

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

CP NO. 63/2002 IN
OA NO. 187/2002

(5)

This the 23rd day of August, 2002

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HON'BLE SH. KULDIP SINGH, MEMBER (J)
HON'BLE SH. M.P. SINGH, MEMBER (A)

Virender Kumar
S/o Late Shri Jagan Nath,
Aged about 46 years,
R/o 59/9, New Colony,
Sonepat (Haryana)

And employed as :
Chemical & Metallurgical Assistant II,
Northern Railway, Diesel Shed,
Shakurbasti,
Delhi-110034. Applicant

(By Advocate: Sh. B. B. Raval)

Versus

1. Shri Kawal Jeet Singh,
General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Ms. Kaval Sachdev,
Senior Divisional Personnel Officer,
Northern Railway,
Divisional Railway Manager's Office,
Chelmsford Road,
New Delhi-110001.
3. Shri Asish Sharma,
Deputy Chief Mechanical Engineer,
Northern Railway,
Diesel Shed,
Shakurbasti,
Delhi-110034.
4. Shri R. S. Dohare,
Assistant Chemist & Metallurgist (ACMT),
Northern Railway,
Diesel Shed,
Shakurbasti,
Delhi-110034.
5. Shri Gopal Saran
Chemical & Metallurgical Supdt. I,
Northern Railway,
Diesel Shed,
Shakurbasti,
Delhi-110034. Respondents

(By Advocate: Sh. V. S. R. Krishna)

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O R D E R

By Sh. Kuldip Singh, Member (J)

This is a CP filed by the applicant for drawing up contempt court proceedings against the respondents by issuing a charge order in Form-3 of the Contempt of Court (Procedure) Rules.

2. The facts in brief are that the applicant had challenged the order dated 19.7.2001 whereby he had been transferred from Diesel Shed, Shakurbasti to Diesel Shed K.L.K in the same capacity alongwith the post. The said OA was disposed of vide order dated 23.1.2002 and this Tribunal had directed the respondents to decide applicant's representation dated 16.8.2001 within a stipulated period by passing a reasoned and speaking order. Respondents were given one months time to decide the representation of the applicant. Applicant claims that immediately on receipt of the decision of the OA he submitted a copy of the representation alongwith the order to the respondents on 24.1.2002 and requested them that he should be allowed to join. But still in the meanwhile on 28.1.2002 two employees of the respondents were sent to his residence at Sonepat on 29.1.2002 who pasted the relieving order on the house of the petitioner whereas the petitioner was himself available in the office at that time and requesting for duty.

3. Thus, it is stated that Sh. R.S.Dohare, ACMT who has intentionally committed civil contempt of the Tribunal by flouting Tribunal's order conveys wrong signals to the public at large and the prestige of the Tribunal is lowered in public esteem. It is further stated that thereafter the DPO, Northern Railway, New Delhi also issued a letter dated 29.1.2002 addressed to Dy. CMESI wherein it was specifically

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mentioned that the transfer of the petitioner has been stayed by the Tribunal till the disposal of the petitioner's representation by passing a reasoned and speaking order and it was advised to take necessary action on the same. The said order was received by the applicant on 1.2.2002 that he was present in office daily. Thus, it is stated that the respondents had committed Contempt of Court and should be punished accordingly.

4. Respondents who were contesting the CP submitted that the copy of the Tribunal's order was received in their office only on 28.1.2002 and immediately on receipt of the copy of the order the competent authority initiated steps to implement the order. The representation of the applicant was also considered. The orders of the court have been duly implemented. Respondents further pleaded there was some time gap between the receipt of the copy of the order of the Tribunal in the office of the Diesel Shed Shakurbasti and this was the reason that the authorities had to take steps for communication of the order of the Tribunal. Respondents than also submitted unconditional apology for their act in trying to serve on the petitioner the transfer orders on 28.1.2002 even though the said orders were stayed and prayed that the said apology may be accepted and contemners be discharged.

5. We have heard the learned counsel for the parties and gone through the record. The admitted position is that on 23.1.2002 this court has stayed the order of transfer of the applicant though the applicant submits that he had supplied the copy of the order but the letter dated 23.1.2002 sent by the counsel for the applicant shows only an information with regard to the disposal of the OA-187/2002 and also mentions

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about the directions given. But the copy of the order does not seem to have been supplied alongwith that. Even vide Annexure CP-2 copy of the order does not seems to have been supplied to the respondents and the case of the respondents that they received a copy only on 28.1.2002 seems to be established from record and they have annexed the Annexure CR-1. Thus, it seems that the plea of the respondents that they have received a copy of the judgment only on 28.1.2002 is correct and it is because of a communication gap that somebody from the department tried to serve the relieving order on the applicant on 28.1.2002. The reasons appear to be quite bona fide. Respondents are also apoligetic for the same.

6. In these circumstances I find that it is only because of a communication gap that some officers of the respondents have made an attempt to serve relieving order upon the applicant but that too also had not been acted upon and applicant had been paid salary for the said period also. So I find that no action for contempt is called for because there does not appears to be any wilful or contumacious on the part of the respondents. However, for the harassment caused to the applicant the applicant is allowed Rs.1000/- as cost.

m/sd
(M. P. SINGH)
Member (A)

k/sd
(KULDIP SINGH)
Member (J)

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