

\$~28

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CONT.CAS(C) 555/2013**

DATE OF DECISION: 22ND JULY, 2013

A.K.VERMA Petitioner
Through Mr. O. P. Kalshian, Advocate.

versus

R.K.MATHUR & ANR. Respondents
Through Mr. A.S. Singh, Advocate with
Mr. R. V. Sinha, Advocate.

CORAM:
HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA

SUDERSHAN KUMAR MISRA, J. (ORAL)

1. This contempt petition is predicated on the non implementation of the judgment of the Division Bench of this Court in Writ Petition (C) No.5042/2002, titled as **UOI & Anr. v. A.S. Arora & Ors.** whereby a common challenge raised to the decisions of the Central Administrative Tribunal in a group of matters, which also included the matter concerning the petitioner (Writ Petition (C) No.3300/2011), was disallowed in terms of a common judgment delivered on 31st May, 2012.

2. It would appear that the respondents herein decided to take the matter further and filed separate Special Leave Petitions with regard to each of the batch matters which were disposed off by the aforesaid judgment of this Court.

3. Counsel for the petitioner has tried to urge that, with the

Special Leave Petition concerning the petitioner having been dismissed, the petitioner approached the Central Administrative Tribunal in M.A. No.2569/2012 in CP No.634/2010 which came to be disposed off by the Central Administrative Tribunal on 23rd January, 2013, whereby the respondents were directed to implement the order of the Tribunal as modified by the Division Bench of this Court on 31st May, 2012. He submits that despite this, nothing has been done in the matter.

4. Counsel for the respondents, who appears on advance notice, has pointed out that as a matter of fact, while it is correct that separate Special Leave petitions were filed with regard to each of the matters in the batch that was disposed off on 31st May, 2012 by the Division Bench of this Court, the Special Leave Petition, being SLP (C) No.5340/2013, concerning the petitioner was, in fact, taken up only on 2nd July, 2013 and ultimately came to be dismissed on the same date after condoning the delay of 133 days in filing the said petition. A copy of that decision of the Supreme Court has also been annexed to the petition. In the circumstances, he submits that there has been no inordinate delay in implementation of the judgment and that the petitioner has rushed to this Court prematurely, specially keeping in mind the fact that, by paragraph 26 of the aforesaid judgment of this Court of 31st May, 2012, the respondents were directed to comply within three months. Under the circumstances, it would be only fair if the respondents are permitted similar time to implement the judgment after dismissal of their Special Leave Petition.

5. There is force in the contention of counsel for the respondents. Further, I might notice that although the decision in the Special Leave Petition pertaining to the petitioner, admittedly, came on 2nd July, 2013 from

the Supreme Court of India where the delay in filing the Special Leave Petition has also been condoned, the petitioner had chosen to move the Tribunal alleging dismissal of the Special Leave Petition on 14th January, 2013 itself. For this purpose, the petitioner has admittedly taken resort to the decision of the Supreme Court in another Special Leave Petition bearing No.1857/2013, which was, in fact, filed by the respondents in respect of another matter in the batch of petitions and not that of the petitioner himself.

6. Counsel for the petitioner very fairly concedes that, in fact, he had also filed a caveat in the matter and, therefore, even on 23rd January, 2013, when the aforesaid matter was taken up by the Central Administrative Tribunal, he was aware of the fact that a separate Special Leave Petition had been filed in the petitioner's matter by the respondents before the Supreme Court and that the same was still pending and had not yet been disposed off.

7. Under the circumstances, the filing of the proceedings before the Central Administrative Tribunal by the petitioner, which led to the order of 23rd January, 2013, was highly improper. I am, however, refraining myself imposing from any costs in this matter in view of the fact that counsel for the petitioner has very fairly placed all the relevant facts before this Court.

8. In that view of the matter, and looking to the statement of counsel for the respondents that the judgment of this Court shall be duly implemented by the respondents within three months from today; while the respondents are expected to implement the judgment; it would, of course, be open to the petitioner to move the courts as per law in case the aforesaid judgment of the Division Bench remains unimplemented by the respondents

beyond the time granted by that judgment; no further orders are required in this petition and the same is dismissed.

SUDERSHAN KUMAR MISRA, J.

JULY 22, 2013
dr