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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH : NEW DELHI

....

C.P. No. 301/1994 in  
O.A. No. 1331/1987

New Delhi this the 6th Day of February 1995

Hon'ble Mr. Justice S.C. Mathur, Chairman

Hon'ble Mr. S.R. Adige, Member (A)

Shri Om Parkash,  
S/o Shri Hari Chand,  
resident of House No. 94A Old Arya Nagar,  
Ghaziabad, U.P. ... Applicant

(By Advocate: Shri B.S. Mainee)

Vs.

1. Secretary,  
(Shri Masih-Uz-Zaman)  
Ministry of Railways,  
Rail Bhawan,  
New Delhi.
2. Shri Masish Uz Zaman,  
General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
3. Shri A.K. Varshnay  
Deputy Controller of Stores,  
Northern Railway,  
General Stores,  
Shakur Basti  
Delhi. ... Respondents

(By Advocate: Shri Romesh Gautam)

O R D E R (Oral)

Hon'ble Mr. Justice S.C. Mathur, Chairman -

The applicant alleges disobedience by the respondents of the Tribunal's Judgement and Order dated 13.1.1992 passed in O.A. No. 1331/1987.

2. In the aforesaid O.A., the claim of the applicant was that he was entitled to be placed in the higher scale of pay (Rs. 1400-2300). The
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claim of the applicant was upheld and a direction was issued in the following terms -

"Respondent No. 2, the General Manager, Northern Railway, is hereby directed to take a decision in regard to the higher scales of pay to be accorded to the petitioners holding the posts of Assistant Mistries after considering the recommendations of the Fourth Pay Commission and in the light of the directions of the Railway Board contained in paragraph 2 of its letter dated 26.8.1987 produced alongwith reply as Annexure R-I. The respondents shall comply with these directions within a period of three months from the date of receipt of the judgement. In the event of a decision being taken to accord a higher scale of pay to the petitioners, the benefit of the same shall be given and arrears paid to the petitioners with effect from the same date the benefits have been given to other employees on the basis of the recommendations of the Fourth Pay Commission."

3. In the reply filed on behalf of the respondents it is pointed out that prior to the disposal of the applicant's O.A., order for grant of higher scale of pay had already been passed on 29.6.1992. However, the order dated 29.6.1992 couldn't be brought to the notice of the Bench. Therefore, Review Application was filed on behalf of the Administration which was disposed of on 27.7.1993. It is submitted that the directions contained in the Judgement of the Tribunal stand diluted by the observations made in the order disposing of the Review Application.

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4. The Review Application was dismissed with the observation that the ground for review was not valid. All the same the Bench made the following observations.

"Besides, it is necessary to point out that all <sup>that</sup> we have directed to the respondents is to consider the case of the petitioners (respondents herein). As the respondents are free to take appropriate decision, we feel that they are not handicapped in any manner. We, therefore, see no good ground to interfere."

From the above observations it does appear that the direction originally made stands diluted. The Bench has observed that the respondents are not handicapped in any manner. The reason for this is stated to be that what the Tribunal had done was merely to direct consideration of the case of the petitioners. Accordingly, we are of the opinion that it cannot be said to be a case of deliberate disobedience of the Tribunal's judgement.

5. The learned counsel for the applicant has submitted that the order on the Review Application was passed without issuing notice to the applicant and, therefore, it is nonest.

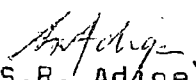
6. We are unable to accept the submission of the learned counsel. The order passed on the Review Application is a judicial order. That order cannot be said to be nonest merely because it was passed without notice to the applicant. The applicant could, if he so desired, make an application for recall of that order on the ground that it affected him adversely and yet was passed without notice to him.

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The applicant does not appear to have taken this step.

7. In view of the above, the application is rejected. Notice is discharged. No order as to costs.

  
(S.R. Adage)  
Member(A)

  
(S.C. Mathur)  
Chairman

\*Mittal\*