**BEFORE THE HON’BLE CENTRAL ADMINISTRATIVE TRIBUNAL**

**PRINCIPAL BENCH NEW DELHI**

**Contempt Petition No. ………. /2019**

**(Arising out of** O.A.No. 61/2014**)**

|  |  |
| --- | --- |
| **PETITIONER**: | XYZson of ......aged about .... yearsR/o ................. |
|  | Versus |
|  |  |
| RESPONDENT: |

|  |
| --- |
| (1) Secretary Deptt of revenue BY NAMENorth Block New Delhi 110001 |

 |

**CONTEMPT PETITION UNDER SECTION 12 OF THE CONTEMPT OF COURT ACT 1971**

To

 Hon’ble Chairperson and

 his companion members of the

 Central Administrative Tribunal

at New Delhi.

The humble petition of the

Petitioners above-named.

MOST RESPECTFULLY SHEWETH:

1.That Petitioner herein is filing the present petition for initiating contempt proceedings against the above-stated contemnors - respondents, who have committed contempt of the order passed by this Hon'ble Tribunal dated .......... in Original application No. ..../2019.

2. That the petitioner is a senior citizen and has retired from the post of .............in the year 2019 after ...... years of dedicated service in the Government of India, Department of Income Tax. For the year 2008-09, the ACR of the applicant was downgraded from “very good” to “average”resulting in denial of promotion of the applicant from the post of Commissioner Income Tax to Chief Commissioner Income Tax. Aggrieved the petitioner had filed an Original application No. ...../2019 seeking the following reliefs

“1. Pass an order quashing the impugned adverse (average) remark dated ........... given by the Reviewing Officer for the ACR of the Applicant for the year .......... being ACR dated .......... and consequentially uphold the grading of Applicant as “very good” as given by the Reporting Officer of the Applicant for the said ACR.

1A.pass an order directing the non applicant to open the sealed cover containing the recommendation of the DPC in meeting dated .............. in case of the applicant herein.

… …

2.Pass an order directing the Respondents to give all benefits to the Applicant consequential to such quashing including promoting him to the post of Chief Commissioner , Income Tax effectively under DPC held on..................”

Copy of the Original application no. ....../2019 is annexed herewith and marked as **Annexure P-**

3.That this Hon’ble Tribunal Vide order dated 14.8.2018 allowed the original application ....../2019 with the following directions:

“The OA is accordingly allowed. The evaluation made by the reviewing officer is set aside. In case, the applicant is found unfit by DPC on account of APR for the year ........., the same shall be reconsidered, and depending on the outcome thereof, consequential benefits be extent to the applicant.This exercise shall be completed within four months from the date of receipt of this order.*”*

Copy of the order dated .......... is annexed herewith and marked as **Annexure P-**

4. It is submitted that this Hon’ble Tribunal had directed the respondents to find out the DPC recommendation for the applicant contempt petitioner and depending upon the outcome thereof extend all consequential benefits to the applicant within a period of four months. It is submitted that it has been more than 14 months and the respondent department has not yet opened the DPC recommendation of the petitioner and taken suitable action.

5. It is submitted that the contempt petitioner herein sent several mails and reminders to the respondent seeking compliance of the order of this Hon’ble tribunal and release of his retirement benefits without any success.

A copy of the e-mail dated ....1.2019, .....04.2019, ......6.2019 sent to the concerned officers in the respondent department is annexed herewith and marked as Annexure P-

The petitioner who is a retired civil servant also filed a grievance in the Prime Minister Office for necessary action. The PMO directed the respondent department to take necessary action for compliance of the order of this Hon’ble tribunal but despite that no action has been taken by the respondent department.

Copy of the grievance filed in the PMO is annexed herewith and marked as **Annexure P-**

6.It is submitted that the non -compliance of the order of this Hon’ble Tribunal is causing grave prejudice to the contempt petitioner as he has been deprived of his retiral dues and benefits without any reason. It is submitted that retiral dues like pension and gratuity are rights of the employee. Reliance is placed on the decision of Hon’ble Supreme Court in **( CASE NAME )**wherein it was held that

“Public employee holding a civil post or office under the State has a legitimate right to earn his pension at the evening of his life after retirement, be it on super- annuation or voluntary retirement. It is not a bounty of the State. Equally too of gratuity, a statutory right.earned by him.  [Article 141](https://indiankanoon.org/doc/882644/) of the Constitution accords right to as- sistance at the old aged or sickness or disablement.”

