

No.C-18013/27/2017-Ad.IIB
Government of India
Central Board of Indirect Taxes & Customs

New Delhi, Dated the January 20th '2021
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To,

Cadre Controlling Authorities/Zones through CBIC's website.

Subject: Order dated 22.01.2020 in WP No. 112826/2019 filed by UoI (CGST Bangalore)
Vs. contempt 65/2018 & order therein -Reg.

The undersigned is directed to enclose herewith a copy of Hon'ble High Court Karnataka's order dated 22.01.2020 in WP 112826/2019 filed by UoI (CGST Bangalore Zone) against contempt petition No. 65/2018 in OA No. 40/2017 filed by Sh. Srinivias Parande, Part Time CLTS.

2. It becomes imperative to state that in references/legal cases of Casual Labourers of certain Zones/CCAs under CBIC, wherein the directions are only to consider the case/representation as per applicable provisions, some Zones/CCAs preferred challenging such orders before higher courts, without consulting Board or CGSC/ASG concerned instead of disposing of the cases passing appropriate speaking orders. In certain cases, the cases/speaking orders are either not very specific and clear in terms or go beyond the directions of just considering the representations. The designated competent authority has to ensure passing appropriate order and making appropriate compliance before respective courts accordingly, where directions are to consider the representation made.
3. Hon'ble High Court's order referred to above, in this context clearly laid down the procedure and circumstances of filing/admission/proceedings contempt application, which may be substantive for the purpose of taking a view and address such cases/issues in future under CBIC.
4. The CCAs/Zones may therefore bring the order dt. 22.01.2020 of Hon'ble High Court of Karnataka to the notice of all concerned for taking a view and address the issues/cases accordingly.

Yours faithfully

R.K Jha
21.01.2021

(R K Jha)
Dy. Secretary to Govt.

☎: 011-26162780

Copy to:

Webmaster, DG Systems for uploading the letter in CBIC's website.

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IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 22ND DAY OF JANUARY, 2020

PRESENT

THE HON'BLE MR. JUSTICE K.N. PHANEENDRA

AND

THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

WRIT PETITION NO.112826 OF 2019 (S-CAT)

BETWEEN:

1. A.K.JYOTISHI, AGE : 60 YEARS,
OCC : RETD. CHIEF COMMISSIONER
OF CENTRAL TAX (KARNATAKA CIRCLE),
C.R. BUILDING, QUEEN'S ROAD,
BENGALURU-560 001.
2. B.K.KAR, AGE : 56 YEARS,
OCC . COMMISSIONER OF CENTRAL EXCISE
(PRESENTLY CENTRAL TAX),
NO.71, CLUB ROAD, BELAGAVI-591 001.
3. SMT.RASHMI, D/O. SHRI R.K.PRASADA RAO,
AGED ABOUT 31 YEARS,
OCC : ASSISTANT COMMISSIONER OF
CENTRAL EXCISE, (PRESENTLY CENTRAL TAX),
DHARWAD DIVISION, DHARWAD-580 001.

4. Y.C.PUJARI, AGE : 53 YEARS,
OCC : SUPERINTENDENT OF CENTRAL EXCISE,
(PRESENTLY CENTRAL TAX),
BAGALKOT RANGE, PARANDE BUILDING,
RURAL POLICE STATION ROAD,
BAGALKOT-587 101.

5. DR.HASMUKH ADHIA, AGE : 61 YEARS,
OCC : SECRETARY,
DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE,
NEW DELHI-110 001.

... PETITIONERS

(BY SMT HEMALEKHA K.S., ADVOCATE,
FOR SRI ARUN JOSHI, ADVOCATE)

AND :

SHRI.SHRINIVAS S/O SHAMARAO PARANDE,
AGED ABOUT: 59 YEARS,
OCC: SWEEPER IN CENTRAL EXCISE,
R/O: KILLA-II, NEAR DR.KOPPA'S HOSPITAL,
BAGALKOT TALUK, BAGALKOT-587 101.

