
(2019) 08 CAT CK 0044

In the Central Administrative Tribunal

Case No : Contempt Application No. 792 Of 2017, Original Application No. 3321 Of 2016

Dr. H.P. Singh

APPELLANT

Vs

Union Of India Through

RESPONDENT

Date of Decision : 16-08-2019

Acts Referred:

Citation : (2019) 08 CAT CK 0044

Hon'ble Judges : L. Narasimha Reddy, J; Mohd. Jamshed, Member (A)

Bench : Division Bench

Advocate : Manish Verma, Gyanendra Singh, S.K. Tripathi

Final Decision : Disposed Off

Judgement

L. Narasimha Reddy, J

1. The applicant is a dental Doctor working in the Central Government Health Services. The age of superannuation of dental doctors was stipulated as 60 years. In the recent past, the government enhanced the age of doctors working in CHS to 65 years. The dental doctors were, however, not included in the relevant notification. The applicant filed OA No.3321/2016, in this behalf. He pleaded that he is entitled to be continued in service up to the age of 65 years.

2. The OA filed by the applicant was opposed by the respondents. Through its order dated 25.08.2017, the Tribunal allowed the OA in terms of the judgment in OA No.2712/2016 dated 24.08.2017. It was directed that the applicant shall be continued in service till he attains the age of 65 years, and he shall be entitled to be paid wages for the period he remained out of service on account of retirement at the age of 60 years.

3. This contempt case is filed alleging that the respondents did not implement the order passed in the OA.

4. The respondents filed a status report. It is mentioned that a writ petition was

filed in the Hon'ble High Court and the same is dismissed.

5. We heard Shri Manish Verma, learned counsel for the petitioner and Shri Gyanendra Singh, learned counsel for the respondents.

6. The directions issued in the OA read as under:-

"7. In this view of the matter, this OA is allowed in terms of the aforesaid judgment. Retirement of the applicant vide order dated 17.09.2016 is hereby set aside. He shall be deemed to be in service and be allowed to continue in service till he attains the age of 65 years. The applicant shall also be entitled to wages for the period he remained out of service on account of retirement at the age of 60 years."

7. The respondents filed WP No.460/2018 before the Hon'ble High Court of Delhi feeling aggrieved by the order in the OA. This contempt case was filed at a time when the writ petition was pending.

8. On 15.11.2018, the Hon'ble High Court dismissed the writ petition. However, the direction as to the payment of salary was slightly modified. It reads as under:-

"In case the respondent continued to serve the petitioner even after attaining the age of 60 years, and he continues to do so, we direct petitioner to make payment of arrears of salary and allowances to the respondent within four weeks from today, and to continue to pay his salary and other allowances in future till the respondent superannuates at the age of 65 years. However, it is made clear that the respondent shall not be assigned any administrative duties in terms of the Government decision."

The petitioner does not dispute that he is out of service on being retired after attaining the age of 60 years. It is not known as to whether he was re-inducted into service at all.

9. It is also brought to our notice that SLP No.12046/2019 was filed before the Hon'ble Supreme Court assailing the order passed in the writ petition.

10. Two courses are open to the applicant. The first is to await the outcome of the SLP and then to pursue the remedies comprehensively. The second is to approach the Hon'ble High Court for implementation of the directions issued by it.

11. What becomes enforceable now is, the order passed by the Hon'ble High Court. Therefore, the contempt case is closed, leaving it open to the applicant to take steps as may be advised.