

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**CP 402/2008
in
OA 1714/2003**

7

New Delhi this the 31st day of October, 2008

**Hon'ble Mr. Justice M. Ramachandran, Vice Chairman (J)
Hon'ble Mr. N.D. Dayal, Member (A)**

Vijay Kumar, IAS,
S/o Shri Prem Chand,
R/o C-8-C, Pandav Nagar,
Delhi-110092.

...

Petitioner.

(Applicant in person)

VERSUS

1. Mr. Vijay Kumar,
Under Secretary to Govt. of India,
Ministry of Personnel, Public
Grievances and Pensions,
Department of Personnel & Training,
Government of India, North Block,
New Delhi-110001.

2. Mr. V.N. More,
Joint Secretary,
Government of Maharashtra,
Mantralaya,
Madam Cama Road,
Mumbai-400032.

3. Mr. Satish Tripathi,
Additional Chief Secretary,
Government of Maharashtra,
Mantralaya,
Madam Cama Road,
Mumbai-400032.

... Respondents.

O R D E R (ORAL)

Hon'ble Mr. Justice M. Ramachandran, Vice Chairman (J).

Mr. Vijay Kumar, IAS submits that the action under the Contempt of Courts Act requires to be initiated against the Under Secretary to the Government of India, Ministry of Personnel, Public Grievances and Pensions, Joint Secretary to Government of Maharashtra and Additional Chief Secretary, Government of Maharashtra since they are instrumental in issuing Annexure P-2

(Colly) orders, respectively on 02.04.2007, 06.06.2008 and 07.07.2008.

This is because, according to him, the above orders proceed on the assumption that an order passed by the General Administration Department, Mumbai dated 13.05.1996 is even now valid. The said order, which is appended to the application, whereby he had been reinstated after suspension, he points out, had been subjected to challenge in OA 1714/2003 and by an order dated 18.11.2003, the same had been quashed. According to him, his plea was that the order of revocation of suspension was invalidly made. It has been held so and liberty had been granted, of course, to the respondents to come up with the fresh orders.

2. It is evident that consistent with the observations, in the disciplinary proceedings, which had already been initiated, final orders could be passed. After the order of the Tribunal, Government of India passed orders on 02.04.2007, whereby a major penalty of dismissal had been imposed. Liberty had been rested with applicant to challenge such orders. The above order is alleged to be a contumacious conduct.

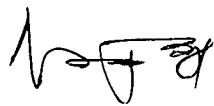
3. The next order, which is alleged as offending, had decided that the suspension period was to be considered as unauthorized absence and was not to be counted as duty. The Maharashtra Government had held by their orders that the period from 13.05.1996 to 12.04.2007 was to be considered as unauthorized absence, and the person concerned will not be entitled to salary.

4. The submission was that when the reinstatement order was quashed, there could not have been a further presumption that for the period concerned, there could be unauthorized absence, as the two cannot coexist. A person in suspension could not have been treated as bound to report for duty. The suggestion was that there was an attempt to sit over the orders of the Tribunal.



5. However, we are of the view that such hyper technical view could not be taken so as to create a suggestion that there is contempt of the Tribunal's orders. In fact, on the applicant's own showing, later on further orders had come to be passed by the Tribunal, in other petitions filed at the instance of the applicant (OA 2947/2003, MA65/2006 in OA 2415/2005, MA 1064/2006 in OA 2947/2003, OA 1386/2006, OA 301/2004, etc.). Their impact cannot be overlooked. Evidently, there was no embargo as such about passing orders in the disciplinary proceedings. The applicant will be within his right to challenge the orders, which are found to be interfering with his rights as law permits. We are of the view that the facts do not justify contempt proceedings.

The application is, therefore, rejected.



(N.D. DAYAL)
MEMBER (A)

(M. RAMACHANDRAN)
VICE CHAIRMAN (J)

'SRD'