... RESPONDENT

(BY SRI CHETAN D.MUDAKAVI, ADVOCATE
FOR SRI VISHWANATH K. BHAT, ADVOCATE)

THIS PETITION IS FILED UNDER ARTICLE 226
AND 227 OF CONSTITUTION OF INDIA, AND PRAYED
TO ISSUE A WRIT OR ORDER OR DIRECTION IN THE
NATURE OF CERTIORARI QUASHING THE ORDER
DATED 12.06.2019 PASSED IN CONTEMPT PETITION
NO.170/00065/2018 BEFORE THE CENTRAL
ADMINISTRATIVE TRIBUNAL, BANGALORE VIDE

ANNEXURE-H, IN THE INTEREST OF JUSTICE AND GRANT ANY OTHER ORDER, RELIEFS AS THIS COURT DEEMS IT FIT TO GRANT UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, K.N.PHANEENDRA, J., MADE THE FOLLOWING:

ORDER

Heard the learned counsel for the petitioners and counsel for the respondent.

2. The respondent herein has filed original application before the Central Administrative Tribunal (for short 'CAT') as per Annexure-A seeking for the following reliefs :

- (a) To issue mandamus and direction to consider the representation dated 15.11.2016 submitted by the applicant received by the respondents on 17.11.2016 and to give benefit of grant of regularization and other service benefits in accordance with law.

(b) Grant such other relief or reliefs as the Tribunal deems fit in the circumstances of the case of the applicant, in the interest of justice and equity.”

3. The Tribunal after hearing both the counsels passed the order dated 04.01.2018 in the following manner :

“We heard both the counsel. It appears that the respondents in their reply in para 15 have stated and reiterated by the counsel for the respondents that the Ministry is considering regularization of these people. Therefore, there will be a mandate to them to expedite the process and decide the matter within the next 3 months.

OA therefore allowed to this limited extent.”

4. After the above said order being passed by the CAT, as per Annexure-G dated 31.08.2018 the petitioner No.1 herein has passed an order

considering the details of the respondent and found that he has not fulfilled the conditions as per the Recruitment Rules of MTS that is with regard to the age. Therefore, he cannot be regularized in the grade of MTS in terms of the Tribunal's order dated 04.01.2018. Therefore, after considering the legal requirement, petitioners herein have passed such an order which is a detailed considered order. Being aggrieved by the said order, instead of challenging the said order, the respondent has moved CAT for initiation of contempt proceedings against the petitioners herein. The impugned order dated 12.06.2019 shows that the CAT has entertained the contempt proceedings and observed that the respondents therein have not complied with the order, but though issued a speaking order that does not seem to be inconsonance with **Umadevi**

judgment and judgment of the CAT. Therefore, CAT called upon the respondents therein to personally be present to show cause why action should not be taken against them, if they do not comply with the order in letter and spirit within that period. The said order initiating the contempt proceedings and issuing process is called in question in this writ petition.

5. In order to attract the contempt of the courts, the order should be very specific and clear in terms as we have noted above, the CAT has not directed the regularization of the respondent herein, but only directed for consideration of the representation of respondent herein. The said direction has been strictly complied and the application of the respondent has been considered and a considered order has been passed as noted

supra. Therefore, if at all the respondent is aggrieved by the order passed by the petitioner No.1 herein dated 31.08.2018 as per Annexure-G, he ought to have challenged the said order and in that context the Tribunal may get an opportunity to examine whether that particular order is in accordance with law or not, then only it would have passed an appropriate order in that regard, instead of that contempt proceedings has been initiated which is not in our opinion justified. Hence, the order impugned deserves to be quashed. Hence, we proceed to pass the following :

ORDER

The Writ Petition is hereby allowed. Consequently, C.P. Application No.65 of 2018 and orders dated 12.06.2019 are hereby quashed. However reserving liberty to the respondent herein if

he has really aggrieved by the order dated 31.08.2018 as per Annexure-G to question the same in accordance with law before the proper Court.

Sd/-
JUDGE

Sd/-
JUDGE

CKK