

(2018) 05 CAT CK 0035

In the Central Administrative Tribunal

Case No : Contempt Petition No. 49 Of 2018, Original Application No. 3122 Of 2015

Krishan Kumar Dahiya

APPELLANT

Vs

Rajiv Gauba And Ors

RESPONDENT

Date of Decision : 22-05-2018

Acts Referred:

Citation : (2018) 05 CAT CK 0035

Hon'ble Judges : Dinesh Gupta, J;K.N. Shrivastava, Member (A)

Bench : Division Bench

Advocate : M.K. Bhardwaj, N.D. Kaushik

Final Decision : Disposed Of

Judgement

Dinesh Gupta, J

1. This CP has been filed for alleged non-compliance of the Tribunal's order dated 21.02.2017 passed in OA No.3122/2015. The contempt petitioner was not a party to the proceedings of the OA.

2. Shri N. D. Kaushik, learned counsel for the respondents raised a preliminary objection regarding the locus standi of the petitioner herein to file such a contempt petition in view of the fact that he was not a party to the aforesaid OA.

3. Shri M. K. Bhardwaj, learned counsel for the petitioner has placed on record a judgment of Apex Court in the case of Om Prakash Jaiswal vs. D. K. Mittal and Anr. AIR 2000 SC 1136, wherein, inter alia it has been ruled as under:-

" 18. In the case at hand the order which was passed on 15.1.1987 had called upon the respondents only to show cause why contempt proceedings be not initiated. After the cause was shown the Court was to make up its mind whether to initiate or not to initiate proceedings for contempt. It was not an initiation of proceedings. We will ignore the order dated 16.12.1987 as it was not signed. But the order dated 6.1.1988 issuing notices to the opposite parties to show cause

why they be not punished for disobeying the order dated 9.12.1986, shows and it will be assumed that the Court had applied its mind to the facts and material placed before it and had formed an opinion that a case for initiating proceedings for contempt was made out. Need for issuance of such notices was conceded to by the Advocate General as also by the counsel for the respondents. That is why it directed the respondents to be called upon to show cause why they be not punished for disobedience of the order of the Court. The proceedings were therefore initiated on 6.1.1988 and were within the limitation prescribed by Section 20 of the Act.

The impugned order directing dropping of the proceedings is based on an erroneous view of Section 20 of the Act and hence is liable to be set aside.

4. In view of the aforementioned dictum of Hon'ble Supreme Court, we consider that the petitioner is just an informer and, therefore, decided to look into the alleged committal of contempt without considering the petitioner as party to the contempt proceedings.

5. Shri N. D. Kaushik, learned counsel for the respondents submitted that the compliance affidavits have been filed on behalf of respondent Nos.1 & 3. It is stated that necessary action has already been taken by the Ministry of Home Affairs to implement the Tribunal's directions. In the additional compliance affidavit filed on behalf of respondent No.1., in its para xiii details have been furnished with regard to the action taken. It is also stated therein that consultation with the Cabinet Secretariat and department of expenditure are in the process. Shri Kaushik thus argued that there is no willful disobedience on the part of the respondents in complying the Tribunal's order.

6. We are quite convinced that there is no willful disobedience by the respondents to implement the directions but due to the procedure involved, the compliance has not been done within the prescribed time frame of five months.

7. In this view of the matter, we close this contempt petition. The respondents may pray for extension of time for compliance of the Tribunal's order by filing proper application in this regard.

Order 'Dasti'.