

Central Administrative Tribunal
Principal Bench, New Delhi.

CP-46/96
MA-472/96
OA-1898/88

New Delhi this the 25th day of July, 1996.

Hon'ble Sh. A. V. Haridasan, V.C.(J)
Hon'ble Sh. K. Muthukumar, Member(A)

Sh. Krishna Gopal,
Asstt. Engineer(Track),
Northern Railway,
D.R.M. Office,
Moradabad.

Petitioner

(through Sh. B.S. Mainee, advocate)

versus

1. The Union of India,
through the Chief Engineer(North),
Northern Railway,
Headquarters Office,
Baroda House,
New Delhi.
2. The Divl. Railway Manager,
Northern Railway,
Moradabad.
3. Sr. Divl. Accounts Officer,
Northern Railway,
Moradabad.

Respondents

ORDER(ORAL)
delivered by Hon'ble Sh. A.V. Haridasan, V.C.(J)

This contempt petition arises out of the order passed by the Division Bench of this Tribunal in the original application on 15.11.93. The application was disposed of with the following directions:-

- " 1. The order of recovery from the salary of the applicant is quashed;
2. The respondents shall be at liberty to issue the show cause notice regarding

shortage, if any, of C.I. Scraps or proceed departmentally if so advised, under D.A.R. 1968 Rules. If no enquiry is held and the reply to the show cause notice, if any, given by the applicant is disposed of in favour of applicant then the amount already recovered shall be reimbursed to the applicant. If the enquiry is held and the reply of the respondents is adverse to the applicant, the result of the enquiry will govern the issue of recovery of dues from the applicant."

This petition has been filed alleging that the respondents did not take any action to hold an enquiry and not even a show cause notice was served on the petitioner. On 17.11.94, respondent No.2 had addressed a letter to the H.Q. office stating that the enquiry officer had recommended that there was no actual shortage of C.I. scrap and that accepting the report, the petitioner has given a censure for poor record keeping. However, alleging that the respondents had flouted the orders of the Tribunal by not implementing it, this CCP has been filed on 14.8.95. According to Section 20 of the Contempt of Courts Act, the court shall not initiate proceedings under the Contempt of Courts Act after the lapse of a period of one year from the date the contempt is alleged to have been committed. Going by the directions contained in the judgement of the Tribunal in which the impugned order of recovery from the salary of the applicant has been quashed, if the respondents did not contemplated issuing a show cause notice or hold the enquiry afresh, they should have refunded the money within a reasonable time. As no time limit was prescribed to comply with the directions, to comply with the directions, reasonable time for implementation of the order is recognized to be six months. The respondents would have also received a copy in January, 1994. The

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refund of the amount should have been made by the respondents latest by 30.6.94 which was not done. It is evident that no show cause notice was issued by the respondents to the applicant as was directed by the Tribunal in its order dt. 15.11.93. Therefore, by not refunding the amount recovered within a period of six months from January, 1994, the contempt was *allegedly* committed in June, 1994. The argument of the learned counsel for the petitioner that the cause of action for taking action arose on 17.11.94 the date on which the second respondent wrote the letter, cannot be accepted. The learned counsel states that there is an acknowledgement of the existing liability contained in the letter dt. 17.11.94 and, therefore, cause of action arose on that date. We would like to mention only that for the purpose of Section 20 of the Contempt of Courts Act the acknowledgement of existing liability would not enlarge the ^{*Period*} ~~provision~~ of limitation.


Hence no proceedings under the Contempt of Courts Act can now be validly held against the respondents.

However, it would be open for the petitioner to seek the refund of the amount from the respondents if he is entitled to any refund in an appropriate proceedings in accordance with law.

The C.P. is dismissed.

Notice issued to the respondents are discharged.


(K. Mutthukumar)
M(A)


(A.V. Haridasan)
V.C.(J)

/vv/