

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Contempt Petition No.290/00113/2014

With

Miscellaneous Application No. 290/00132/2015

Reserved on : 13.11.2019

Jodhpur, this the 19th November, 2019

CORAM

Hon'ble Smt Hina P. Shah, Judicial Member

Hon'ble Ms Archana Nigam, Administrative Member

Shashikant Agnihotri son of Shri Kamta Prasad, aged about 52 years, resident of H.No. 18, Hariom Nagar Extension, 17 E, Chopasani Housing Board, Jodhpur, last employed on the post of Engineering Assistant (Under deemed suspension) in the office of HPTV, Masuriya Hill, Jodhpur.

.....Petitioner

By Advocate : Mr K.K. Shah.

Versus

1. Shri Bimal Julka (IAS, MP 1979), Secretary to the Govt. of India, Ministry of Information and Broadcasting, 'A' Wing, Shastri Bhawan, New Delhi.
2. Smt. Vijaya Laxmi Chhabra, D.G., DDN. Ex-officio Member (Prasar Bharati Board) Doordarshan, Doordarshan Bhavan, Mandi House, New Delhi-110 001.
3. Shri Rajesh Nahta, The Director Engineer (Erstwhile Station Engineer) Prasar Bharti, Doordarshan, High Power Transmitter, Masuriya Hills, Jodhpur.

.....Respondents

By Advocate : Mr K.S. Yadav.

ORDER

Per Smt. Hina P. Shah

The petitioner has filed present Contempt Petition under Section 17 of the Administrative Tribunals Act, 1985 stating that the order of this Tribunal dated 20.03.2014 passed in OA No. 260/2010 has not been complied by the respondents. Hence, respondents are liable to be punished for contempt of court as they have deliberately flouted the orders of this Tribunal.

2. The operative portion of order dated 20.03.2014 passed by this Tribunal in OA No. 260/2010 whose non-compliance has been alleged by the petitioner in the present C.P., is reproduced below :

8. Counsel for the applicant further contended that where the order is non-est and has been declared void ab-initio by the Tribunal, the applicant is entitled to all consequential benefits to which counsel for the respondents refuted by way of arguments. But looking to the entire facts and circumstances of the case, we are of the opinion that the applicant is entitled to any due consequential benefits as per law as a consequence of setting aside the order Ann.A/1 and A/2.

9. As the applicant has been removed from service in pursuance to the conviction order passed by the CBI Court, therefore, looking to entire facts and circumstances of the case, we make it clear that the respondent department shall be free to initiate fresh disciplinary proceedings in view of the conviction order in accordance with law.

After passing of the aforesaid order by this Tribunal, respondents in the OA had approached Hon'ble Rajasthan High Court challenging the order of this Tribunal by way of filing D.B.C.W.P. No. 6080/2014. Wherein, Hon'ble High Court stayed the

operation of aforesaid order passed by this Tribunal vide order dated 14.01.2015 but ultimately, D.B.C.W.P. No. 6080/2014 filed by the respondents seeking setting aside of order dated 20.03.2014 passed by this Tribunal in OA No. 260/2010 was dismissed by the Hon'ble High Court by order dated 23.07.2015. Accordingly, respondents reinstated the applicant vide order dated 28.08.2015 and arrears of subsistence allowance to the tune of Rs 14,88,144/- have been paid to the applicant vide order dated 10.09.2015 (Annex. R/1 & R/2).

3. In the reply filed by the respondents, they have stated that respondents never intended to commit any wilful disobedience of the order/directions passed by this Tribunal. On the contrary, they have highest esteem towards the order/directions of this Tribunal and hence, complied with the orders accordingly. The respondents have also tendered their unconditional apology if this Tribunal reaches to the conclusion that any contempt would have been committed by them. It is their submission that when the present C.P. was listed before this Tribunal on 20.01.2017, the petitioner appeared in person during course of hearing and admitted that as a consequence of setting aside of order of removal dated 03.09.2015, impugned orders dated 03.11.2009 and 18.08.2010 have been withdrawn by the respondents thereby placing the applicant under deemed suspension from 18.08.2010 (date of the order of removal). It is submitted that all

consequential benefits have been paid to the petitioner as per the order dated 10.09.2015 which was paid in lump-sum and also every month, petitioner is being paid subsistence allowance till today. The petitioner who was present in person, stated that any consequence of setting aside of order of removal, he is entitled for full salary from 18.08.2010 and considering such submissions of the applicant, the Tribunal had directed the respondents to file a specific affidavit clarifying the position whether the petitioner has been paid full salary in consequence of setting aside the order of removal or not. Accordingly, the respondents have filed present affidavit dated 19.05.2017 stating that the period between 18.03.2009 to 21.06.2009, the respondents were directed to regularize the services of the petitioner as per provisions of FR 54. At this instance also, the order of Tribunal placing the petitioner under suspension was not set aside as the applicant had already been removed from service vide order dated 18.08.2010 and this Hon'ble Tribunal in OA No. 309/2010, which was decided vide order dated 18.09.2012, had directed the respondents to treat the period between 22.06.2009 to 18.08.2010 as period spent on duty. Therefore, respondents have stated that on the date of passing of the order dated 18.08.2010 (order of removal), the applicant was under suspension. Thus, any consequence of setting aside such removal as has been done vide order dated 20.03.2014, would amount to restoration of position immediately before passing of

