

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P.No.622 of 2017 and
W.M.P.No.671 of 2017

- 1.Shri.Sunil Arora
The Secretary to Government of India,
Ministry of Information and Broadcasting
Shastri Bhavan, New Delhi.
- 2.R.Venkateswarlu
Director General
All India Radio, New Delhi. ... Petitioners

vs.

- 1.The Registrar,
Central Administrative Tribunal
Chennai.
- 2.K.K.Sundaram ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorari, calling for the records of the order made in Contempt Application No.310/00003/2016 in O.A.No.194 of 2012 dated 09.11.2016 from the file of first respondent and quash the same.

For Petitioners: Mr.Su.Srinivasan
Assistant Solicitor General of India

O R D E R

(delivered by K.K. SASIDHARAN, J.)

The second respondent, filed Original Application before the Central Administrative Tribunal (hereinafter referred to as "Tribunal") in O.A.No.194 of 2012, to direct the petitioners to give him regular promotion to the post of Director (Audience Research) and grant him the related pay and allowances till 30

November 2011 and consequently to refix the pension and other terminal benefits.

2. The Tribunal allowed the original application by order dated 16 February 2015. The said order was unsuccessfully challenged before this Court in W.P.No.30001 of 2015. Since follow up action was not taken by the petitioners to comply with the order dated 16.02.2015, the second respondent initiated proceedings for contempt in CA.No.310/00003/2016.

3. Before the Tribunal, the petitioners filed a statement indicating that they have complied with the order passed by this Court and as such, there is no question of proceeding with the contempt proceedings. However, the second respondent maintained that he was not given appropriate scale and as such, the order has not been complied with in its letter and spirit. The Tribunal having found merits in the contention taken by the second respondent directed the petitioners to report compliance of the order in its true letter and spirit on or before 30.11.2016.

4. We are informed that the said date was subsequently extended pursuant to the request made by the petitioners. However, the fact remains that the petitioners have not reported compliance so as to enable the Tribunal to take a decision as to whether the order was actually complied with taking into account the directions given in O.A.No.194 of 2012.

5. Thiru.Su.Srinivasan, learned Assistant Solicitor General of India contended that inspite of the compliance of the order passed by the Tribunal, the contempt petition was kept pending under the pretext of non-compliance in its letter and spirit.

6. The Tribunal initiated proceedings for contempt on the ground that the petitioners have not complied with the order dated 16.02.2015 in O.A.No.194 of 2012. It is the contention of the petitioners that they have complied with the order passed by the Tribunal. However, the Tribunal was of the view that the order was not complied with in its letter and spirit and as such, the same has to be complied with by the petitioners. In case, the petitioners are of the view that they have complied with the order taking into account the direction given by the Tribunal, in its order dated 16.02.2015 in O.A.No.194 of 2012, it is for them to produce materials before the Tribunal and convince it that there is nothing to be complied with on account of the order passed by them. It is for the Tribunal to take up a decision on a perusal of the materials placed before it. In any case, it is not for this Court to exercise the judicial review in respect of a matter arising out of the interim order

passed by the Tribunal. We are therefore of the view that there is absolutely no merits in the writ petition.

7. The petitioners are given two weeks' time from today to produce materials before the Tribunal to substantiate their contention. We make it clear that in case, the petitioners produce materials, necessarily, those materials should be perused by the Tribunal with an open mind to take a decision as to whether the order was complied with in its letter and spirit.

8. The writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

svki

To

The Registrar,
The Central Administrative Tribunal
Madras Bench, Chennai - 600 104.

+lcc to Mr.Su.Srinivasan, Advocate sr.1747

W.P.No.622 of 2017

scd[co]
srg 12/01/2017

WEB COPY