

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

1. CP-228/99 in
OA-892/97

2. CP-263/99 in
OA-892/97

New Delhi this the 10th day of December, 1999.

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE-CHAIRMAN
HON'BLE MRS. SHANTA SHAstry, MEMBER (A)

CP-228/99

Satyavir Singh,
S/o Shri Lal Singh,
R/o WZ-1002, Tata No.16,
Badg Nagar, Palam Colony,
New Delhi-110 045.

...Petitioner

(By Advocate Shri G.D. Bhandari)

-Versus-

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

2. Sh. D.P. Tripathi,
Secretary,
Ministry of Railways,
Rail Bhawan,
New Delhi.

3. Sh. S. Murali,
FA & CAO, Northern Railway,
HQs Office Baroda House,
New Delhi.

4. Shri Devender Rai,
Dy. CAO (T), Northern Railway,
State Entry Road,
New Delhi.

...Respondents

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

CP-263/99

1. Sh. K.P.S. Sahota,
S/o Shri S.S. Sahota,
R/o SE 23, Singolpur Colony,
Shalimar Bagh, Delhi-52.

2. Sh. Ashok Kumar Aggarwal,
S/o Shri M.C. Aggarwal,
R/o 6/13, Railway Colony,
Delhi Kishanganj.

...Petitioners

(By Advocate Shri G.D. Bhandari)

-Versus-

1. Sh. S. Murali,
FA & CAO, Northern Railway,
HQs Office Baroda House, New Delhi.

2. Shri Devender Rai,
Dy. CAO (T), Northern Railway,
State Entry Road,
New Delhi.

3. Shri Sandan Singh,
Sr. Accounts Officer/COFMOW,
Railway Officers' Complex,
Tilak Bridge, New Delhi. Respondents

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

O R D E R

By Reddy, J.-

These two CPs are disposed of by a common order, as they arise out of a common order. We first deal with the allegations made against the respondents in CP-228/99.

2. By order dated 29.8.98 in OA-892/97, the respondents were directed to complete the disciplinary enquiry, which was pending against the petitioners and pass final order within a period of four months from the date of receipt of a copy of this order.

3. The petitioners are Accounts Assistants in the office of the Deputy Chief Accounts Officer, Northern Railway. A chargesheet under Rule 9 of the Railway Servants (Discipline & Appeal) Rules, 1968 was issued to the petitioners on 11.1.91, alleging that they have adopted unfair means in qualifying Appendix III IREM examination for the post of Section Officer. The chargesheet was, however, withdrawn and a fresh chargesheet was issued on the same facts. The petitioners filed OA-2480/95, assailing the issue of the second chargesheet while withdrawing the first



(3)

without reserving any right to issue the second chargesheet. The present OA is filed aggrieved by the inaction of the respondents in not completing the enquiry. As stated supra, the OA was disposed of, giving directions.

(3)

4. Thereafter, the respondents filed MA-34/91, seeking more time to complete the enquiry. The Tribunal by order dated 15.2.99, however, granted two weeks' time for completion of the enquiry. It is the case of the petitioners that the respondents even then did not complete the enquiry. The same MA has again come up for hearing and it was disposed of by order dated 9.3.99, stating that no further orders need to be passed in view of the orders dated 15.2.99, disposing of the same.

5. But the respondents, it is alleged, wilfully and intentionally and knowing fully well the consequences of non-compliance did not complete the enquiry and pass the final order, as directed by the Tribunal. It is alleged that though the examinations were held in December, 1989 and for almost 10 years the respondents played havoc with the service career of the petitioners in view of the callous and apathetic attitude adopted by the respondents. The present CPs are, therefore, filed to punish the respondents for contempt of court under Section 17 of the Administrative Tribunals Act, 1985.



(4)

6. The learned counsel for the petitioners, therefore, contends that the respondents are liable for conviction under the Act for violation of the order of the Tribunal in not completing the enquiry, as directed. The petitioners also sought a further relief declaring all the proceedings taken by the respondents after 9.3.99 as null and void, as they were passed in violation of the order of the Court.

(3b)

7. It is, however, the case of the respondents, that they had complied with the order. In the compliance affidavit filed on behalf of the respondents, it was stated that though the respondents fixed the disciplinary enquiry on 5.3.99 the petitioners instead of participating in the enquiry, adopted dilatory tactics challenging the authority of the enquiry officer to conduct the enquiry. It, therefore, became necessary for the respondents to approach the Delhi High Court for extension of time by about six months for completion of the enquiry. The Delhi High Court, however, did not accept their prayer. Thereafter, it was stated that the respondents, having no alternative, went ahead with the pending enquiry ^{in oral} with all expedition in accordance with the directions given by the High Court. Consequently, the enquiry has been completed and a copy of the enquiry report has been sent to the petitioners to send their representations. Hence, it was contended that they had not committed any contempt of this Tribunal.

(3b)

8. We have given careful consideration of the arguments by either side. The main complaint of the petitioners in this case is that the respondents have not completed the disciplinary enquiry, as directed by the Tribunal in its order dated 25.8.98. In the said order the respondents were directed to complete the enquiry within four months. As the enquiry would not be completed within the period stipulated, the respondents filed MA-34/99 which was disposed of by order dated 15.2.99 granting two weeks time peremptorily for completing the enquiry. But, till March, 1999 the respondents, admittedly, had not commenced the enquiry, even after the request for extension of time has been declined more than once. They approached the High Court in CWP-5516/99, questioning the order dated 15.2.99 and 9.3.99 of the Tribunal in refusing to grant extension of time. But their request was turned down by the High Court also, by order dated 11.9.99. They had completed the enquiry and the final order was passed on 22.10.99, awarding the punishment of reduction in rank.

