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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

CP NO. 46/2004

IN

OA NO. 2224/2002

New Delhi this the 29<sup>th</sup> day of March, 2004

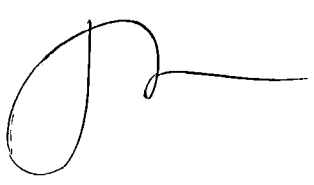
**Hon'ble Shri V.K. Majotra, Vice Chairman (A).**  
**Hon'ble Shri Bharat Bhushan, Member (J).**

1. Swami Nath,  
S/o Shri Shiv Murti.
  2. Sarju Mal,  
S/o Shri Mannu Lal.
  3. Bansi Lal,  
S/o Shri Shiv Pujan.
  4. Harvilas,  
S/o Shri Pulwari Lal.
  5. Arjunan (Expired),  
S/o Shri Dan Pal.
  6. Shiv Muni,  
S/o Shri Jug Dev.
  7. Shambhu Chand Ghosh,  
S/o Shri Makhan Ghosh.
  8. Harpal Singh,  
S/o Shri Nand Ram.
  9. Mohan,  
S/o Shri Kirodhi.
  10. Mithu Lal,  
S/o Shri Ram Aughar.
  11. Heera Lal,  
S/o Shri Valger.
  12. Amar Singh,  
S/o Shri Netra Pal Singh.
  13. Sunder Pal,  
S/o Shri Ram Matt.
- ... Applicants.

(All Khallasi at SSE/WEE,  
Electrical Workshop, Daya  
Basti, New Delhi)

(By Advocate Shri P.P. Khurana, senior counsel with Shri  
Amit Anand)

Versus



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: 2 :

Union of India through

1. Shri R.R. Jaruhara,  
General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
2. Shri Biney Aggarwal,  
Divisional Railway Manager,  
Northern Railway,  
State Entry Road,  
New Delhi.
3. Shri V.K. Kaul,  
Chief Administrative Officer (Constn.),  
Northern Railway,  
Kashmere Gate,  
New Delhi.
4. Shri P.D. Grover,  
WEE,  
Electrical Workshop,  
Daya Basti,  
New Delhi.

... Respondents.

(By Advocate Shri V.S.R. Krishna)

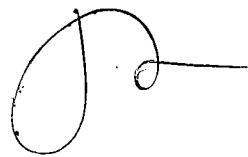
**O R D E R**

Hon'ble Shri Bharat Bhushan. Member (J).

Heard.

2. This Contempt Petition No.46/2004 filed by the applicants (thirteen in number) arises out of the alleged wilful and deliberate disobedience of the directions of the Tribunal contained in orders dated 23.8.2002 passed in OA 2224/2002.

3. The O.A. mentioned above had been filed for granting the relief for payment of arrears for the period they were working as casual labourers before the attainment of temporary status. The said O.A. was disposed of without even issuing notices to the



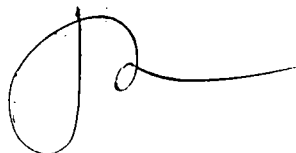
respondents and the directions contained in the said O.A. were as under:

"In the circumstances of the case, the ends of justice will be met by disposing of this O.A. as well at this very stage without issuing a notice to the respondents to consider the claims of the applicants in accordance with the aforesaid decision of the High Court in verification of particulars stated in Annexure A-4 regarding the respective dates of engagement and dates of permanent/temporary status of the applicants. If these particulars are found to be true, the respondents shall make whatever payments are due to the applicants as expeditiously as possible and in any event within a period of two months from the date of receipt of a copy of this order".

4. The decision referred to in the above para was the judgment dated 27.10.1999 of the Hon'ble High Court of Delhi in CW No. 5247/1997 as referred to in Para 3 of the judgment dated 23.8.2002 rendered in O.A. No. 2224/2002. The respondents thereafter filed a Review Application (RA 292/2002) against the orders passed by the Tribunal in the above mentioned O.A. But the said Review Application filed by the respondents was dismissed vide order dated 14.2.2003 with the directions to comply with the orders passed in the O.A. within a period of one month from the date of receipt of a copy of the order. It is alleged by the applicants that since the respondents did not comply with the judgement of the Tribunal, Contempt Petition No. 487/2002 filed earlier was disposed of by the Tribunal vide order dated 21.8.2003 in terms of the following order:

"Heard.

2. With the consent of learned counsel for the parties, this CP is disposed of directing the




respondents that they shall also consider the judgement of the Apex Court in **Union of India and Others Vs. Basant Lal and Others** (AIR 1993 sc 188) while complying the directions of the Tribunal's order dated 23.8.2002 in OA 2224/2002".

5. It is alleged that the respondents thereafter filed the writ petition in the Hon'ble High Court and the same too was dismissed vide orders dated 10.12.2003, but, since, till date they have not taken any action towards the compliance of the orders of the Tribunal, the applicants have yet filed this present contempt petition.

