
(2010) 04 DEL CK 0290

In the Delhi High Court

Case No : Writ Petition (C) No. 2490 of 2010

Sh. Harish Bhandari

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 16-04-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 04 DEL CK 0290

Hon'ble Judges : Mool Chand Garg, J;Anil Kumar, J

Bench : Division Bench

Advocate : M.K. Bhardwaj, for the Appellant; Ruchit Mishra and Sonia Mathur, for the Respondent

Final Decision : Dismissed

Judgement

Anil Kumar, J.—The petitioner has impugned the order dated 17th December, 2009 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 1201 of 2009 titled as Sh. Harish Bhandari v. Union of India and Ors." dismissing his application for initiating contempt proceedings against the respondents, and to force the respondents to implement the order dated 11th August, 2009 passed in O.A. No. 1201/2009.

2. The plea of the petitioner is that he had worked for more than 124 days on the basis of documents filed by the petitioner. The documents of the petitioner has been found to be fictitious and based on forged documents his claim had not been entertained. In the circumstances, it has been held that further probe is not permissible in the realm of contempt jurisdiction.

3. Learned Counsel for the petitioner has relied on certain orders allegedly issued on behalf of the Director on the basis of which it is alleged by the petitioner that he had worked for more than 124 days. The said order had been held to be fictitious and forged, and in the circumstances, the Tribunal cannot be faulted in holding that fresh directions cannot given to the respondents to re-probe the

matter, and to hold that the petitioner had worked more than 124 days.

4. Learned Counsel for the petitioner has contended that a number of original applications were filed by the petitioner, and the matter was sent to the respondents to consider the pleas of the petitioner for regularization in terms of Scheme 1992 and 1994.

5. Though the respondents were directed to consider the pleas and contentions of the petitioner, however, it has been repeatedly held by the respondents that the petitioner is not entitled for regularization as the documents relied by the petitioner have been held to be forged and fictitious. In the circumstances, it cannot be held that the respondents had committed contempt of the Court in not complying with the order as has been alleged by the petitioner. For implementing the order dated 11th August, 2009 whereby the respondents were directed to consider the case of the petitioner, the petitioner cannot contend that he is entitled for regularization.

6. The petitioner has also relied on a decision of this Court dated 15th January, 2009 passed in W.P.(C) No. 1761 of 2008 titled as "Sh. Chaman Lal v. Union of India and Ors." Perusal of the facts and circumstances of the precedent relied on, it is apparent that it is distinguishable inasmuch as in the Chaman Lal (Supra) the applicant was enjoying a particular pay scale which was liable to be protected despite dismissal of the contempt petition. In the writ petition, it was held that the pay scale of the petitioner had to be protected. In contradiction, the claim of the petitioner has been found to be untenable pursuant to the direction given in different original applications filed by the petitioner, and consequently, the petitioner cannot draw any support on the basis of the ratio of the said case.

7. This cannot be disputed that exercise of power for Contempt is comparatively a rarity and should be used sparingly and in the larger interest of society and for proper administration of justice. It is also true and noticed that mere disobedience of an order may not be sufficient to amount to a "Civil Contempt". The element of willingness and intention is an indispensable requirement to take action. It is also true that if two interpretations are possible and the action of alleged contemnor pertains to one of such interpretations which will raise doubts about the willful nature of conduct, if raised, contempt will not be made out. In the circumstances, the petitioner was not entitled for the directions sought by him for his regularization on the basis of the documents which could not be relied upon. We have also perused those documents and on the basis of the same, the petitioner cannot be allowed to contend that he had worked for more than 124 days and he is entitled for regularization.

8. In the circumstances, this Court does not find any illegality or irregularity in the order of the Tribunal so as to interfere with the same in exercise of its jurisdiction under Article 226 of the Constitution of India.

9. The writ petition is without any merit, and it is, therefore, dismissed.