

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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RA No. 68/96

in
CP No. 24/96

in
OA No. 177/87

New Delhi this the 16th day of August 1996

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

Hon'ble Shri K. Muthukumar, Member (A)

Dr. R. K. Aggarwal,
Dy. Chief Medical Director,
Northern Railway, HQ Office,
Baroda House,
New Delhi.

....Petitioner

By Advocate Shri K.C. Mittal

Versus

1. Mr. G. K. Khare,
Member Staff and Secy. to Govt. of India,
Ministry of Railways,
(Railway Board),
Rail Bhawan,
New Delhi.

2. Shri S. Surya Mariana,
Secy. Railway Board,
Rail Bhawan,
New Delhi.

3. Shri V. K. Aggarwal,
General Manager,
Northern Railway,
Baroda House,
New Delhi.

...Respondents

By Advocate Shri R. L. Dhawan

ORDER (ORAL)

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

The applicant in the OA who was in the petitioner in CP 24/96 has filed this Review Application seeking a review passed in the contempt petition on 19-2-96. The complaint of the petitioner in the CP was that the respondent did not carry out the directions contained in Judgement dated 13-7-1992 stipulated in the order within the period of three months as the petitioner had been given the fixation of pay and arrears flowing there from but

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seniority has not been given. The Division Bench when heard the counsel of the petitioner on the Contempt Petition vide its order dated 19-2-96, thought it in-appropriate to proceed further with the matter and dropped the proceedings. The petitioner has now filed this Review Application stating that the order in the Contempt Petition is erroneous inasmuch as the conclusion that the respondents have complied with the direction in the Judgement is in correct and that, therefore, the order in the Contempt Petition needs a review.

2. We have heard Shri Mittal Counsel for the Petitioner, Shri R.L.Dhawan, Counsel for the respondent No. 1 & 2 and Shri Aggarwal, Counsel for the respondent No. 3. After hearing the learned counsel and on perusal of the Review Application orders sought to be reviewed, the Civil Contempt Petition as also the order from which the Civil Contempt Petition arose, we are of the considered view that the decision taken by the Bench, not to proceed further with the Contempt Petition does not suffer from any infirmity. Learned counsel for the Petitioner stated that the respondents have not fixed the seniority of the petitioner in accordance with the principle laid down by the Hon'ble Supreme Court in the Direct Recruit Class-II Engineering Officers Associations Vs State of Maharashtra JT 1990 (2) SC 264. He also referred to the / civil order in the / contempt petition especially to the middle of the paragraph-1 of the order which reads as follows:


"In that case, there was no direction except to hold that the department will regulate the seniority of the applicant in accordance with the dicta laid down in The Direct Recruit Class-II Eng. Officers' Assn. Vs. State of Maharashtra, JT 1990 (2) SC 264. If that had not been done, it was probably open to the applicant to say that the directions to the department have not been complied with. But that is not the complaint".


3. Shri Mittal argued that the finding that there was no such ^{direct} observation, is not correct, and that as the respondents had not complied with the above direction, dropping of the Civil Contempt Petition on the basis of a wrong assumption justifies the review of the order. First of all in the final order passed in the OA, there was no direction to regulate the seniority of the petitioner. There was only a statement that the Tribunal had no doubt that the respondents would regulate the seniority according to the principle laid down by the Hon'ble Supreme Court but it does not ^{amount to} contain any direction. If the respondents did not regulate the seniority according to the dicta of the Judgement that would only show that the expectation of the Tribunal that the respondents could do so did not come true. The respondents, therefore, by not regulating the seniority according to the directions of the Hon'ble Supreme Court in Direct Recruit Class-II Engineering Officers Association case cannot be held to have committed a contempt. It was because of that reason the Tribunal decides not to take further action in the contempt petition. Further the directions in the Judgements were to be complied with within a period of three months. The date of the judgement was 13-7-1992. Even if a copy of the order was received by the respondents on 30-8-1992, they should have complied with all the directions within three months thereafter, i.e. before 30.11.1992. If there was defiance of the direction by non-compliance it was committed on 30-11-1992. No action under Contempt of Courts Act could have been taken in the matter after 30-11-93 according to Section-20 of the Contempt of Courts Act. Therefore, in any case no further action in the contempt petition could not be validly taken.

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The role of a petitioner in a petition under the Contempt of Courts Act is only of an informer. Once that is done it is for the court to decide whether action is to be taken or not, as the matter then is between the Court and the alleged contemnor. Once the Court decides to drop the proceedings on a consideration of the information alongwith the relevant facts and circumstances then the petitioner has no locus standie to say that the decision is wrong unless he is able to show that the Court committed a patent error.

4. In the light of what is stated above the Review Application fails and the same is dismissed.


(K. MUTHUKUMAR)
Member (A)


(A. V. HARIDASAN)
Vice-Chairman (J)

cc.