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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

C.P. NO. 217/1998

in

O.A. NO. 841/1996

New Delhi this the 6<sup>th</sup> day of August, 1998.

HON'BLE SHRI JUSTICE K. M. AGARWAL, CHAIRMAN

HON'BLE SHRI R. K. AHOOJA, MEMBER (A)

Tushar Kanti Pal S/O Nil Kanta Pal,  
R/O C-306/A, Lajpat Nagar,  
Sahibabad, Ghaziabad, UP,  
working as Assistant in the  
Department of Posts,  
Ministry of Communications,  
New Delhi.

... Applicant

( By Shri D. P. Mukherjee with Shri Bikas Kar Gupta,  
Advocates )

-Versus-

1. Shri A. V. Gokak,  
Secretary, Department of Telecom,  
Ministry of Communications,  
Sanchar Bhawan,  
New Delhi-110001.
2. Shri Ashok Kumar,  
Joint Secretary (A&P),  
Department of Telecom,  
Ministry of Communications,  
Sanchar Bhawan,  
New Delhi-110001.
3. Shri K. S. Chandra Hassan,  
Asstt. Director General (Admn.),  
Department of Telecom,  
Ministry of Communications,  
Sanchar Bhawan,  
New Delhi-110001.
4. Shri R. U. S. Prasad,  
The Secretary,  
Department of Posts,  
Ministry of Communications,  
Dak Bhawan,  
New Delhi-110001.
5. Department of Personnel & Training,  
Government of India,  
Lok Nayak Bhawan,  
Khan Market,  
New Delhi-110003.

... Respondents

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O R D E R

Hon'ble Shri R.K. Ahooja, Member (A)

Heard the learned counsel for applicant on admission.

2. This contempt petition has been filed for alleged disobedience of the directions made in OA No. 841/96 on 7.1.1997.

3. The learned counsel did not dispute that by order dated 23.6.1997, the Government complied with the order of the Tribunal but according to him it was a partial compliance. Consequential benefits were not given to the applicant though he was given promotion order.

4. The directions were to the following effect:-

"....We, therefore, dispose of this application with a direction to the respondents to reconsider the option given by the applicant on 8.7.94 treating that the applicant had submitted it within the period stipulated, take further action accordingly and to grant consequential benefits to the applicant...."

5. Paragraph 3 of the order dated 23.6.1997 passed in compliance with the aforesaid directions of the Tribunal reads as follows :-

"3. His pay will be fixed under FR-27 at the stage it would have reached had he been promoted w.e.f. 4.10.1995 for the periods mentioned in para 2 above, but no

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arrears would be admissible. The actual benefit will be admissible to Shri T.K. Pal w.e.f. 16.5.1997."

6. The petitioner submits that the respondents by refusing the consequential financial benefits in terms of arrears of pay have disobeyed the specific direction of the Tribunal.

7. The order of this Tribunal was delivered on 7.1.1997. As per the petitioner a certified copy of the order of the Tribunal sent by the Registry was despatched on 22.1.1997. The period given in the order for compliance was set at two months. The respondents were thus required to implement the directions by about 31.3.1997. On the other hand, the contempt petition has been filed after the expiry of one year, initially on 8.5.1998 but refiled, after removing the objections, on 15.7.1998.

8. We have heard the learned counsel for the applicant on the question whether the contempt petition is barred on the question under Section 20 of the Contempt of Court Act, 1971. Shri Bikas Kar Gupta, Sr. Counsel for the petitioner submitted that non-payment of financial benefits constitute a recurring cause of action. He relied on judgements of the Bombay High Court in Sarladevi Bharatkumar Rungta Vs. Bharatkumar Shivprasad Rungta and another 1988 CRI. L.J. 558, Firm Ganpat Ram Rajkumar Vs. Kalu Ram and others AIR 1989 Supreme Court 2285 and Master Dhruv Goyal Vs. Anand Perkesh 1991. Rajdhani Law Reporter 410. We find however that none of these are of any assistance to the applicant.

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9. In Sarladevi Vs. Bharatkumar (Supra), the alleged contempt related to non-payment of maintenance charges ordered under Section 24 of the Hindu Marriages Act, (1956) during the pendency of a petition for a decree of nullity of marriage. It was contended that the alleged contempt took place long before the issue of show cause notice. It was found, however, that the contempt proceedings were commenced by the Court within one year of the period granted for compliance. However, it was also observed that since maintenance during the pendency of the case had to be paid every month non-payment thereof was a recurring cause of contempt as the appeal was still pending. Hence Section 20 of the Contempt of Courts Act would not apply. We however, find no such recurring cause of action in the present proceedings. The non-payment of arrears even if it is assumed that the same was a part of our directions, does not give a recurring cause of action. The respondents have fixed the present monthly pay notionally and it is not disputed that the same has been correctly done. There would then be no recurring cause of action as there would be no recurring loss of salary every month.

10. In Firm Ganpat Ram Rajkumar (Supra) a decree for eviction granted by the Civil Judge was upheld by the High Court and the Supreme Court. The Supreme Court however, allowed the tenants a period of six months on the filing of 'usual' undertakings. However, no such undertaking was filed and instead an injunction was obtained against eviction in the name of the sons of the tenants from a Civil Court. In the

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facts and circumstances of the case, the Supreme Court ~~concluded~~ <sup>it concluded</sup> that there was an attempt to mislead the Court. It was further concluded that failure to give possession was a continuing wrong and there was no scope of application of Section 20 of Contempt of Court Act, 1971. It is evident that the decision of the Supreme Court in this case was on the special circumstances of the case. We find no such situation in the present proceedings.

10. In Master Dhruv Goyal (Supra) the direction given by the Court to the defendants was to pay not only the arrears on interest on certain deposits held by them on behalf of the plaintiff but also to pay future interest regularly. The defendant defaulted on payment of interest after sometime. It was contended that the contempt proceedings were barred by Section 20. It was held that the interest was not to be paid once only but ~~was once~~ was to be paid continuously and therefore the contempt proceedings were not barred by limitation. As already mentioned in respect of Sarladevi Vs. Bharatkumar (Supra) in the present case such a situation would have arisen only if the respondents had failed to fix the salary correctly which could have given a continuous recurring cause of action. Non-payment of arrears of pay does not constitute a recurring cause of action.

11. We are also strengthened in our conclusion by the ruling of the Hon'ble Supreme Court that execution under Section 27 of the Administrative Tribunals Act 1985 of an order of this Tribunal can be effected only within a period of one year (Hukam Raj

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Khinvsara Vs. Union of India JT 1997 (4) SC 193). If the final order passed by the Tribunal is executable only within one year and the belated application for execution is barred by limitation then in respect of arrears of pay execution cannot be enforced through contempt proceedings after one year.

12. In the light of the above discussions, we find that the present Contempt Petition is barred by Section 20 of the Contempt of Court Act, 1971 and is accordingly summarily dismissed.

*Km*  
(K.M. Agarwal)  
Chairman

*R.K. Ahooja*  
(R.K. Ahooja)  
Member(A)

\*Mittal\*