

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

C.P. No. 110/99

IN

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OA No. 135/94

New Delhi: dated this the 23rd day of December, 1999.
HON'BLE MR. S. R. ADIGE VICE CHAIRMAN (A).
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J).

Shri Umesh Kumar

.... Applicant.

(By Advocate: Shri B. S. Mainee).

Versus

1. Shri S.P. Mehta,
General Manager,
Northern Railway,
Baroda House,
New Delhi

2. Shri,
Divisional Railway Manager,
Northern Railway,
New Delhi

.... Respondents.

(By Advocate: Shri R.L. Dhaman)

ORDER

BY HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Heard both sides on C.P. No. 110/99 alleging deliberate non-implementation of the Tribunal's order dated 26.12.97 in OA No. 135/94.

2. By that order, respondents were directed to reinstate applicant in service within two months from the date of receipt of a copy of the order, and also to pay him back wages for the period he was kept out of work.

3. By respondents' order dated 3.9.98 (Annexure- C/2) applicant has been reinstated in service, but has not been paid back wages.

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4. Respondents have taken the stand that they have filed CWP No. 6204/98 in Delhi High Court challenging the order dated 2.12.97 directing payment of backwages, in which a prayer has been made to stay the operation of the aforesaid order. They state that in two identical cases, the Delhi High Court has stayed the Tribunal's order for payment of backwages, and in this case also the order is likely to be stayed. It is also contended that the C.P. has been filed on 4.5.99 and is barred by limitation under Sec. 20 Contempt of Courts Act, as the impugned order is dated 2.12.97.

5. Sri Mainee, however, contends that the Delhi High Court did not stay the operation of the impugned order dated 2.12.97 despite respondents' prayer, and applicant's cause of action being a continuing one, the question of limitation does not arise. He further states that if limitation is to be taken as a ground, it would arise from 3.9.98 when respondents have reinstated applicant but not granted him back wages, and the C.P. is well within limitation if 3.9.98 be taken as the relevant date.

6. There is merit in respondents' contention that this C.P. is hit by limitation. Under Sec. 20 Contempt of Courts Act, the C.P. was to have been filed within one year of the Tribunal's order dated 2.12.97. The C.P. has been filed beyond the period of one year. Sri Mainee's contention that the ground of limitation is a frivolous one because the cause of action is a continuing one or that the limitation would run from the date applicant was reinstated i.e. 3.9.98 does not reflect the correct legal position.

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7. The C.P. is therefore rejected on grounds
of limitation. Notices discharged.

Lakshmi

(MRS. LAKSHMI SWAMINATHAN)
MEMBER(J).

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(S. R. ADIGE)
VICE CHAIRMAN(A).

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