

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Officiating Chairperson & Member (J)

Case No. – CCP 91 of 2022 [OA 1297 of 2015]

Dr. Subhash Chandra De -- VERSUS – Shri Narayan Swaroop Nigam, Secy., Deptt. of H&FW.

Serial No. and Date of order For the Applicant : Mr. S.N. Ray,
Ld. Advocate.
For the Contemnor/OP : None.

01
09.09.2022

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 536-WBAT/2J-15/2016 dated 26th August, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The instant CCP has been filed praying for following reliefs :

“(a) *A rule calling the concerned Contemnor/respondents herein, being the Principal Secretary, Department of Health and Family Welfare, Government of West Bengal, the Director of Health Services, Department of Health and Family Welfare, Government of West Bengal, the Director General of Ayush, Department of Health and Family Welfare, Government of West Bengal and The Principal & Superintendent, J.B. Roy State Ayurvedic Medical College & Hospital, being the instant respondent/contemnors, to show-case as to why they shall not be hauled up for committing contempt in the matter of non-compliance of the Order and Judgment dated 20.11.2019 as delivered by this Hon'ble Tribunal in O.A. No.1297 of 2015 by not complying with the solemn Order in the following manner:*

(i) *By wilfully, deliberately and intentionally violating and not complying with the said solemn Judgment passed by this Hon'ble Tribunal by way of not disposing of the representation of the applicant as made on 18.12.2018, by treating the Original Application No. 1297 of 2015 as part of it in consideration of the Hon'ble High Court's Judgment dated 09.09.2004 as passed in this regard, thereby not making a decision in the issue and whereby the issue is still pending inspite of categorical directions of this Hon'ble Tribunal and the said Order having been presented and or communicated by*

Form No.

Vs.

Case No. **CCP 91 of 2022 [OA 1297 of 2015]**

Shri Narayan Swaroop Nigam, Secy., Deptt. of H&FW.

the instant applicant through his Ld. Advocate vide his letter dated 02.12.2019 as directed by the Hon'ble Tribunal not to speak of deciding the matter and communicating it within 12 (twelve) weeks of the said Order being communicated by the applicant's Ld. Advocate and thus not initiating and/or acting in pursuance of the said Order of the Hon'ble West Bengal Administrative Tribunal Judgment dated 30.07.2019 as delivered in O.A. No. 1297 of 2015.

(ii) *The direction of the Hon'ble Tribunal, was to comply with the Order dated 30.07.2019 passed in OA No. 1297 of 2015 within 12 (twelve) weeks from the date of receipt of the said Order, but even after lapse of much more than the said stipulated period the instant Contemnors haven't done anything fruitful in the right perspective and neither have the authorities have informed the applicant of any action being pursued for the compliance of the Hon'ble Tribunal's Order as said dated 20.11.2019, subsequent to the issuing of the purported reasoned order dated 04.03.2021 or any plausible cause of delay in the matter inspite of pledging in Court at the time of hearing of CCP No. 57 of 2020 to act as directed by this Hon'ble Tribunal.*

(iii) *Thus it is apparent that the Contemnor continued sitting tight in the matter and not acting towards extending the financial benefits to the instant applicant in consideration of the Hon'ble Calcutta High Court's Judgment dated 09.09.2004 and this Hon'ble Tribunal's said Order dated 20.11.2019 inspite of it being years of the said Order having been communicated to the stipulated authorities by the applicant's Ld. Advocate and hearing in detail in a contempt application in the issue having occurred.*

(iv) *It is pertinent to mention that the Contemnor herein*

Form No.

Vs.

Case No. **CCP 91 of 2022 [OA 1297 of 2015]**

Shri Narayan Swaroop Nigam, Secy., Deptt. of H&FW.

intentionally didn't act as per the direction of the Hon'ble Tribunal within the stipulated period of 12 (twelve) weeks from the date of presentation of a copy of the certified copy of the Order dated 20.11.2019 and also after the court proceedings in the said contempt application inspite of undertaking to comply on various occasions with this Hon'ble Tribunal's said issued directions and after hearing the cause that may be shown and in the event no cause and/or insufficient cause is shown make the Rule absolute.

(b) For showing much disregard and disrespect by wilfully, deliberately and intentionally violating and not complying with the said solemn Judgment dated 20.11.2019 passed by this Hon'ble Tribunal in OA No. 1297 of 2015 and not acting as per with the pledge which they had made while the said CCP No. 57 of 2020 was being heard in this Hon'ble Tribunal by Your Lordship and have been continuing to sit tight in the issue.

