

Central Administrative Tribunal
Principal Bench

CP No.400/2003 In
OA No.2425/2000

New Delhi this the 5th day of February, 2004

Hon'ble Shri Shanker Raju, Member (J)
Hon'ble Shri Sarveshwar Jha, Member (A)

1. S.R.Dhingra,
312L, Model Town,
Panipat, Haryana.
2. B.K.Joshi,
821 HUDA Colony, Pocket-I,
Sector 11-12, Panipat.
3. H.L.Kapoor,
H.No.61, Des Raj Colony,
Near Devi Mandir, Panipat.
4. Rishi Kesh,
8 Model Town, Panipat.
5. Gurbachan Singh,
MIG 45 SAS Nagar, Phase-I,
Mohali (Punjab).
6. V.N.Mago,
10 SPL-C Patel Nagar,
Meerut City.
7. Gopal Dass,
113 Gali Arya Samaj,
B.B.Nagar, Ghaziabad.
8. V.G.C.Joshi,
205 Pooja Apartment,
Shiv Vihar, Delhi-87.
9. Pooran Singh,
Near Radha Kishan Mandir,
C.Nagar, Saharanpur.
10. H.Sharpe,
H.No.27 S.B.Colony Mission Compound,
Saharanpur (UP).
11. Mam Chand,
5/739 Moti Manshian Kahran,
Saharanpur (UP).
12. Shri Ram Minocha,
3/11 Rly. Colony,
Kishan Ganj, Delhi.
13. Udai Ram,
Ex.Driver, Tarwali Masjid,
Ghaziabad.

14. H.L.Behl,
333 Sector 40, Chandigarh.
15. Bhagwan Dass Arora,
Nilam General Store,
Ghaziabad.
16. S.N.Kapilash,
333 Sector 40-B, Chandigarh.
17. Sardar Singh Kandra,
49A, MIG DDA Flats,
Rajouri Garden,
New Delhi.
18. Tara Chand,
312 L, Model Town,
Panipat.
19. Prem Prakash Mehta,
58 Navin Nagar,
Saharanpur (UP).
20. Iric Simon,
Mission Compound,
Saharanpur (UP).
21. Loti Ram,
21 Khalasi Lane, Saharanpur (UP).
22. Abul Majid,
57 Khan Alam Puram,
Saharanpur (UP).
23. Sohan Singh Dhir,
26 Janakpuri,
Saharanpur (UP).
24. Trika Ram,
57 Khan Alam Puram,
Saharanpur (UP).

... Applicants

(By Shri B.S.Mainee, Advocate)

Versus

1. Shri R.K. Singh,
Chairman,
Railway Board,
Rail Bhawan,
New Delhi.
2. Shri R.R. Jaruhar
General Manager,
Northern Railway,
New Delhi.

....Respondents

(By Advocate : Shri R.L. Dhawan)

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ORDER (Oral)Hon'ble Shri-Shanker Raju, Member (J)

Heard the parties.

2. By an order dated 22.1.2002 following directions have been issued:-

"Having regard to the discussion made above, we find that it is obligatory on the part of the respondents to update the pay of the applicants as if they were in service on 1.1.1986 on a notional basis and then calculate their pension as on 1.1.1986. For this purpose, as per the relevant instructions, they will take into consideration the average emoluments on the basis of their average pay, DA, DP and IR which the applicants were drawing at the time of their retirement and 20% of the basic pay without reckoning the running allowance of 75%. After fixing the notional pay in this manner as on 1.1.1986, they will add the element of 75% of running allowance. The sum so arrived at shall form the basis for fixing pension as on 1.1.1986, as per relevant rules and instructions. Accordingly, we quash and set aside the impugned R.B.E. No.318/99 dated 29.12.1999 (Annexure R-8) and direct the respondents in terms of the observations made above. The respondents shall also refund the recoveries made, if any and if due, from the pension of the applicants on reduction in their pension. The respondents shall implement these orders within a period of three months from the date of communication."

3. Learned counsel of applicants Shri B.S. Mainee contends that there has been wilful and contumacious disobedience on the part of the respondents which amounts to contempt as despite expiry of more than two years, respondents have yet not implemented the directions.

4. Against our order dated 22.1.2002, respondents have approached the High Court of Delhi in

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CWP-4648/2002. A Civil Miscellaneous Petition No.7894/2002 was also pressed for seeking stay of operation of the orders passed by this Tribunal in OA. However, though notice had been issued on 25.9.2003, no orders have been passed regarding stay of operation of Tribunal's order.

5. The grievance has been put-forth before the High Court as to an adjournment sought by the petitioners on the ground that the respondents, i.e., applicants, herein, are pensioners having attained age of 80 years and are bed ridden and have been suffering financially for non-accord of the benefits.

6. Shri Mainee specifically averred that when the matter was mentioned, the High Court observed that as stay has not been granted, the applicants are at liberty to seek the remedy for implementation of the judgment including filing a contempt petition. This has not been disputed by the respondents in their reply.

7. In this backdrop, it is stated that as the decision has not been stayed, a direction may be issued to the respondents to implement the directions.

8. On the other hand, learned counsel for respondents contends by resorting to the decision of Apex Court in SLP (Crl.) No.2253/2000 in C.A. No.841/2001—Ram Avadh Singh Vs. Lalji Yadav & Others

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that till the said application is decided, contempt proceedings are not maintainable. In this backdrop, what has been stated that as C.M. No.7894/2002 seeking operation of the order of the Tribunal is still not disposed of, they have filed CMP-254/2004 for consideration of stay. It is stated that learned senior counsel Shri G.D. Gupta appearing on behalf of respondents has agreed to clubbing of the C.M with CWP and the matter was adjourned to 14.4.2004. In this backdrop, it is stated that there is no wilful or intentional disobedience on the part of the respondents.

9. We have carefully considered the rival contentions of the parties and perused the material on record.

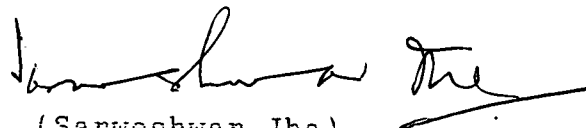
10. As settled by the Apex Court in several pronouncements, power of contempt vested in the Tribunal which should be utilised to see that the directions issued are complied with, It cannot be for any other purpose or to punish the contemnors. It is equally settled that till the appeal is pending, contempt has to be avoided. However, in peculiar facts and circumstances when the contention put-forth regarding observation of the High Court as to taking proceedings with implementation of the order, which is rebutted by the respondents and also the fact that applicants are aged people and some of them are even

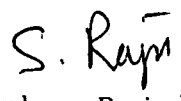


bed ridden and matter pertains to their pensionary benefits, the matter should be expeditiously disposed of.

11. In this view of the matter, we accord respondents one month's time to comply with the directions of the Tribunal contained in order dated 22.1.2002 in its letter and spirit. This can be even done subjecting the implementation to the outcome of CWP, failing which a serious view would be taken against them.

12. With the above observations and directions, CP is dismissed. Notices are discharged.


(Sarweshwar Jha)
Member (A)


(Shanker Raju)
Member (J)

cc.