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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI.

C.P.No. 195/95

IN

O.A.No. 956/93

New Delhi: this the 30<sup>th</sup> day of January, 1997.

HON'BLE MR.S.R.ADIGE MEMBER(A).

HON'BLE MRS.LAKSHMI SWAMINATHAN, MEMBER(J).

Shri Onkar Nath Teri,  
Ex.Head Clerk(Personnel Branch),  
Northern Railway Head Quarter's Office,  
Kashmere Gate,  
Delhi.

Now working as Asstt. Manager(Personnel),  
Indian Railway Construction Company Ltd.,  
Palika Bhawan, Sector-XIII,  
R.K.Puram,  
New Delhi

.....Applicant.

(By Advocate: Shri M.K.Gupta)

Versus

Shri V.K.Agarwal,  
General Manager,  
Northern Railway,  
Baroda House,  
New Delhi- 110001

.....Respondent.

(By Advocate: Shri P.S.Mahendru)

ORDER

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

Applicant alleges contumacious non-compliance of Tribunal's direction contained in its judgment dated 13.5.94 in OA No.956/93 O.N.Teri Vs. UOI & others.

2. By that judgment it was held that the ratio of the judgment in G.H.Swami Vs. UOI (O.A.No.1522/91 decided on 29.4.92) was fully applicable in O.A.No.956/93 and respondents were directed to consider refixing the applicant's pay at the relevant intervals of time in the light of that judgment, recalculate the settlement dues and

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pay the difference between the sum due and the sum actually paid with interest @ 10% thereon till date of payment within 6 months from the date of receipt of a copy of the judgment.

3. After that judgment was delivered, the applicant made an application for his dues on 1.7.94, on receipt of which respondents by their letter dated 29.12.94 (C-2) informed him that his case was not at par with Shri G.H.Swami's case.

4. Upon this the applicant filed the present OP on 14.8.95. Notice was issued to the alleged contemnors, on receipt of which they issued orders dated 1.10.95 (Annexure-RI). By that order the applicant's pay has no doubt been refixed.

5. We have heard applicant's counsel Shri Gupta and respondents' counsel Shri Mahendru.

6. If respondents were dis-satisfied with the judgment dated 13.5.94 it was open to them to have gone in appeal against the same. They did not do so, but instead when the applicant represented to them on 1.7.94 for implementation of that judgment informed him that his case was not at par with that of Shri Swami although the Tribunal had specifically held in its judgment that the ratio of Swami's case (Supra) was fully applicable to the facts and circumstances of the present case. In our opinion it was a fit case for initiating contempt action against the respondents, who however have redeemed their conduct by issuing orders dated 1.10.95 refixing the applicant's pay.

7. The question now remains whether personal pay is to be counted as pay at the time of pay fixation.

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Both sides have cited various rules extracted from IREC Volume II; Manual of Railway Pension Rules 1950 and PS No. 9824 and No. 7937 to support their respective contentions.

8. After considering the rival contentions, we hold that the question whether personal pay is to be counted as pay at the time of pay fixation in the facts and circumstances of the present case is not an issue that can be the subject matter of a CP. A C.P. is limited in scope and content and what has to be determined in it is whether a party has deliberately and wilfully disobeyed or failed to comply with the court's direction. After having issued the order of pay fixation, it cannot be said that there has been deliberate and wilful violation or non-compliance of the Court's directions. Whether personal <sup>pay</sup> is to be counted for pay fixation is a matter that cannot be adjudicated upon in a C.P. Accordingly we give liberty to the applicant to agitate the same through appropriate original proceedings in accordance with law, if so advised.

9. With leave granted to the applicant as aforesaid nothing further survives in this CP which is accordingly dismissed and notices to alleged contemnors are discharged.

*Lakshmi Swaminathan*  
(MRS. LAKSHMI SWAMINATHAN )  
MEMBER(J)

*S. R. Adige*  
( S. R. ADIGE )  
MEMBER(A).

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