



2024:DHC:8059-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(C) 14458/2024, CM APPL. 60607/2024****SUNNY KUMAR**

.....Petitioner

Through: Mr. B.S. Jariyal, Adv.

versus

UNION OF INDIA AND ORS

.....Respondent

Through: Mr. Sandeep Mahapatra, CGSC
with Mr. Aakash Kr. Singh, GP and Mr.
Tribhuvan, Adv.**CORAM:****HON'BLE MR. JUSTICE C. HARI SHANKAR****HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN****JUDGMENT (ORAL)**

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15.10.2024**CM APPL. 60607/2024 (for exemption)**

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 14458/2024

3. The prayer clause in this appeal reads thus:

“PRAYER

In view of the facts and circumstances mentioned hereinabove and the submission made, the petitioner prays that the Hon'ble High Court may graciously please:

Signature Not Verified

Digitally Signed By: AHU
KUMAR W.P.(C) 14458/2024
Signing Date: 18.10.2024
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- I. To allow the Writ Petition; and
- II. To quash and set aside- the Impugned orders dated 20.08.2024 of CAT(PB)NO. 40 of 2024 in O.A. NO.1165/2020 **Annexure P-1(colly)**, Order dated 07.08.2024 (Compliance Affidavit) (**Annexure P-2**), Order dated 16.05.2024 (Speaking Order) Annexure P-3: and
- III. To Direct the respondents to issue offer of Appointment with all consequential benefits w.e.f. 04.05.2020 onward; and
- IV. To Direct the respondent to give seniority as per the select list at the time of initial appointment in MTS on Notational basis; and
- V. To Direct the respondent to pay damages and the cost to the petitioner to the tune of Rs. 50,000/-for causing irreparable loss and mental agony; and
- VI. To pass any such order/orders as may be deemed fit regarding cost on the Respondents for their illegal, arbitrary act and in defiance of Article 14, 16 and 21 of the Constitution of India; and
- VII. Any other writ order or directions as the Hon'ble Court may deem fit in nature and circumstances of the case in the interest of justice.”

4. Of the prayers in this appeal, prayers III, IV and V cannot be entertained by this Court in the first instance in view of the judgment of the 7 Judge Bench of the Supreme Court in *L. Chandra Kumar v UOI*¹. Liberty would stand reserved with the petitioner to take up these issues by way of a substantive challenge before the learned Tribunal.

5. What survives is Prayer II, which assails order dated 20 August



2024 passed in CP 40/2024. The order reads thus:

“ORDER (ORAL)”

“At the outset, the learned proxy counsel for the respondents submits that the respondents have passed a speaking order dated 16.05.2024 in compliance of the direction of this Tribunal issued on 10.04.2023, rejecting the case of the petitioner.

2. We find that since a detailed order has already been passed by the respondents, which goes to the roots of the merits of the case, the present CP stands closed, of course with liberty to the petitioner to agitate his grievances in accordance with law, if so required. Notices are discharged.”

6. The operative portion of the judgment dated 10 April 2023 reads thus:

“5.1 In view of the above discussion, we dispose of the instant OA quashing the order dated 04.05.2020 by virtue of which offer of appointment issued to the applicant has been rejected. The respondents are hereby directed to examine the case of the applicant in light of the law laid down by the Hon’ble Apex Court in *Avtar Singh’s case* (supra). In case the applicant is otherwise found to be suitable/eligible and fit for being employed, he would be offered appointment and extended other consequential benefits notionally in terms of his merit position.”

7. Following the aforesaid directions, the respondents passed a detailed speaking order on 16 May 2024, which duly considered the judgment of the Supreme Court in *Avtar Singh v Union of India*². The submission of Mr. Jariyal, learned Counsel for the petitioner, is that the consideration of the law in the aforesaid speaking order dated 16 May 2024 is not correct and that, in fact, the respondent has merely adopted, once again, the stand which was urged before the learned

² (2016) 8 SCC 471



Tribunal in the counter affidavit filed by way of response to OA 1165/2020.

8. Even if that be so, it cannot amount to contempt. Clearly, by passing a speaking order in which the judgment in *Avtar Singh* was taken into account, there has been substantial compliance with the directions contained in the judgment dated 10 April 2023 passed in OA 1165/2020.

9. Civil contempt action can be initiated only in the case of willful and contumacious disobedience of an order passed by the Court. We do not find any cause to interfere with the impugned order dated 20 August 2024, which holds that no cause for contempt survives and grants liberty to the petitioner to challenge the speaking order dated 16 May 2024 by way of substantive proceedings in accordance with law.

10. Subject to reiteration of the liberty granted by the learned Tribunal, the writ petition is dismissed.

C. HARI SHANKAR, J.

DR. SUDHIR KUMAR JAIN, J.

OCTOBER 15, 2024/aky

Click here to check corrigendum, if any