Reliance is also placed on the decision of CASE NAME and others (judgment dated ......) wherein it was held that:

“The facts and circumstances of the case, noticed above, do not at all justify the withholding of the pension, gratuity and other retiral benefits to which the respondent No. 2 became entitled on his superannuation. The pension is not a bounty or largessee to a government employee. It is a part of the consideration for the service rendered by an employee. Such valuable right of an employee cannot be taken away unjustifiably. That gratuity is part of pension is beyond doubt. The respondent No. 2 having not been found guilty of any misconduct or negligence in the departmental or judicial proceedings, during the period of service or after superannuation, thus, could not have been denied his legitimate right of getting pension, gratuity and other retiral benefits”

It is humbly submitted that the petitioner herein is a senior citizen and has given 34 years of devoted service to the respondent department. Denial of his rightful dues at this juncture is arbitrary and unjust.

7. It is submitted that conduct of the respondent department in not complying with the order of this Hon’ble Tribunal is contumacious and malafide. It is submitted that the contempt petitioner was subject to unwarranted harassment at the hands of some officers while he was in service as a result of which he was issued two chargesheets. It is submitted that both the chargesheets stand quashed by the courts. However, in continuance of the willful contumacious conduct, the respondent department is purposely withholding the compliance of the order dated ...........and denying the rightful dues of the petitioner. The willful and malafide inaction of the respondent department is a further step in the continued harassment of the petitioner and has rendered the petitioner remediless despite having an order of this Hon’ble Tribunal in his favour. The contumacious conduct of the respondent department, it is humbly submitted, seeks to lower the majesty of this Hon’ble Tribunal and deserves to be exemplarily punished.

Not only this, the contemnor had committed contempt of this Hon'ble CAT ......... bench in the case of petitioner himself in CP no................and after four contempt hearings and after misleading the Hon'ble CAT, interest on leave encashment was released.

Further the contemnor is liable for prosecution u/s 166 of IPC which reads as under:

**IPC Section 166 in The Indian Penal Code**

166. Public servant disobeying law, with intent to cause injury to any person.—Whoever, being a public servant, knowingly diso­beys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both. Illustration A, being an officer directed by law to take property in execu­tion, in order to satisfy a decree pronounced in Z’s favour by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section.

8.The respondent department and its concerned officers are in willful disobedience of the order of this Hon’ble Tribunal dated ......and are therefore guilty of contempt of this Hon’ble Tribunal. It is therefore, in the interest of justice that this Hon’ble Tribunal may be pleased to initiate Contempt of Court proceedings against the above mentioned Contemnors and also direct the compliance of order dated ......passed by this Hon’ble Tribunal.

P R A Y E R

 It is, therefore, respectfully prayed that this Hon’ble Tribunal may be pleased to:-

1. Initiate the Contempt proceedings against the above proposed Contemnorsunder the Contempt of Courts Act, 1971 for willful non compliance of of the order dated ........ passed by this Hon’ble Tribunal;
2. Direct the respondents to open the seal cover of the DPC recommendation and the earliest and release the retiral benefits to the petitioner herein in terms of the recommendation contained therein;
3. Pass such other and orders as may be deemed fit and proper in the facts and circumstances of the present caseincluding giving direction to register FIR against the contemnor.

DRAWN AND FILED BY

(ABC)

ADVOCATE FOR THE PETITIONER

NEW DELHI.

DATED:

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL**

**PRINCIPAL BENCH NEW DELHI**

**Contempt Petition No. ………. /2019**

**(Arising out of** O.A.No. 61/2014**)**

|  |  |
| --- | --- |
| **PETITIONER:** | PavanVed |
|  | Versus |
| **RESPONDENT:** | Shri HasmukhAdhia |

# AFFIDAVIT

 I, PavanVed, son of Late Shri RatanlaljiVed, aged 65 years, r/o 203 Morya Heritage 56 shops road 10/5 New Palasia Indore 452001 do hereby state on oath as under:

1. That I am the applicant and I am conversant with the facts of the case.
2. That the enclosed contempt petition is drafted under my instructions. I have read and understood the same.
3. That the contents of para 1 –5 are true to my personal knowledge, and are believed to be true on information on record.

(Deponent)

VERIFICATION

 I ,PavanVed, son of Late Shri RatanlaljiVed, aged 64 years, r/o 203 Morya Heritage 56 shops road 10/5 New Palasia Indore 452001, do hereby verify that the statements in para 1 – 3 are true to my personal knowledge and belief.

