

**Central Administrative Tribunal  
Principal Bench, New Delhi**

(3)

C.P.No.32/2005 in O.A.No.1041/2000

Wednesday, this the 30<sup>th</sup> day of March 2005

**Hon'ble Shri Justice M.A. Khan, Vice Chairman (J)**  
**Hon'ble Shri S. K. Naik, Member (A)**

Shri Mukesh Kumar Sharma  
son of Late Shri Dau Dayal Sharma  
Ex-Postal Asstt. of Mathura Division  
R/o Krishna Nagar Kosi Kalan Distt. Mathura  
Address for service of notices  
C/o Shri Sant Lal Advocate, CAT Bar Room  
New Delhi-1

..Applicant

(By Advocate: Shri Sant Lal)

Versus

1. Shri R. Ganesan, Secretary, MO Communications  
Deptt. Of Posts, Dak Bhawan, New Delhi-1
2. Shri Raghav Lal, Chief Postmaster General  
UP Circle, Lucknow-226001
3. Shri Ashutosh Tripathi, Postmaster General  
Agra Region, Agra-282001

..Respondents

(By Advocate: Shri R.V. Sinha)

**O R D E R (ORAL)**

**Justice M.A. Khan:**

Vide order dated 11.5.2001, the Tribunal disposed of OA-1041/2000 with the following directions:

"2. Shri N.S. Mehta appearing on behalf of the respondents states that the applicant should submit his willingness for being posted outside Mathura. Shri D.P. Sharma states that applicant has no objection to be appointed outside Mathura. In view of the above, OA is disposed of with a direction to the respondents to explore vacancy at an early date with other office of the Government of India and see that appointment is made available to the applicant within a period of four months, if possible. No costs."

2. The present application is filed by the applicant complaining that the said order of the Tribunal has been intentionally and deliberately disobeyed by the respondents. As such, they are in

*[Handwritten signature]*

contempt and should be punished under Contempt of Courts Act, 1971.

3. In the application, it is alleged that after eight months of the said order, the Chief Postmaster General, UP Circle, Lucknow had issued letter dated 8.2.2002 to the Offices of the Govt. of India to consider the request of the applicant for appointment on compassionate grounds on a suitable group 'C' post. Later the applicant came to know that the Postal Directorate vide letter dated 11.6.2002 accorded approval to fill up 2911 vacancies for the year 2001 and also 2118 vacancies, which are less than one year old and allotted the vacancies to different Postal Circles. Accordingly, 196 vacancies of Postal Assistants in Group 'C' were allotted to UP Circle itself and 10 posts fell in the quota meant for compassionate appointments. The respondents failed to give appointment to the applicant against one such vacancy. It was further alleged that the applicant came to know that the Postal Directorate issued another order dated 18.9.2003 notifying 2750 vacancies to be filled up for the year 2002 and allotted them to different Postal Circles. 166 vacancies of Postal Assistants have been allotted to UP Circle out of which 8.3 vacancies fell in the compassionate appointments quota. Despite the availability of the vacancies, the respondents have disregarded the order of the Tribunal and have not given the appointment to the applicant against one of those posts. The applicant served a legal notice dated 30.9.2004 to the respondents requesting them to appoint him as Postal Assistant as per earlier decision but to no effect.

4. Learned counsel for applicant has further alleged that the respondents have since appointed some other persons, whose compassionate appointments were approved later on during the year 2003. As such, the respondents are in contempt and contempt proceedings should be initiated against them.

5. A show cause notice was issued to the respondents, who filed their reply, in which, inter alia, it was contended that the present contempt proceedings are beyond the time prescribed under the Contempt of Courts Act, 1971. On merits also, the allegations of the applicants were controverted.

*M. S. S. S. S. S.*

6. We have heard the learned counsel on the question whether the respondents are in contempt and the contempt proceedings may be initiated against them under the provisions of Contempt of Courts Act in view of Section 20 of the said Act.

