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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

C.P. NO. 12/95

O.A. NO. 236/87

Hon'ble Shri A.V. Haridasan, Vice-Chairman(J)
Hon'ble Shri R.K. Ahooja, Member(A)

New Delhi, this 7th day of September, 1995

Raj Pal Singh
s/o Shri Kishan Lal
r/o T-28A, Railway Colony
Naya Bazar
Delhi - 6.

.... Applicant

(By Shri U. Srivastava, Advocate)

Versus

1. Shri L.K. Sinha
General Manager
Northern Railway
Baroda House
New Delhi.
2. Shri I.P.S. Anand
D.R.M., Northern Railway
Baroda House
New Delhi.

... Respondents

(By Shri R.L. Dhawan, Advocate)

O R D E R (Oral)

Hon'ble Shri A.V. Haridasan, Vice-Chairman(J)

The Petitioner is applicant in OA No. 236/87 which was disposed by an order dated 6.12.1990. The prayer in the OA was for quashing an order of penalty of permanently withholding of increments of the applicant for a period of three years. Vide the final order passed in the OA, the order of the disciplinary authority dated 24.5.1984/26.6.1984 as confirmed by the order of the appellate authority dated 26.2.1985/20.4.1985 was quashed. The petitioner was informed by an orders dated 18.7.1991 that in terms of the order dated 6.12.1990 of this Tribunal, the penalty imposed on him has been cancelled. Alleging that the respondents have not fixed the applicant's pay and given him the arrears the Petitioner has filed the petition praying that proceedings

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under the Contempt of Court Act, 1971 may be initiated against the respondents for violation of the directions contained in the Judgment.

2. The respondents in their reply have raised a preliminary objection that the Contempt Petition filed by the petitioner is barred by limitation and therefore, not maintainable.

3. We have gone through the petition and the reply and also the order on the basis of which the Contempt Petition has been filed. We have also heard the learned counsel on either side. Section 20 of the Contempt of Court Act lays down that "no court shall initiate any proceedings of contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed". Final order in the OA quashing penalty of withholding of increment was ^{passed} on 6.12.1990. The natural and legal consequences of quashing the order of penalty is that the penalty did not take affect at all and therefore the arrears of pay consequent on the increments became payable immediately. As no time was stipulated for implementation of the order, it has to be understood that the full implementation must have been made at least within six months from the date of receipt of the order. Therefore, if the full implementation of the order by treating that the impugned order did not take affect was not affected by the respondents and if that was willful contempt has been committed by them on the expiry of a period of six months from the date of communication of a copy of the order dated 6.12.1990. According to the petitioner he was informed by a letter dated 18.7.1991 and 10.9.1991 that the penalty has been set-aside. If the Petitioner was not satisfied about the compliance of the order and felt that the respondent committed contempt by

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not paying him the arrears he should have filed a contempt petition within a year from that date. In page seven of the petition the petitioner has stated that the respondents informed the petitioner by order dated 18.7.1991 (Annexure C-3) and 10.9.1991 (Annexure C-4) of the cancellation of the impugned order in the OA and that the Contempt Petition could not be filed in time. It ~~is~~ clearly shows that petitioner was aware that the Contempt had been committed in the year 1991 itself but he filed the Contempt Petition only in 1995. According to Section 20 of the Contempt of Court Act, 1971 no Court can take cognisance of a contempt alleged to have been committed more than a year before.

4. Learned counsel for the petitioner has stated that after filing of the Contempt Petition, respondents have made payment to the petitioner by order dated 23.5.1995 (Annexure C-R3) which would show that for a certain period the petitioner's pay was fixed proforma and arrears was denied to him and that the Contempt has committed only on the date on which this Annexure was communicated to him. The petitioner himself has stated in the petition that the contempt was committed in the year 1991, and that he could not file the Contempt Petition till 1995. The argument now put forth therefore, is meaningless. Further, if the contempt was committed only after filing the Contempt Petition then there was no justification for having filed the Contempt Petition.

5. In view of what is stated above, we are convinced that as this Contempt Petition was filed beyond the period of one year after the alleged Commission of Contempt no cognisance can be taken thereof in view of Section 20 of the Contempt of Court, nor read with Section 17 of the Administrative Tribunals Act, 1985. The Contempt Petition is therefore, dismissed and notice issued is discharged. However, it is made clear

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that if the applicant has a grievance that non-payment of arrears of pay to him on account of notional promotion is unjustified the dismissal of the Contempt Petition will not be a bar for him for claiming appropriate ^{now} in a separate proceedings instituted in that behalf. There is no order as to costs.

R.K. Ahooja
(R.K. AHOOJA)
MEMBER(A)

A.V. Haridasan
(A.V. HARIDASAN)
VICE - CHAIRMAN(J)

/RAO/