 Verify and signed on the 1st day of August 2019 at Indore

(Deponent)

**Sent by mail on 29-04-19 at 9.11 PM**

From PavanVed

pavanved@rediffmail.com

Indore

29-04-19

To

Revenue Secretary (By name)

rsecy@nic.in

Secretary, Department of Revenue

New Delhi

Sub: Notice of **multiple contempts** ofvarious courts in my cases

Ref: (i) order of Hon'ble CAT Jabalpur bench camp.

at Indore dated 04/05/17

(ii) Order of Hon'ble CAT Delhi in ACR case

(iii) order of Hon'ble SC in Rajkot charge sheet Case

(iv) order of Hon'ble CAT Delhi in Raipur charge sheet case.

Pl. refer to above subject.

I am PavanVed retired commissioner of income tax Mumbai with civil List code no. 81011. I had a number of grievances against the CBDT and finally for all matters I had to go to Hon'ble CAT and Hon'ble Court and despite favourable orders I have been denied the benefits due as per court orders. I am therefore giving you this combined contempt notice for all matters as under:

**As regards reference no. (i) as above:-**

Hon'ble CAT Jabalpur had passed order on 04/05/17 in **OA No. 201/1080/2016** as under:

“***Therefore it must be assumed that the rules regarding good governance would compel payment of interest and in this regard and as the leave encashment is delayed for such period then interest at the rate of GPF rate, in the circumstance of the case, shall be given to the applicant. This may be done within two months next.”***

You were the first respondent in the petition and Hon'ble CAT had directed you as first respondent to pay me interest on delayed release of leave encashment. Despite my request and reminder to concerned principal chief commissioner of income tax Mumbai (who was second respondent in the case) and despite my filing grievance petition before CBDT and email request (Copy enclosed with grievance) to member CBDT handling grievances, the amount of interest has not been released to me so far.

 In two hearings for contempt, you did not file reply / did file unsatisfactory explanation. Hence case was finally heard on 12-03-19. On this date, your lawyer led the court to believe that order to release interest has been passed and interest would be released shortly. Still Hon'ble CAT directed you to reply why there was contempt of order and next date of hearing has been fixed for giving this reply on contempt because belated compliance of court order does not exonerate from contempt.

 Later, Principal Chief commissioner of income tax Mumbai sent me copy of order of release of interest as per CAT order. However, interest amount has still not been released to me even after a month making it a fresh contempt case and a case of misleading Hon'ble CAT by giving false assurance to Hon'ble CAT. You are also liable for fresh interest on belated release / compliance of order of CAT.

Pl. reply within 15 days as to why a fresh complaint be not filed against you for contempt of case and for misleading the Hon'ble CAT.

**As regards reference no. (ii) as above that is** Order of Hon'ble CAT Delhi in ACR case in OA No.61/2014 dated 14-08-18:- In para 10 of this order, Hon'ble CAT had upgraded my ACR and directed to decide my promotion accordingly and to open the sealed cover. This was to be done within four months. Earlier notice was issued to Hon'ble chairman CBDT for contempt on 20-01-19 and till ill today there is no progress and therefore you are to reply why a contempt petition be not filed for this non compliance of Hon'ble CAT order.

**As regards reference no. (iii) as above**that is order of Hon'ble CAT Delhi n OA No. 4476/2013 which was ultimately upheld by Hon'ble SC in respect of charge sheet issued to me for work done by me as JCIT Rajkot :- by this order, my charge sheet stands quashed finally by Hon'ble SC. Still my sealed cover has not been reopened.

**As regards reference no. (iv) as above**that is order of Hon'ble CAT had quashed the charge sheet issued to me in July 2014 in respect of some orders passed by me as Commissioner of income tax (A) at Raipur in OA No. 5477/2017 dated 11-11-16. Hon'ble CAT had directed to release all my retiral dues and nothing has happened so far. This charge sheet was a clear evidence of mala fide of authorities sitting in CBDT. For non compliance this order, contempt notice to CBDT chairman was issued on 20-01-19 and there is no compliance till today.**:-**

Pl. take note that not following so many orders of Hon'ble CAT/ Hon'ble high court and Hon'ble SC as above without any reasonable cause amounts to criminal contempt of court. I therefore request you to pl. comply with all the orders as above within 10 days failing which I will be compelled to file criminal contempt petition pointing out that you are habitual contemner and making you as contemneralongwithchairman CBDT and Hon'ble principal chief commissioner of income tax Mumbai for wilful disobedience of orders as above and making you liable for compensation for cost of litigation and for harassment.

Even otherwise, I am a retired person and a senior citizen, I deserved priority handling of my case which has not been done.

