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

+ **CONT.CAS(C) 49/2020**

G S DHODI

..... Petitioner

Through: Petitioner in person
versus

ANIL BAIJAL & ORS.

..... Respondents

Through: Mrs. Avnish Ahlawat, SC for
GNCTD with Mr. Nitesh Kumar
Singh, Ms. Laavanya Kaushik, Ms.
Aliza Alam, Mr. Mohnish Sehrawat,
Advocates for R-4

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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23.01.2024

1. Present contempt petition has been filed alleging willful disobedience of the order dated 25th July, 2019 passed by Division Bench of this Court in *W.P. (C) 8030/2019*, wherein the court had directed the respondents to pass a fresh reasoned order within two months, which should deal with all the submissions that the petitioner has raised in his representation in respect of the enquiry report and the Union Public Service Commission ("UPSC") advice.

2. This Court notes that the petitioner had earlier filed an appeal being *O.A. 4478/2013* before the Central Administrative Tribunal ("CAT"), which had been disposed of vide order dated 21st January, 2019. Against the said order, the petitioner had filed a petition being *W.P.(C) 8030/2019*, which came to be disposed of by the Division Bench of this Court vide order dated 25th July, 2019. The order dated 25th July, 2019 passed by the Division



Bench is reproduced as under:

“Issue notice. Learned counsel for the respondent accepts notice.

The petitioner, who appears in person has preferred the present writ petition to assail the order dated 21.01.2019, passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A No. 4478/2013.

*The limited grievance of the petitioner is that in the Original Application preferred by him, he had assailed the charge sheet and the enquiry proceedings initiated against him on several grounds. However, the Tribunal has disposed of the Original Application only on one ground, namely that the UPSC advice dated 19.08.2013 had not been served upon the petitioner before passing of the impugned order of penalty dated 26.08.2013 and, consequently, there was breach of principles of natural justice. The Tribunal has quashed the order of penalty dated 26.08.2013 and directed the respondents to proceed in the matter from the stage of receipt of the advice of the UPSC in compliance of the decision of the **Supreme Court in Union of India & Ors. v. S.K. Kapoor**, (2011) 4 SCC 589. The petitioner submits that his other challenges have not been decided in the Original Application.*

Considering the fact that the respondents have been directed to pass a fresh order after granting opportunity to the petitioner to represent in respect of the advice of the UPSC, we are not inclined to examine the petitioner’s challenge to the enquiry proceedings on merits at this stage since it would be pre-mature for us to do so.

The petitioner states that he has already sent his representation about two months ago. However, no final order has been passed by the respondents till date.

Considering the fact that the petitioner is 69 years old and is retired, we direct the respondents to pass a fresh reasoned order within two months from today. The reasoned order should deal with all the submissions that the petitioner has raised in his representations in respect of the enquiry report and the UPSC advice. The pleas taken by the petitioner in the present case shall also be considered and addressed while passing the reasoned order. In case, the petitioner is still aggrieved by the final order that may be passed, it shall be open to him to raise all his pleas, including the pleas that he had raised earlier in the Original Application and which, according to him, the Tribunal did not consider while disposing of the petitioner’s application.

The petition stands disposed of in the aforesaid terms.”



3. Learned counsel for respondents draws the attention of this Court to the compliance affidavit filed on behalf of respondents. It is submitted that pursuant to the directions of this Court, the representation of the petitioner was duly considered and the order dated 06th May, 2019 was passed by the Ministry of Home Affairs, Government of India wherein, the penalty of withholding of 10% of monthly pension for a period of three years was passed. The relevant portion of the order dated 06th May, 2019 reads as under:

“xxx xxx xxx

5. And whereas the case was examined in the Ministry of Home Affairs and it was tentatively decided to impose a penalty of suitable cut in pension on the CO in terms of Rule 9 of CCS (Pension) Rules, 1972 and the case was referred to Union Public Service Commission (UPSC) for advice.

6. And whereas the UPSC, in response tendered their advice vide their communication No. F.3/100/2013-S.I dated 19.08.2013. The Commission observed that the charges established against the CO constitute grave misconduct on his part and that the ends of justice would be met in this case if the ‘penalty’ of withholding 10% (Ten percent) of his monthly pension for a period of three years is imposed on Shri G.S. Dhodi, the CO, and his gratuity may be released, if not required otherwise.

7. And whereas, the advice of UPSC and the case was then examined in the Ministry of Home Affairs and in acceptance of UPSC's advice, a penalty of withholding of 10% (ten percent) of his monthly pension for a period of three years was imposed on Shri G.S. Dhodi, the then Dy. Superintendent Jail No. 2, the CO, vide order of even number dt. 26.08.2013.

8. And whereas, the CO filed an OA No. 4478/2013 in the Hon'ble CAT and vide order dt. 21.01.2019, the Hon'ble CAT has quashed the aforesaid order dt. 26.08.2013 on the ground that UPSC's advice dt. 19.08.2013 was not served on the CO for his representation before passing the final order. The Hon'ble CAT directed the respondents to proceed in the matter from the stage of receipt of the advice, of the UPSC in



accordance with the observations of the Hon'ble Supreme Court in the case of S.K. Kapoor.

9. And whereas, it is stated that the copy of UPSC advice was not served upon the CO prior to issuing penalty order because the guidelines of Department of Personnel & Training, Government of India regarding serving the copy of UPSC advice upon the CO before issuance of penalty order came only on 06.01.2014, i.e. after issuance of the said penalty order dated 26.08.2013.

10. And whereas, in compliance of Hon'ble CAT's aforesaid order dated 21.01.2019, the CO has submitted his representation dt. 25.03.2019 and has stated as under:

“Nothing to SAY, SUBMIT or COMMENT. I am already 69 years old person and suffering from old-age related ailments therefore would request you to kindly dispose the case in a time bound manner.”

11. And whereas, no submission has been made by the CO against the UPSC's advice dated 19.08.2013 and no grounds have been placed on record by the CO which warrants any interference with the advice of UPSC.

12. Now therefore, the President, after considering the evidence & facts on record, circumstances of the case and representation dt. 25.03.2019 of the CO, has decided by virtue of power vested under Rule 9 of the CCS (Pension) Rules, 1972 to accept the UPSC's advice dated 19.08.2013 and to impose the penalty of withholding of 10% (ten percent) of the monthly pension for a period of three years on the CO, Shri G.S. Dhodi, the then Dy. Superintendent Jail No. 2 (Now Retd.), Government of NCT of Delhi. Also, if the penalty has already been implemented completely in view of the previous order of even number dt. 26.08.2013, further cut in pension may not be made in relation to this case. It is ordered accordingly.”

4. In view of the aforesaid, it is clear that the order dated 25th July, 2019 passed by Division Bench of this Court has been complied with. The representation of the petitioner has been considered and a speaking order dated 06th May, 2019 has been passed therein.

5. Further, the respondents have also proceeded against the petitioner in



terms of the liberty granted by the Division Bench vide its order dated 25th July, 2019.

6. Thus, in case the petitioner has any grievance against the order dated 06th May, 2019 passed by the Ministry of Home Affairs, Government of India, the petitioner is at liberty to initiate appropriate proceedings to challenge the same.

7. In view of the aforesaid, no further orders are required to be passed in the present contempt petition. The present contempt petition is accordingly disposed of. The notice of contempt is discharged.

MINI PUSHKARNA, J

JANUARY 23, 2024

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