9. The allegations in the contempt case are made only against R-4 who is the disciplinary authority for his inaction in completing the disciplinary enquiry and passing the final order, as directed by the Tribunal in the OA. In the counter-affidavits filed by Respondents 1-3, they have also stated that no allegations have been alleged against them, nevertheless, they tendered unconditional apology for the delay in complying with the directions. In the circumstances we find that respondents 1-3 should not

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have been arrayed as alleged contemners in this case in the first place. The C.P. is, therefore, dismissed as against them.

10. We now deal with the alleged contempt against R-4.

11. The plea of respondents is reflected in the reply filed by R-4 on behalf of all the respondents. R-4 is the disciplinary authority, who is the person, who has to conduct the enquiry and pass final order. It is their case that after their application for extension of time has been rejected on 9.3.99, they filed the Writ Petition in the High Court and only after their prayer was rejected by the High Court in September, 1999, they commenced the enquiry. When the respondents could immediately commence the enquiry after the dismissal of their application in the High Court, we do not find any good reason for them not to commence the enquiry as per the directions of the Tribunal in OA in August, 1998 itself. No reasons whatsoever are assigned by the respondents in the reply expressing any difficulty in not commencing the enquiry earlier. Even in the affidavits filed subsequently by the respondents, no reasons are assigned, explaining the delay.

12. But we are faced with a difficulty in the case. R-4 clearly states in his counter that he took over his present position as Deputy Accounts Officer, Traffic Accounts only very recently in the second half of the current year and in spite of this he



has concluded the pending departmental proceedings within a short time. Thus, he has complied with the directions fully. The main allegation in this case is against the inaction of the disciplinary authority for not completing the enquiry as per the order of the Tribunal. The said order is of August, 1988. It was the duty of the person who was the disciplinary authority to have complied with the orders of the Tribunal soon thereafter. But the CP was filed in August, 1999. R-4, who has taken charge in July, 1999 and who is the present disciplinary authority in the case was impleaded as the respondents. But, in our view, R-4 cannot be held responsible for the acts or omissions of the then disciplinary authority, who if at all is liable for the delay in completing the enquiry. The said person, however, was not impleaded as an alleged contemner in the case. As far as R-4 is concerned, immediately after he has taken the charge he has commenced the enquiry and passed the final order. In the circumstances, R-4 cannot be made responsible for the acts or omissions of the then disciplinary authority. In the circumstances, the CP is liable to be rejected on this ground. It is accordingly dismissed.

CP-263/99

13. There are three respondents in this case. Respondents 1 and 2 here are the respondents 3 & 4 in the above case and respondent No.3 is the Senior



(AO)

Accounts Officer, who is stated to be the enquiry officer who conducted the disciplinary enquiry against the petitioners.

14. The case of the petitioners is that the final order passed by the disciplinary authority after the disciplinary enquiry is non-est as it was vitiated by the action of the respondents in not completing the enquiry within the period stipulated by the Tribunal. It is, therefore, contended by the learned counsel for the petitioners that the final order dated 22.10.99 is unenforceable and void and it should be set aside. The learned counsel for the respondents, however, submits that in the order dated 25.8.98 while disposing of the OA the Tribunal has not stated that no order should be passed subsequent to the date prescribed or that the proceedings thereafter would abate. In the absence of such an order it cannot be said that the order passed by the disciplinary authority has no effect in law.

15. We have considered the arguments advanced by the learned counsel for the petitioners and the respondents. Admittedly, the order of the Tribunal dated 25.8.98 does not say that the proceedings taken after the expiry of four months would either abate or would become ineffective in law. The only question, therefore, is that whether in the absence of such an order can it be said that the proceedings taken after the expiry of the prescribed period would abate. Though, several decisions have been cited by the learned counsel for the petitioners, no decision is brought to our notice in support of the said plea.

(Signature)

(A)

16. The decision in Rev. Father Sebastian Onamkulam v. K. Karunakaran & Anr., AIR 1967 Kerala 177, does not support the case of the petitioners. The said case pertains to the publication of an article in the newspaper about the accused in a pending case. It also deals with principles to be kept in mind in judging the apology tendered by the alleged contemners, which has no bearing on the point raised herein.

17. The learned counsel cited Debabrata Bandopadhyay & Others v. The State of West Bengal & Another, AIR 1969 SC 189. In this case the question as to the disobedience of the stay order which has become ineffective was discussed and also as to the value of the belated apology tendered by the respondent. This case does not help the petitioners.

18. In Ram Partap Sharma and others v. Daya Nand and others, AIR 1977 SC 809 the Supreme Court discussed the propriety of a High Court Judge to get involved in political issue and the basic principles of tendering unconditional apology. This case will also not help the petitioners. The above decisions thus will not throw light upon the plea raised by the learned counsel for the petitioners. In our view the action taken by the respondents after the period stipulated would only render the authorities concerned liable for action under the Contempt of Courts Act. But the orders passed by them will not ipso facto be held as ineffective in law. Time is prescribed by the

CAB

(10)

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court for compliance only for the purpose of expediting the action of the respondents and not with any intent or object to avoid them.

19. In the circumstances, we do not find any substance in the contention raised by the learned counsel for the petitioners.

20. The CP is, therefore, dismissed.

21. As a result, both the CPs are dismissed.

No costs. Notices issued are discharged.

Shanta J-
(Smt. Shanta Shastry)

Member (A)

Unsignd
(V. Rajagopala Reddy)
Vice-Chairman(J)

'San.'