Pl. take note that non release of retiral dues in time is compelling me to take loans for my personal needs and therefore you will be additionally liable for financial loss caused to me because of such non compliances of orders of court for which you will be separately liable.

(PavanVed)

Copy to

Chairman CBDT New Delhi by email and PCCIT Mumbai by email for early action in my cases as above.

From

PavanVed

pavanved@rediffmail.com

Indore

12-06-19

To

Revenue Secretary (By name)

rsecy@nic.in

Secretary, Department of Revenue

New Delhi

Sub: Notice of **multiple contempts** ofvarious courts in my cases

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at Indore dated 04/05/17

(ii) Order of Hon'ble CAT Delhi in ACR case

(iii) order of Hon'ble SC in Rajkot charge sheet Case

(iv) order of Hon'ble CAT Delhi in Raipur charge sheet case.

And my earlier notice dated 29-04-19 of contempt of these four court orders

Pl. refer to above subject.

Till today there is no progress regarding implementation of the above referred four court orders.

Pl. look into the above and redress my grievance.

Copy of my earlier notice is reproduced as under:

**Sent by mail on 29-04-19 at 9.11 PM**

From PavanVed

pavanved@rediffmail.com

Indore

29-04-19

To

Revenue Secretary (By name)

rsecy@nic.in

Secretary, Department of Revenue

New Delhi

Sub: Notice of **multiple contempts** ofvarious courts in my cases

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 In two hearings for contempt, you did not file reply / did file unsatisfactory explanation. Hence case was finally heard on 12-03-19. On this date, your lawyer led the court to believe that order to release interest has been passed and interest would be released shortly. Still Hon'ble CAT directed you to reply why there was contempt of order and next date of hearing has been fixed for giving this reply on contempt because belated compliance of court order does not exonerate from contempt.

 Later, Principal Chief commissioner of income tax Mumbai sent me copy of order of release of interest as per CAT order. However, interest amount has still not been released to me even after a month making it a fresh contempt case and a case of misleading Hon'ble CAT by giving false assurance to Hon'ble CAT. You are also liable for fresh interest on belated release / compliance of order of CAT.

Pl. reply within 15 days as to why a fresh complaint be not filed against you for contempt of case and for misleading the Hon'ble CAT.

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Pl. take note that not following so many orders of Hon'ble CAT/ Hon'ble high court and Hon'ble SC as above without any reasonable cause amounts to criminal contempt of court. I therefore request you to pl. comply with all the orders as above within 10 days failing which I will be compelled to file criminal contempt petition pointing out that you are habitual contemner and making you as contemneralongwithchairman CBDT and Hon'ble principal chief commissioner of income tax Mumbai for wilful disobedience of orders as above and making you liable for compensation for cost of litigation and for harassment.

Even otherwise, I am a retired person and a senior citizen, I deserved priority handling of my case which has not been done.

Pl. take note that non release of retiral dues in time is compelling me to take loans for my personal needs and therefore you will be additionally liable for financial loss caused to me because of such non compliances of orders of court for which you will be separately liable.

(PavanVed)

Copy to

Chairman CBDT New Delhi by email and PCCIT Mumbai by email for early action in my cases as above.

Filed on 24-06-19 to pmo.gov.in at 3.37 PM

registration number is PMOPG/E/2019/0341613.

Status can be seen on pgportal

Grievance regarding non compliance of four orders of courts:

I am PavanVed retired commissioner of income tax with civil list code no. 81011. I retired from the office of Principal chief commissioner of Income tax Mumbai. My retirement benefits are not being given though I have won all the cases from various courts. The CBDT is not following any of the orders of the court. Contempt notice to chairman CBDT and Revenue secretary has not yielded any result. Thus a senior citizen and a pensioner is suffering for none of his fault.

The following orders have not been complied for months despite contempt notice to revenue secretary and chairman CBDT

(i) order of CAT Jabalpur bench camp at Indore dated 04/05/17

(ii) Order of CAT Delhi in ACR case

(iii) order of SC in Rajkot charge sheet Case

(iv) order of CAT Delhi in Raipur charge sheet case.

I state on oath that whatever has been stated above is true.

pavanved

complainant

27-6-19

grievance reported as disposed by saying concerned officer to do the needful. Poor feed back reported as under
Registration Number

CBODT/E/2019/13447

Rating



Comments

This redressal of grievance is nothing but an eyewash and increasing the statistics of disposal. nothing has happened. before reporting disposal of grieanvce you should ensure that grievance has actually been redressed. you are shriking from your responsibility of grievance redressal. it requires to be brought to the notice of PMO as truth of Modigovt.and should be reported in press also.