7. A bare look at the operative <sup>para of the</sup> order of the Tribunal, which is reproduced above, showed that no direction was given by the Tribunal to the respondents to appoint the applicant. The direction was that in case the applicant submits his willingness to be posted outside Mathura, the respondents would explore the vacancy position with other Offices of the Government of India and ensure that the applicant is given appointment within a period of four months, if possible. The applicant had submitted his willingness to give posting outside Mathura and the respondents had also issued circular to the different Departments of Government of India in UP for accommodating the applicant by appointing him on compassionate grounds. Though not referred in the contempt petition, but the respondents have filed a copy of a communication sent by the respondents to the applicant as back as 8.2.2001, in which it was clearly stated that due to non-availability of vacancies under 5% quota of direct recruitment vacancy, the candidates of waiting list could not be absorbed against the departmental posts, therefore, the Department of Posts has decided to consider such waiting list candidates for appointment on the vacant post of Gramin Dak Sewaks, if they are willing and eligible for the post vide communication dated 25.7.2001. It was further averred that the willingness of the applicant was called for by SSPO Mathura for the vacant Gramin Dak Sewal post vide letter dated 8.9.2001 but instead of giving his willingness, the applicant had informed the Secretary, Deppt. of Posts vide his application dated 1.10.2001 that the said letter should be quashed and set aside and also requested to provide him job within stipulated period. In view of this, he could not be offered the compassionate appointment in GDS post and due to non-availability of vacancies, he could not be appointed on the post of Postal Assistants cadre also. But the bio-data of the applicant has been circulated to other Central Government Departments located in UP for consideration of his absorption in clerical cadre, and if he gives his willingness for GDS post in compliance to order dated 8.9.2001, the same would be considered. The applicant, in the application, is silent about this letter received by him and the circumstances in which he could not give his willingness when that

*Macaulay*



no vacancy was available for absorption in the cadre of Postal Assistant.

8. A careful reading of the allegations made by the applicant in the light of the directions, which the Tribunal had given to the respondents, it is clear that the proceedings under Contempt of Courts Act are absolutely misconceived. The respondents cannot be held to have deliberately and intentionally disobeyed the order of the Tribunal, for which the proceedings under the said Act should be initiated against them.

9. Learned counsel for applicant had submitted that as per Section 20 of Contempt of Courts Act, one year time would start from the date the contempt is alleged to have been committed and as per the allegations made in the application, the respondents committed contempt when the vacancies were notified in the years 2002 and 2003 and the applicant was not provided appointment against them. According to him, the circulars of the Postal Department notifying the vacancies in the cadre of Postal Assistant came to the knowledge of the applicant when he made a representation in 2004. Therefore, one year period should be computed from that date.

10. We do not find any force in this submission. One year period should be counted not from the date on which the applicant came to know of the same but it has to be counted from the date the contempt is alleged to have been committed. The applicant does not have a choice to fix a date and claim that the limitation for contempt prescribed be counted from that date. Non-consideration of his representation or even its rejection would not amount to committing of contempt by the respondents. The contempt would be committed when the directions of this Tribunal were intentionally and deliberately disobeyed and not implemented. In the instant case, it is alleged that the vacancies became available with the respondents in the years 2002 and 2003 but the respondents did not accommodate and appoint him on compassionate grounds against one of them. Taking a liberal view in the matter that the respondents committed the contempt of court, though not holding, in the years 2002 and 2003, the present application will still be beyond one year's period as per Section 20 of the Act, 1971. Appointment of some other deserving persons whose names were approved and were shown in the list in the years 2003 and 2004, by itself, would not amount to any fresh

*Handwritten signature or mark at the bottom right of the page.*


(2)

contempt to have been committed by the respondents, even if the allegations of the applicant are taken at their face value.

11. For the reasons stated above and on the basis of the facts and circumstances of the case and the material placed on record, we do not find that the contempt proceedings be initiated against them in view of the provision of Section 20 of the Contempt of Courts Act. Accordingly, the Contempt Petition is dismissed. Notices are discharged.

  
( S. K. Naik )  
Member (A)

/sunil/

  
( M.A. Khan )  
Vice Chairman (J)