid water woman and presently the respondents are not in need of such services which was being rendered by the applicant as a contingent paid worker and this work of ancillary/formal nature, and now the same has been assigned to the MTS in compliance of direction contend in Annexure-8 of the OA. Further, the respondents No.3 in his reply submitted that the respondent No.3 remained on earned leave from 28.06.2016 to 20.07.2017 and from 21.07.2016, he joined his duty again and thereafter the applicant never came to join her duty of water woman at Shastri Nagar, Post Office, Jodhpur. Further, the petitioner also did not come to join duties of contingent water woman during the officiating period of Shri Sohan Lal Verma (i.e. from 28.06.2016 to 20.07.2016). Therefore the respondents should not be alleged to have committed contempt.

4. In her rejoinder, the petitioner while reiterating the facts mentioned in Contempt Petition submitted that the respondents have not denied the averments made in para Nos. 2 and 3 of the contempt petition that though she went many a times to join duties but was not allowed to join. Further, it has also not been denied that order dated 21.07.2016 extending the interim order Annexure-CP 1 was passed in presence of the counsel for the respondents.

5. In additional affidavit, it is submitted by the petitioner that the averments made in the respondents No.3 in reply to the contempt petition regarding she did not go to the respondent department to join the duty after passing of interim order of this Tribunal is a false averment, whereas, as a matter of fact immediately after passing of

the interim order dated 08.07.2016, the applicant went to join duty on 09.07.2016 in Post Office Shastri Nagar, Jodhpur, which can be seen from the application Annexure-CP/2. The said application is duly received by Shri Sohan Lal Verma who was discharging duties of Post Master on 09.07.2016 and also there is seal and signature of Shri Sohan Lal Verma on it. Therefore, the petitioner submits that the respondents have wilfully disobeyed the order of this Tribunal.

6. Heard learned counsels for both sides and perused material available on record.

7. Learned counsel for the petitioner submitted that this Tribunal vide interim order dated 08.07.2016 stayed the effect and operation of his termination order. The petitioner thereafter repeatedly went to the respondent department to rejoin the duty, but the respondents wilfully disobeyed the order of this Tribunal and did not permit her to join duty. He further submitted the said IR is continue till date but the respondents wilfully disobey the order of this Tribunal and did not permit the applicant to join her duty. Therefore, he prayed that for this act of the respondents, they should be punished under the Contempt of Court Act. In this regard, he also relied upon the following judgments:-

- (i) T. Sudhakar Prasad v. Govt. of A.P. & Ors. Reported in JT 2001 (1) SC 204.
- (ii) Patel Rajnikant Dhulabhai & Ors. V. Patel Chandrakant Dhulabhai & Ors.

(iii) Ghanshyam Sarda v. Sashikant Jha Director M/s JK Jute Mills Co.Ltd and Ors, reported in AIR 2017 SC (Suppl) 916.

(iv) Aligarh Municipal Board & Ors v. E.T. Mazdoor Union & Ors. Reported in AIR 1970 SC 1767.

8. Learned counsel for the respondents on the other hand submitted that after passing of the interim order, the petitioner has not approached the respondent authority to join the post. Therefore, there is no disobeying the order of this Tribunal when the petitioner herself is not interested to join the post.

9. Considered the submissions raised by learned counsels for the parties and perused the material available on record.

10. It is admitted position that this Tribunal vide its interim order dated 08.07.2016 stayed the effect and operation of the termination order of the petitioner dated 21.07.2016. From perusal of the additional affidavit, it is clear that after passing of the interim order by this Tribunal, the petitioner went to join her duty on 09.07.2016 in Post Office Shastri Nagar, Jodhpur. Therefore, the contention of the respondents that she has not approached them to join duty is false, as from perusal of application Annexure-CP/2, it is clear that the same is received by Shri Sohan Lal Verma who was discharging duties of Post Master on 09.07.2016 and also there is seal and signature of Shri Sohan Lal Verma on it. Therefore, in our opinion, the respondents have not complied with the interim order of this Tribunal

passed in OA No.314/ 2016. It is also pertinent to note that the said OA i.e. OA No.314/2016 was finally decided by this Tribunal vide order dated 23.08.2019 in the following terms:-

"12. In view of the observations made in the above paras, the impugned order dated 27.06.2016 (Annexure-A/1) passed by the respondents is not just and proper and therefore the same is hereby quashed and set aside, and the respondent are directed to reinstate the applicant with continuity of service within a period of three months from the date of receipt of a copy of this order, and also grant the back wages to her from the date of dismissal/termination of her services to the date of her reinstatement, as this Tribunal vide its interim order dated 08.07.2016 has stayed the effect and operation of termination of order dated 27.06.2016."

11. Since, the Original Application of the petitioner has already been decided by this Tribunal in favour of the petitioner, we are not inclined to go into the matter of contempt, as nothing survives in the contempt petition.

12. Accordingly, the contempt petition is closed. Notices issued to the respondents stand discharged.

[Archana Nigam]
Administrative Member

[Hina P. Shah]
Judicial Member