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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

MA NO.158 /2006 IN
CP NO.404/2005 IN
OA NO.3114 /2003

New Delhi, this the 17th day of February, 2006

HON'BLE MR. V.K. MAJOTRA, VICE CHAIRMAN (A)
HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)

Present: Shri G.D. Bhandari, learned counsel for applicant

ORDER

BY HON'BLE MR. MUKESH KUMAR GUPTA:

The prayer made vide the present MA is to revive the Contempt proceedings and continue the same and to take it to the legal conclusion.

2. Heard Shri G.D. Bhandari, learned counsel appearing for the applicant/petitioner.
3. OA No.3114/2003 was allowed vide order dated 31.05.2005 with the following observations:-

"7. In the totality of the facts and circumstances as discussed above, Annexure A-3 dated 27.11.2003 is quashed and set aside. Annexure A-1 dated 16.7.2003 is also quashed and set aside qua the applicants directing respondents to consider applicants' claim in regard to their seniority in terms of PS No.1843 and also the fact that they had been transferred to Delhi division on administrative grounds and against their options.

8. Respondents are further directed to implement the above directions within a period of three months from the date of communication of these orders."

4. Alleging non-compliance of the aforesaid order and directions, the applicant preferred CP No.404/2005. After issuing notice to respondents and upon hearing, the said CP had been disposed of vide order dated 21.12.2005, with the following observations:-

"6. On careful consideration of the rival contentions of the parties though power of contempt vested in the Tribunal is a device to uphold the majesty of law and to ensure compliance of the orders passed, yet it cannot be used to settle scores or to rake vengeance on the non-complying respondents. The basic object is to ensure compliance. But when the circumstances show bonafide of the party and this weapon is used, would indicate misuse of powers. However, decision in Mhd. Yaqoob Khan's case (supra) is of a larger Bench and overrules the decision in Phulendre's case

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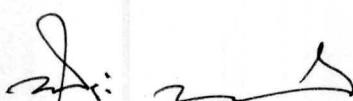
(*supra*) and Ray's case (*supra*). As per Mohd. Yaqoob's case (*supra*) when the appellate court is seized of the power for stay then appropriate action would be not to simultaneously deal with the complaint for contempt as insistence would cause serious prejudice and stay application would be rendered infructuous. However, the aforesaid would not lay down a proposition that if the stay application is kept in abeyance no contempt can be taken cognizance of. In the event, the stay application is delayed on an action attributed to the parties to delay implementation or with a malafides, a party has a right to resort to complaint of contempt.

7. *With the above observations as in the wake of stay application, which is listed on 16.3.2006 before the High Court of Delhi, this C.P. is disposed of and notices are discharged with liberty to applicants to revive it at an appropriate stage.*" (emphasis supplied)

5. It is contented, in the present MA, that after the disposal of the aforesaid Contempt Petition, respondents issued order dated 29.12.2005 promoting and posting 10 officials in the Grade of Rs.6500-10500/- as SSE/Elect in the Grade of Rs.7450-11500. The said order even did not indicate that it will be subject to the Writ Petitions filed by the respondents before the Hon'ble Delhi High Court, vide W.P. Nos. 2123-25 of 2005. It is not in dispute that the aforesaid judgment and order dated 31.05.2005 has been assailed before the Hon'ble Delhi High Court vide the aforesaid Writ Petitions and vide order dated 21.11.2005 notice has been issued, returnable on 16.03.2006.

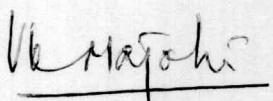
6. Upon consideration of the entire matter, we are of the considered view that since there is no change in the circumstances, particularly when the matter is yet to come up before the Hon'ble High Court of Delhi on 16.03.2006, we do not find any justification and reason to revive the said Contempt Petition. We may also note the fact that the above C.P. was disposed of with liberty to the applicant to revive the same at an appropriate stage, which stage is yet to arrive. Mere issuance of order dated 29.12.2005 would not make any material difference to the purport of order dated 21.12.2005.

7. Accordingly we find no merit and justification in the present MA, for reviving the said Contempt Petition. Therefore, MA is dismissed.



(Mukesh Kumar Gupta)
Member (J)

/pkr/



(V.K. Majotra)
Vice-Chairman (A)

17.2.06
reviving of CP