

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
(CIRCUIT BENCH AT SHIMLA)**

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**CONTEMPT PETITION NO. 063/158/2019
IN ORIGINAL APPLICATION NO.063/00126/2015
DECIDED ON : 07.11.2019**

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MR. MOHD. JAMSHED, MEMBER (A)**

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P.No. 2486, Safdar Ali S/o Sh. Jan Mohd., Retired S.K.-III Canteen Store Department, Ambala Cantt, presently resident of Village Dinak, Post Office Kanaid, Tehsil Sundernagar, District Mandi, Himachal Pradesh.

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.....Petitioner

(BY ADVOCATE: MR. D.R. SHARMA)

Versus

1. Sh. Ajay Kumar, IAS, Secretary to Government of India, Ministry of Defence, New Delhi-110 001.
2. Major General Raj Sinha, General Manager, Canteen Stores Department, Ministry of Defence, Government of India, 'Adelphi'. 119, M.K. Road, Mumbai.

ORDER (ORAL)

SANJEEV KAUSHIK, MEMBER (J)

1. The present CP has been filed alleging non-compliance of order dated 10.01.2017 whereby the impugned order dated 31.07.2015 was quashed. Respondents were directed to refix the pay and pension of the applicant and consequential arrears within a period of three months from the date of receipt of a certified copy of that order. Subsequent to that, the respondents did not comply with the order. The petitioner filed CP No. 063/00094/2017 which was disposed of on 11.12.2017 as the respondents admitted that they had granted the relevant benefit to the petitioner vide order dated 08.12.2017.

Therein, the respondents were also directed to release the actual benefits within a period of one month. Hence, a consensual agreement was arrived at between the parties and the CP was closed.

2. The present is the second Contempt Petition alleging non-compliance of the order dated 10.01.2017

3. Heard Sh. D.R. Sharma, learned counsel for the petitioner. He admitted the fact that the respondents have re-fixed the pay of the petitioner vide order dated 08.12.2017 and vide order dated 28.12.2017, an amount of Rs. 85155/- was also made towards arrears of pay and allowances. However, rest of the payment on account of revised pensionary benefits like gratuity, leave encashment etc. has not still been made. Learned counsel for the petitioner further informs this court that the order dated 10.01.2017 was further upheld at Hon'ble High Court vide order dated 12.03.2019. Hence, learned counsel alleges that the respondents are liable to be proceeded against for willfully disobeying the order dated 10.01.2017 of this court.

4. We have gone through the pleadings and are of the view that this CP is not maintainable as the first CP was disposed of after an agreement was arrived at between the parties that the relevant order has been complied with. While disposing of the CP, it was also ordered by this court that the actual benefits be released within a period of four weeks.

5. Be that as it may, the second CP in the same context is not maintainable. If the respondents have not released the actual amount, then the petitioner can file an execution application, but not CP.

6. At this stage, Sh. D.R. Sharma, learned counsel for the petitioner seeks and is allowed to withdraw the present CP with liberty to the petitioner to file alternative remedy for execution of the relevant order.

7. Ordered accordingly, with liberty as prayed for. MA pending if any is also disposed of accordingly.

(MOHD. JAMSHED)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

PLACE: SHIMLA
Dated: 07.11.2019

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