

9

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

C.P. NO. 158/2007

IN

O.A. NO. 1269/2003

New Delhi, this the ^{14th} day of May, 2007

**HON'BLE MR. L.K. JOSHI, VICE-CHAIRMAN (A)
HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)**

Umesh Chandra Sharma
S/o Late Shri Banwari Lal Sharma,
Aged about 67 years
Retired Storekeeper Grade-I from GE
(MES), East Bareilly,
Present Address:
21-C OCS Apartment,
Mayur Vihar Phase-I,
Chilla Road,
Delhi - 110 091

... **Petitioner**

(Applicant in person)

Versus

1. Lt. Gen. B.S. Dhariwal,
E-in-C (MES),
Army Headquarters,
Kashmir House,
DHQ, PO, New Delhi - 110 011

2. Maj. Tej Pal Singh,
S/o Shri Harbhajan Singh,
Garrison Engineer (West),
11, Sardar Patel Marg,
Lucknow (UP) - 226 002

... **Contemners**

ORDER

By Mukesh Kumar Gupta, Member (J):

Alleging willful disobedience and gross violation of directions issued by this Tribunal vide order dated 11.02.2004 in OA No. 1269/2003, directing respondents to pass a reasoned and speaking order and decide the show cause notice within a period of two months after affording him an opportunity of personal hearing, the present Contempt Petition has been preferred. Applicant in person contended



that Respondents, namely, Engineer-in-Chief (MES) Lt. Gen. B.S. Dhariwal and Garrison Engineer (West), Lucknow have willfully violated the orders by passing order dated 22.06.2005. He has also moved an application under Section 21 of A.T. Act, 1985 seeking condonation of delay in filing present Contempt Petition, stating that the delay was neither deliberate nor intentional. However, during course of oral hearing, he stated that said application was not necessary, as there was no delay at all in preferring present Contempt Petition.

2. We have perused the Contempt Petition and heard applicant in person at length.

3. Basic grievance is that Respondents have passed order dated 22.06.2005, rejecting his claim and stating that it was not possible for the Department to take any decision on the show cause notice dated 19.09.2002. It was further pointed out that the claim preferred before Lucknow Bench as well as this Bench were totally distinct and different. It is expedient to notice the claim laid in OA NO.1269/2003 and the directions issued, which are to the following extent:-

(i) Challenge basically was made to orders dated 10.08.2001, 08.10.2001, 18.07.2001 and 19.09.2002. Further relief sought was to grant relief in terms of order dated 27.04.2001 passed in OA No. 168/1998. Yet another relief prayed for had been for grant of annual increments, revised pay scale and benefits under ACP Scheme.

(ii) Order dated 10.08.2001 was an intra-departmental communication seeking extension of time from the



Court. Similarly, order dated 08.10.2001 conveyed that annual increments would be granted with effect from the date when it becomes due after regularization of leave as directed by this Tribunal vide judgment dated 27.4.2001 in OA 168/1998. Vide said judgment, respondents were directed to grant annual increments to applicant since 1978 as per rules. Alleging non-compliance of said order, he preferred CP No. 125/2001 before the Lucknow Bench and while deciding said CP, the Tribunal concluded that there was no willful default as respondents had taken a decision to grant increments after treating the period of absence as EOL. Pursuant to order dated 08.10.2001, respondents issued show cause notice dated 19.09.2002 dealing with the subject of regularization of absence period by granting EL for 120 days from 11.11.78 to 10.03.79 and the balance period of absence (1887 days) was to be regularized as per F.R. 17A. He had submitted reply to the show cause notice on 04.10.2002, on which decision had not been taken. It is in these circumstances, that OA No. 1269/2003 had been disposed of directing respondents to pass speaking order with liberty to applicant to challenge same, if any grievance survives thereafter.

- (iii) In compliance of aforesaid direction, respondents passed order dated 22.06.2005 noticing that applicant, who retired from GE No.2 Bareilly on 30.06.2001, was posted from AGE Bakshi Ka Talab to GE Danapur in the



year 1978 and he was struck off strength w.e.f. 11.11.1978. He did not report for his duty and filed Civil Suit Nos. 317/1978 and 97/1981 in Civil Court, Lucknow. On disposal of said Suits, he was taken back on the strength of AGE BakshiKa Talab on 10.05.1984. In the meantime, he filed another case No. 563/1983 under the Payment of Wages Act before Assistant Labour Commissioner, Lucknow, besides Suit No. 330/1986, praying for difference of wages for the period 10th October 1983 to January 1986n the Hon'ble High Court of Allahabad (Lucknow Bench) against the order dated 6.9.1982 of the Civil Court in the first two Civil Suits. Said W.P. was disposed of with direction to appear before the prescribed authority for further proceedings. The later two suits were decided in favour of applicant vide order dated 16.07.1992. The amount, as directed by Civil Court, was deposited in the Court on 17.08.1992. He refused to accept the amount and consequently the same is now held in Public Fund Account of GE (West), Lucknow. Simultaneously, the department challenged the judgment dated 16.7.1992 vide MCA No. 205 of 1992 before the District Judge, Lucknow. Since the case was dismissed in default and WP No. 6741/2002 was filed, Hon'ble High Court vide order dated 02.05.2002 remanded back the case to the Prescribed Authority. In the meantime, applicant filed OA No. 168/1998 before the Lucknow Bench of this Tribunal for grant of annual increments, which was decided on 27.04.2001, as noticed hereinabove.

6

Ultimately, keeping in view the direction issued by this Tribunal, order dated 22.06.2005 was issued, as noticed hereinabove.

4. Applicant herein filed MA No. 1378/2004 as well as other MAs before this Tribunal in OA No. 1269/2003 alleging non-compliance of order dated 11.02.2004. The said MA was disposed of vide order dated 08.07.2005 noticing that Respondents had passed speaking order dated 22.06.2005. Vide said order, the Tribunal agreed with respondents that unless the matter is decided by competent authority, department cannot pass any further order pursuant to the show cause notice issued on 19.07.2002. However, the Tribunal observed that in case applicant was aggrieved by the speaking order so issued, liberty was granted to challenge it "on the original side".

5. Instead of challenging said order on the original side, applicant has filed present Contempt Petition.

6. On bestowing our careful consideration to all these aspects, we are of the view that first of all no willful disobedience or violation of orders and directions issued by this Tribunal has been established by the applicant. Despite liberty granted vide order dated 08.07.2005, we have not been informed as to whether he had taken any step to challenge order dated 22.06.2005 on the original side. We may note that applicant tried to take shelter behind order dated 15.06.2006, rejecting his request for personal interview, as directed by this Tribunal vide order dated 11.02.2004. We may note that it is only after rejection of request for personal hearing, order dated 22.06.2005 was passed. Thus, said communication dated 15.06.2006 is, therefore, of no consequence and will not give any cause of action.

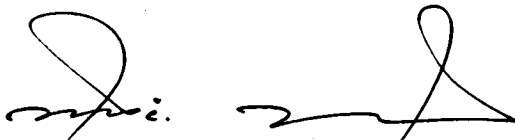
8

✓

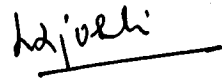


Moreover, the present CP has been filed in May 2007, though the order against which it has been preferred is dated 10.02.204. The limitation prescribed under Section 20 of the Contempt of Court Act, 1971 is one year from the date on which the contempt is alleged to have been committed.

7. Finding no willful disobedience or contumacious act, present Contempt Petition is dismissed, without issuing notices to respondents.



(Mukesh Kumar Gupta)
Member (J)



(L.K. Joshi)
Vice Chairman (A)

/pkr/