(c) A Rule do issue calling upon the instant Contemnor/Respondents in the matter to showcause as to why they should not be sent to prison and/or penalized or otherwise dealt with for wilfully, deliberately and intentionally violating and not complying with the said solemn Judgment delivered by this Hon'ble Tribunal dated 20.11.2019 and/or acting in breach of their undertaking in CCP No. 57 of 2020 as made before this Hon'ble Tribunal vide a reasoned Order dated 04.03.2021.

(d) A further order do issue directing the concern Contemnor/respondent to ensure compliance of the Judgment dated 20.11.2019 as delivered in O.A. No. 1297 of 2015 forthwith as well as reasoned order dated 04.03.2021 placed in CCP No. 57 of 2020.

(e) Any other appropriate Order/Orders, Direction/Directions do issue as this Hon'ble Tribunal may deem fit and proper for securing the interest of justice."

Form No.

Vs.

Case No. **CCP 91 of 2022 [OA 1297 of 2015]**

Shri Narayan Swaroop Nigam, Secy., Deptt. of H&FW.

It is noted that the applicant earlier approached this Tribunal in OA No. 1297 of 2015, which was disposed of vide Order dated 20.11.2019 with the following observations and directions :

“During the course of the hearing, the Counsel for the applicant has fairly submitted that though he had made a representation dated 18-12-2018, wherein he wants to pay back the CPF amount along with the up to date interest for the purpose of counting of past service in the light of the Hon’ble High Court judgement dated 09-09-2004. However no decision has been communicated to him. Therefore the Counsel for the applicant has submitted that his purpose would be served, if the respondents would be directed to consider the said representation treating the OA as a part of it and communicate their decision within a stipulated period of time. The Counsel for the respondent has no objection to such proposition.

Heard the parties and perused the record as the applicant has already showed his bonafide to pay back the entire amount for consideration of his case in the light of the Hon’ble High Court judgement dated 09-09-2004. Accordingly, the respondents are directed to consider the latest representation of the petition dated 18-12-2018 treating this OA as part of it, taking into account the Hon’ble High Court’s judgement dated 09-09-2004 and to take a decision and communicate the same by way of reasoned and speaking order within a period of 12 (twelve) weeks from the date of receipt of this order.

According, the OA is disposed of with the above observations and direction with no order as to cost.”

Subsequently, the respondent had served reasoned and speaking order dated 04.03.2021 with the following order :

“Now therefore, after considering the entire gamut of the situation, it is ordered that, the Director General (Ayush) of this department and the Principal & Superintendent, J.B. Roy State Ayurvedic Medical College &

Form No.

Vs.

Case No. **CCP 91 of 2022 [OA 1297 of 2015]**

Shri Narayan Swaroop Nigam, Secy., Deptt. of H&FW.

Hospital, Kolkata are instructed to proceed for converting the applicant's Contributory Provident Fund(CPF) account into the General Provident Fund(GPF) account as well as for disbursement of pensionary benefits in favour of Dr. De with the concurrence of the Finance Department, Government of West Bengal.

Thus, the case is disposed of with the aforesaid order."

Though, in the meantime, the applicant had approached this Tribunal in CCP 57 of 2020, during the course of the hearing of the said Contempt Petition, the respondents had placed the reasoned order dated 04.03.2021. The said CCP 57 of 2020 was dropped with the following order :

"Today, the counsel for the contemnor respondent has placed one Memo dated 04.03.2021, whereby they have communicated the reasoned order to the applicant instructing the Director General (Ayush) as well as Principal & Superintendent, J.B. Roy State Ayurvedic Medical College & Hospital, Kolkata to proceed for converting the applicant's C.P.F. into G.P.F. as well as disbursement of pensionary benefits in favour of the applicant. Let the copy of the order be kept on record.

In view of the above, we are satisfied that our order has been substantially complied with. Accordingly, CCPA is dropped. Notices are discharged."

Even then, the applicant has filed the instant application praying that the benefit of conversion of CPF to GPF has not been extended to him. Hence, this application.

Heard the counsel for the applicant as well as perused the records. It is noted that initially in the OA, the applicant had prayed for consideration of his representation. Therefore, the respondents were directed to consider his representation with regard to conversion of his CPF to GPF and communicate their reasoned order. As the reasoned order was passed with a direction of

Form No.

Vs.

Case No. **CCP 91 of 2022 [OA 1297 of 2015]**

Shri Narayan Swaroop Nigam, Secy., Deptt. of H&FW.

conversion of CPF to GPF for the purpose of granting pensionary benefits, this Court being satisfied with the substantial compliance of the original order dated 20.11.2019 had dropped the contempt petition. Therefore, this present contempt petition has no legs to stand to review of our earlier order passed in the contempt petition by dropping the same. Therefore, the instant contempt petition is dismissed with the above observations and no order as to costs.

URMITA DATTA (SEN)
Officiating Chairperson & Member (J)

CSM/SS