

Central Administrative Tribunal, Principal Bench

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MA No. 965/2006 In
CCP No. 371/2004 In
OA No. 1714/2003

New Delhi this the 12th day of October, 2006

Hon'ble Mr. V.K. Majotra, Vice Chairman (J)
Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)

Shir Vijay Kumar Aggarwal, IAS

...Applicant

By Advocate: In Person.

Versus

Union of India and Another

....Respondents

ORDER ON MA 965/2006

By Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)

The present application is filed by the applicant for correction of certain facts narrated in paragraph No.2 of the order dated 1.10.2004 passed in Contempt Petition No.371/2004.

2. The applicant had filed a Contempt Petition bearing No.371/2004, which was disposed off by order dated 1.10.2004. The applicant has submitted that certain facts have not been correctly narrated in paragraph 2 of the said order. The extract of that narration is as under:-

“2. The departmental proceedings were stayed by the Hon'ble Supreme Court by an order dated 2.11.1988 made in IA No.2-5 (Contempt Petition No.241/1997) but the stay order was subsequently vacated on 13.5.1996. The applicant was reinstated in service with effect from 13.5.1996. In compliance with the order of the Hon'ble Supreme Court dated 11.10.2001.....”.

3. In the application it is submitted that the order dated 2.11.1988 was not passed in IA No.2-5 (Contempt Petition No.241/1997) and that it was passed in Writ Petition No. (C) 1037/1988. Furthermore, the said order dated 2.11.1988 was not vacated on 13.5.1996 and that it is still in operation. He also stated that the reinstatement order dated 13.5.1996 was quashed and set aside by the Tribunal by order dated 18.11.2003 in OA No.1714/2003, therefore, it is nonest and no notice thereof could be taken, so it will be wrong to state that the applicant was reinstated in service with effect from 13.5.1996. He has also stated that the amount of salary for the period from 1.5.1988

to 12.5.1996 was paid under the orders of this Tribunal dated 14.5.2004 in OA No. 301/2004, therefore, it would not be correct to state that the amount was paid under the order of the Hon'ble Supreme Court dated 11.10.2001.

4. We have heard the applicant and have perused the relevant record.

5. According to the applicant three facts have not been correctly mentioned in paragraph 2. First is that the departmental proceedings were stayed by the Hon'ble Supreme Court by order dated date 2.11.1988 made in IA No.2-5 (Contempt Petition No.241/1997) but the stay order was subsequently vacated on 30.5.1996. The second fact is that the applicant was reinstated in service with effect from 13.5.1995 and the third fact is that the arrears of pay and allowances was paid to the applicant under the order of the Hon'ble Supreme Court dated 11.10.2001. We take them up one by one.

6. The applicant had filed copy of the order of this Tribunal dated 18.11.2003 passed in OA No. 1714/2003 as annexure to the Contempt Petition. In para 8 of the said order it was averred as under:-

“The departmental enquiry ordered against the applicant vide Memorandum dated 4.5.1998 was stayed by the Apex Court vide its order dated 28.7.1998 in IA No.5 in Contempt Petition No.241/1997 and the said stay was vacated on 10.12.2001”.

7. But in paragraph 11 of this order, the Tribunal has observed as under:-

“Applicant, during the course of the earlier proceedings by an order dated 13.5.1996 was reinstated....”

8. In paragraph 12 further averment was that, “the applicant on revocation of suspension joined the service on 13.5.2006 and vide letter dated 7.6.196 he was appointed to work as Deputy Secretary in the Social Welfare, Cultural Affairs and Sports Department of the Government of Maharashtra. Though the applicant did not join the said post, but preferred a representation as to the payment of his subsistence allowance. Despite reminders, he did not join the said post”.

9. The applicant has also annexed a copy of the order dated 29.7.2004 which was purported to have been filed by the State Government in compliance with the orders of the Tribunal dated 18.11.2003. In second paragraph of the order, it was stated that the applicant was placed under suspension vide State Government's order dated 26.5.1988. In the paragraph at the bottom of the first page it was mentioned that the

State Government of Maharashtra has revoked the said order of suspension of the applicant with immediate effect and reinstated him in service vide Government order dated 13.5.1996. As such, we do not find that the facts have not been correctly mentioned in paragraph 2 regarding the stay of the departmental proceedings or the order by which the stay was vacated and further the date on which he was reinstated in service on 13.5.1996. Whether he had actually joined the duties on reinstatement, is altogether on different question.

10. As regards the third fact, suffice to say that the Supreme Court had directed the payment of pay and allowances for the period from 1.5.198 to 12.5.1996 and the draft of the amount was tendered to the applicant before the Hon'ble Supreme Court which he declined to accept as per his own allegation. The Hon'ble Supreme Court in its order dated 11.10.2001, inter alia, has directed that it would be open to the State Government not to hand over the said draft to the applicant. In para 10 of the order dated 18.11.2003 in OA 1714/2003 the Tribunal has observed, "the demand draft of Rs.2, 75,577/- was offered to the applicant on 24.1.2001 but the same was not realized from the bank. As per the order of the Apex Court dated 11.10.2001, though a demand draft of Rs.6,82,290/- was produced before the Apex Court on 18.10.2001, the applicant refused to accept the same".


11. The said amount of Rs.6,82,290/- was received by the applicant during the pendency of the proceeding in OA 301/2004. As such, the amount was to be paid to the applicant as per the order of the Hon'ble Supreme Court, which the applicant had refused to accept before that Court but the same amount was received by him before this Tribunal during the pendency of OA No. 301/2004.

12. We, therefore, do not find that there is any error in the dates or the facts stated in the order, which needs to be corrected.


13. Even otherwise, we may note that mistake in the narration of these facts has no bearing on the ultimate result and the order, which has been passed by this Tribunal in a Contempt Petition. However, we clarify that narration of the facts in question in paragraph 2 of the order of this Tribunal, correction of which is sought by the applicant in the present application, will not prejudice the applicant in others cases where these facts are mentioned or arise for consideration by the Tribunal.

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14. With the above observation, we dismiss the MA 965/2006.


(M.A. Khan)
Vice Chairman (J)

Rakesh


(V.K. Majotra) 12.10.06
Vice Chairman (A)