
(2018) 03 J&K CK 0021
In the Jammu And Kashmir High Court
Case No : SWP No.3313 OF 2015

GURNAM SINGH

APPELLANT

Vs

UNION OF INDIA AND OTHERS.

RESPONDENT

Date of Decision : 07-03-2018

Acts Referred:

Administrative Tribunals Act, 1985 — Section 17
Constitution of Jammu and Kashmir, 1956 — Section 94

Citation : (2018) 03 J&K CK 0021

Hon'ble Judges : RAMALINGAM SUDHAKAR, SANJEEV KUMAR

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. Impugned in this petition is order dated 15.05.2015 passed by the Learned Central Administrative Tribunal, Chandigarh Bench, (the tribunal for short) whereby the contempt petition of the petitioner filed against the respondent for non-compliance of the order dated 17.11.2009 passed in O.A.

No.586/JK/2006, has been rejected. The relevant extract of the order of the tribunal impugned in this petition is reproduced hereunder:

â??In his application dated 06.05.2013 the applicant had alleged partial compliance of the Tribunalâ??s order dated 17.11.2009 stating that his pat for purpose of pension/gratuity and other terminal benefits had not been correctly fixed due to which amount of pension and gratuity had been paid based on the wrong calculation of pay.

However, in view of the categoric statement made through affidavit dated 14.01.2015, we are of the view that the CP does not survive and the same is rejected. Notices issued to the alleged contemnors in the CP stand discharged.â??

2. The facts giving rise to the filing of this petition are that an original application filed by the petitioner before the Central Administrative Tribunal,

Chandigarh Bench was allowed on 17.11.2009 and a direction was issued to the respondents to fix the pay of the petitioner from 1996 by ignoring the

enhanced portion of pension of the petitioner and also fix his pension and pensionary benefits accordingly. It was further ordered that no recovery in

terms of the impugned order shall be made from the petitioner and in case, any amount had already been recovered, the same shall be re-imbursed to

him forthwith. The respondents assailed the aforesaid order of the said Central Administrative Tribunal, Chandigarh Bench in SWP No. 2028/2010

before the Division Bench of this Court. The writ petition was disposed of by the Division Bench of this Court with a direction to the respondents

(herein) to consider the case of respondent No.1 for refixation of his pay, pension and pensionary benefits in the light of rules occupying the field,

including the rules and judgment referred to and relied upon by the counsel appearing for the petitioner. In this way, the order of the Learned Central

Administrative Tribunal, Chandigarh Bench impugned in the writ petition before this Court came to be merged in the order of Division Bench of this

Court dated 08.08.2012.Â

3. That being the position, the petitioner could not have filed a contempt petition before the Tribunal under section 17 of the Administrative Tribunals

Act, 1985 alleging violation of the order of the Tribunal dated 17.11.2009 when such order had merged with the subsequent order dated 08.08.2012

passed by the Division Bench of this Court.

4. That being the position, the contempt petition before the Tribunal itself was not maintainable and was thus, a misconceived remedy availed of by the petitioner.

5. Needless to state that in case of violation of orders of this Court, this Court in terms of Section 94 of the Constitution of Jammu and Kashmir shall

alone have the power and jurisdiction to punish for contempt. Such power could not have been exercised by the Learned Central Administrative

Tribunal, Chandigarh Bench. As a matter of fact, as noted above, the contempt petition was filed by the petitioner alleging violation of the order of the

Tribunal dated 17.11.2009, least realizing that the aforesaid order of the Tribunal had merged with the order of Division Bench of this Court dated

08.08.2012 passed in SWP No.2028/2010. We decline the relief sought for in this writ petition as the tribunal was correct in not entertaining the contempt petition though on other reasons as extracted above.Â

6. The petitioner, however, is at liberty to take appropriate proceedings, if the order passed by the Division Bench of this Court dated 08.08.2012 in

SWP No.2028/2010 has not been implemented in pith and substance by the respondents so far.Â

7. Since the petitioner had been pursuing the claim before the wrong forum as indicated above the time which has been spent before such forum, as

also, before this Court, in these proceedings, shall be excluded while computing the period of limitation, if any, for the purpose of initiating such

appropriate proceedings.

8. Disposed of as above.