order dated 18.08.2010 and the same has been done by the respondents vide order dated 28.08.2015 which was passed in compliance of order dated 20.03.2014 passed by this Tribunal while exercising the powers conferred to the respondents under Rule 10 (4) of CCS (CCA) Rules, 1965 which is reproduced below :

10(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant is set aside or declared or rendered void in consequence of or by a decision of a Court of Law and Disciplinary Authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Government servant shall be deemed to have been placed under suspension by the Appointing Authority from the date of original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders; Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case.

4. We take note of the fact that the respondents have passed orders dated 28.08.2015/03.09.2015 and 10.09.2015, in compliance of order dated 20.03.2014 passed by this Tribunal in OA No. 260/2010. According to the respondents, they have complied with the orders of this Tribunal since directions of this Tribunal were very clear that the applicant is to be given due consequential benefits as per law on account of setting aside of orders Annex. A/1 and A/2 in the OA. Thus, it is the submission of the respondents that they have not wilfully or deliberately or

intentionally flouted any order passed by this Tribunal. Hence, respondents prayed for dismissal of the present C.P.

5. Further, it is seen that in para 8 of direction/order of this Tribunal dated 20.03.2014, this Tribunal clearly opined that the petitioner is entitled to any due consequential benefits as per law as a consequence of setting aside of the order Ann.A/1 and A/2 . After passing of the order by this Tribunal, respondents had approached the Hon'ble High Court challenging the order passed by this Tribunal wherein initially respondents got interim order in their favour on 14.01.2015 but ultimately the D.B.C.W.P. No. 6080/14 filed by the respondents had been dismissed by the respondents on 23.07.2015. Thereafter, respondents had passed orders dated 28.08.2015/03.09.2015 as well as 10.09.2015. The respondents have clearly stated in these orders that after the decision of Central Administrative Tribunal and Hon'ble High Court, the matter of the applicant has been examined and it was observed that fresh proceedings will be initiated under Rule 19 of CCS (CCA) Rules, 1965 against the applicant due to his conviction in criminal case number 01/2003 by the CBI Court, Jodhpur. They have also further stated in the said orders that in compliance of CAT order dated 20.03.2014 the memorandum No. Jodh/DD/HPT/Conf/CBI Case/2009/174 dated 03.11.2009 (Annexure-A/1) and order No. Jodh/HPTV/14(2)/2010-S/739 dated 18.08.2010 (Annexure A-2) issued by Doordarshan HPT,

Jodhpur are hereby withdrawn. It is also seen that the respondents have paid arrears of subsistence allowance to the applicant from 19.08.2010 to 31.08.2015 to the tune of Rs 14,88,144/- and thereafter he is being paid subsistence allowance regularly. From orders passed by the respondents dated 28.08.2015/03.09.2015 and 10.09.2015, it is clear that the respondents have complied with the directions of this Tribunal. It is also clear that the respondents have not deliberately or intentionally flouted order of this Tribunal as after passing of the order by this Tribunal they approached Hon'ble Rajasthan High Court where order of this Tribunal was initially stayed and thereafter Hon'ble High Court dismissed the writ petition filed by the respondents on 23.07.2015. The order of this Tribunal dated 20.03.2014 was clear that the applicant is entitled to consequential benefits as per law as a consequence of setting aside the impugned memo dated 03.11.2009 and penalty order dated 18.08.2010. In compliance of the same, respondents have passed orders dated 28.08.2015/03.09.2015 and 10.09.2015 and paid arrears of subsistence allowance to the tune of Rs14,88,144/- Hence, in our considered view, substantial compliance of order dated 20.03.2014 is done by the respondents and we are satisfied in view of orders dated 28.08.2015/03.09.2015 and 10.09.2015 passed by the respondents and we find that there is no wilful

disobedience on the part of the respondents so as to continue contempt proceedings against the respondents.

6. In view of discussions hereinabove made, present Contempt Petition is dismissed as substantial compliance of order dated 20.03.2014 is done by the respondents. Accordingly, notices issued to the respondents are discharged. MA No. 290/00132/2015 filed for deleting the name of respondent No. 1 is also disposed of accordingly.

[Archana Nigam]
Administrative Member

[Hina P. Shah]
Judicial Member

Ss/-