6. The learned counsel for the respondents has stated that in compliance of the directions given by the Tribunal vide order dated 23.8.2002, the respondents had earlier issued a detailed speaking order dated 5.8.2003 and then subsequently in compliance of the order passed in CP No. 487/2002 yet passed another detailed and speaking order dated 29.9.2003 after taking into consideration the judgment of the Hon'ble Supreme Court in Basant Lal's case (supra) too as directed by the Tribunal while disposing of CP No. 487/2002. Hence, according to them, no cause of action survives now and thus the contempt petition deserves dismissal. The applicants' counsel has, however, contested the claim of the respondents and has urged that till date the order dated 23.8.2002 of the Tribunal has not been complied with in letter and spirit.

7. We have considered the rival contentions and have gone through the orders dated 29.9.2003 (Annexure



CP-I) passed by the respondents towards the so called implementation of the judgment and order dated 23.8.2002 in OA 2224/2002 of the Tribunal. The two concluding paras of such order which are relevant for our purpose are reproduced herebelow:

"AND WHEREAS, in compliance with the Hon'ble Tribunal's order Dated 21st August, 2003, the claims of the applicants has been duly considered by the Respondents in accordance with the Hon'ble Apex Courts judgement dated 18.02.92 in Civil Appeal No.847/92 (Union of India and others Vs. Basant Lal and others) (AIR 1993 SC 188) and during such consideration it has been found that the petitioners before the Hon'ble Apex Court were all engaged in the Construction division of open line and in accordance with relevant rules/guidelines were ordered to be granted temporary status after completion of 120 days of engagement. In the case of the applicants in OA No. 2224/2002 (Sh. Swami Nath & Ors.) as already been stated, the applicants were project casual labourers and they were granted temporary status after putting in 360 days of engagement. In such circumstances after a perusal of the particulars of the applicants it has been found that the applicants in OA No. 2224/2002 (Sh. Swami Nath and Ors.) are not similarly placed as the petitioners in Basant Lal's case (Supra) and hence after although consideration of the entire particulars of the application it has been found that the applicants in OA No. 2224/2002 are not entitled to any payments in this regard.

NOW, THEREFORE, you are informed that the Applicants in the said Original Application (O.A.No. 2224/2002), viz, Shri Swami Nath and Others that the prayers raised by them in their application has been duly considered by the Respondents in compliance with the directions of the Hon'ble Tribunal and that it has not been found feasible to accede to the same since they are not similarly placed like the petitioners in Basant Lal's case (supra), and hence they are not entitled to any payments in this regard".

8. Now, we have to analyse the fact as to whether this order is in total compliance of the orders dated 23.8.2002 in OA 2224/2002, orders dated 29.8.2003


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in CP 487/2002 and the judgment of the Apex Court in Basant Lal's case (supra) as referred to in the contempt case or not. In this respect, it would be pertinent to mention that the directions given to the respondents in OA 2224/2002 were specific to the extent to consider the claim of the applicants in accordance with the decision of the High Court i.e. CW 5427/97 and they were further to verify the particulars of the applicants regarding their respective dates of engagement and the dates of permanent and temporary status of the applicants and thereafter they were also required to make payments due to them if the particulars were found to be true. Further, as regards the grant of temporary status or the rights and privilege admissible in that capacity are concerned, the respondents were to refer to the decision rendered by the Apex Court in Basant Lal's case (supra), wherein it has been held that the casual labourers who had worked continuously for more than 120 days in open line and those who had worked for more than 360 days on project were to acquire temporary status entitling them to the rights and privileges admissible to temporary Railway servants. Obviously what was required to be done by the respondents was to verify the fact as to which of the applicants had worked for how many days continuously, and thereafter to grant temporary status to the persons working continuously for more than 120 days in respect of persons working on open line and 360 days in respect of the persons working on the Project, And then to make them the payments accordingly, but it appears, that, till

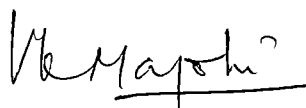


date such exercise has not been conducted and consequently the orders (Annexure CP-I) have not yet been passed in accordance with the directions given by the Tribunal in OA 2224/2002.

9. However, instead of taking a serious view, suffice it would be at this stage to direct the respondents to make another attempt towards the strict compliance of the orders of the Tribunal in verifying the particulars regarding the respective dates of engagement and then giving a finding as to which of them have worked continuously for more than 120 days in open line and which other persons had worked for more than 360 days on project and after completing this exercise to make them payment in accordance with law. This compliance be done within a period of two months from the date of receipt of a copy of the order. With this, the contempt petition stands disposed of.

  
(Bharat Bhushan)  
Member (J)

'SRD'

  
(V.K. Majotra)  
Vice Chairman (A)

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