

\$~08.

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

+ W.P.(C) 1645/2014

%

Judgment dated 20th July, 2015

UNION OF INDIA & ORS.

..... Petitioners

Through : Mr.Prashant Kumar Nair, Adv. for
petitioners no.1 and 2.
Mr.V.S.R. Krishna, Adv. for petitioner
no.3.

versus

DEEN DAYAL PANDEY

..... Respondent

Through : Ms.Meenu Mainee, Adv.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

1. Petitioners being aggrieved by the Order dated 6.1.2014, passed by the Central Administrative Tribunal (hereinafter referred to as “the Tribunal”) in CP No.405/2013 in OA No.2103/2007, has filed the present petition under Articles 226/227 of the Constitution of India seeking a direction to quash the order dated 6.1.2014.
2. The facts, which have led to the filing of the present writ petition are that the respondent had approached the Central Administrative Tribunal by filing Original Application No.2103/2007, impugning the order dated 3.10.2006 passed by the petitioners herein, whereby pursuant to disciplinary proceedings penalty of removal from service was inflicted upon him; the order dated 9.2.2007 whereby the order of punishment was upheld; and the order dated 20.7.2007 whereby the punishment awarded to the respondent was affirmed. By an order dated 28.5.2009, OA No.2103/2007 filed by the respondent was allowed and the impugned

orders were set aside. It was also directed that the respondent would be reinstated forthwith with all consequences in law, which were to be disbursed to him as per law within three months. This order of the Tribunal was challenged by the petitioners herein by filing a writ petition, which was dismissed by the High Court by a reasoned order. It is not in dispute before us that the order passed by the Tribunal and the Order passed by the Division Bench have attained finality. Meanwhile, since the consequential benefits were not being paid to the respondent, respondent instituted a contempt petition before the Central Administrative Tribunal. By an order dated 6.1.2014, the petitioners herein was directed to comply with the Order passed by the Tribunal and give all consequential benefits to the respondent.

3. We are informed by counsel for the petitioners that after passing of the order dated 6.1.2014 all the consequential benefits have been released in favour of the respondent, however, it is contended that consequential benefits were released in favour of the respondent on account of the orders so passed in the contempt petition and it was conditional release of benefits.
4. Learned counsel for the respondent has handed over in Court a communication addressed to the petitioner as per which the release of amounts to the respondent are not conditional.
5. Learned counsel for the petitioners submits that while deciding the OA filed by the respondent, the Tribunal did not pass a specific order that the petitioners would be entitled to pay from the date of removal to the date of reinstatement. Counsel for the petitioners also contends that filing of the contempt proceedings is not the appropriate remedy.
6. We have heard learned counsel for the petitioner and also perused the order passed by the Tribunal and the High Court.

7. The submission of learned counsel for the petitioners is that since the respondent did not work during the period that is from the date of removal to the date of reinstatement, the said period is to be treated as *dies non*.
8. In the present case, the Tribunal decided the Original Application filed by the respondent on 28.5.2009. Operative portion of the said order reads as under:

“21. Resultantly, OA is allowed. Impugned orders are set aside. Respondents are directed to reinstate the applicant forthwith with all consequences in law, which shall be disbursed to him as per law within a period of three months from the date of receipt of a copy of this order. No costs.”

9. The said order was challenged by filing a writ petition, which was dismissed along with other connected matters on 6.8.2010. Operative portion of the order reads as under:

“21. Thus, we dismiss all the writ petitions.

22. We would like to bring to the notice of the Competent Authority of the petitioner that though permission has been granted to the petitioner to recommence the inquiry in all the four cases, but the same has to be upon the condition that the documents production whereof has been sought by the respondents are brought on record. In para 7 above we have noted what those documents were and indeed we find them to be most relevant documents for they contain the contemporaneous memorandum of the events i.e. proof of what stands certified in the certificates produced by the respondents. It would be a futile exercise to conduct an inquiry without producing the said documents. If they are available only then it would be advisable to hold an inquiry, failing which the Competent Authority should consider the desirability of closing the matter as it is.”

10. It would have been open for the petitioner to agitate the issue with regard to the period of removal from service till reinstatement to be treated as

dies non either before the Tribunal when the Original Application was decided or before the Division Bench where the writ petition filed by the petitioner herein was dismissed by an order dated 6.8.2010, which has attained finality. Thus, we are of the view that it is not open for the petitioner to agitate this issue at this stage as the order passed by the Tribunal has attained finality.

11. In case, the Tribunal was inclined to treat the said period that is from the date of removal to the date of reinstatement, as *dies non*, specific orders would have been passed by the Tribunal or if this issue was agitated by the petitioner herein before the Division Bench, the Division Bench would have ruled on it. The petitioner cannot be allowed to re-agitate the issue, which already stands decided.
12. In the case of ***The Commissioner, Karnataka Housing Board v. C. Muddaiah***, reported at (2007) 7 SCC 689, it was held by the Supreme Court of India that once a direction is issued by a competent Court, it has to be obeyed and implemented without any reservation. The Court also discussed the ill effects of non-compliance with the directions/orders of a Court. Relevant paragraphs of the judgment read as under:

“32. We are of the considered opinion that once a direction is issued by a competent Court, it has to be obeyed and implemented without any reservation. If an order passed by a Court of Law is not complied with or is ignored, there will be an end of Rule of Law. If a party against whom such order is made has grievance, the only remedy available to him is to challenge the order by taking appropriate proceedings known to law. But it cannot be made ineffective by not complying with the directions on a specious plea that no such directions could have been issued by the Court. In our judgment, upholding of such argument would result in chaos and confusion and would seriously affect and impair administration of justice. The argument of the Board, therefore, has no force and must be rejected.

34. We are conscious and mindful that even in absence of statutory provision, normal rule is 'no work no pay'. In appropriate cases, however, a Court of law may, *may* must, take into account all the facts in their entirety and pass an appropriate order in consonance with law. The Court, in a given case, may hold that the person was willing to work but was illegally and unlawfully not allowed to do so. The Court may in the circumstances, direct the authority to grant him all benefits considering "as if he had worked". It, therefore, cannot be contended as an absolute proposition of law that no direction of payment of consequential benefits can be granted by a Court of Law and if such directions are issued by a Court, the authority can ignore them even if they had been finally confirmed by the Apex Court of the country (as has been done in the present case). The bald contention of the appellant-Board, therefore, has no substance and must be rejected."

13. We may also note that after the dismissal of the writ petition by an order dated 24.12.2010 the petitioner (respondent herein) was reinstated but the period from removal from the service till reinstatement was treated as *dies non* on the basis of 'no work no pay'. In our view, if the Tribunal was of the view that during the period the petitioner was removed from service and till the date of his reinstatement, the period should be treated as *dies non*, a specific order to that extent would have been passed.

14. Accordingly, writ petition is without any merit and the same is dismissed.

CM APPLS.NO. 3434/2015 & 3436/2015

15. Applications stand dismissed in view of the order passed in the writ petition.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

JULY 20, 2015 msr