

21

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

C.C.P.No. 17/91 in O.A. 1119/88

Date of decision: 30-8-91

Ram Asrey

Petitioner/Applicant

vs.

Shri S.M. Vaish, G.M., N. Rly.

Respondent

PRESENT

None for the petitioner in the C.C.P.

Shri P.S. Mahendru, counsel for the respondents  
(for the alleged contemnors).

CORAM

Hon'ble Shri Justice Ram Pal Singh, Vice-Chairman (J).

Hon'ble Shri P.C. Jain, Member (A).

(Orders of the Bench delivered by Hon'ble Shri Justice Ram Pal Singh, Vice-Chairman (J).)

O R D E R

The petitioner/applicant filed O.A. No. 1119/88 challenging the action of the respondent in terminating his services since 27.4.88. The said O.A. was disposed of on 9.1.90 in the following terms:

"The applicant shall report to his appointing authority within 15 days of the date of this order and the respondents shall allow him to join duty on the post on which he was appointed on the conditions hitherto applicable. Respondents would be free to initiate, if they so wish, within a period of two months from the date of the order, appropriate disciplinary action for the alleged misconduct of unauthorised absence from duty in accordance with the rules. Such proceedings, if initiated shall be completed within a further period of four months. However, the period of absence from 27.4.88/28.4.88 till the date of the applicant rejoins his appointment, will be regulated in accordance with the orders which may be passed in the aforesaid proceedings. However, if the respondents choose not to initiate any disciplinary action, as aforesaid, the applicant shall be treated as on duty during the aforesaid period and he shall be entitled to pay and allowances for the above period minus what he might have earned elsewhere during this period, as also to the seniority."

2. The petitioner in compliance of the said direction reported for duty to the respondents on 13.11.90 and submitted a joining report. After reading it, the P.W.I. is alleged to have

returned it to the petitioner, hence the petitioner sent it by Reg. A.D. Post. Thereafter, the petitioner served a legal notice on 30.11.90 to the Asstt. Engineer, Northern Railway, requesting to be allowed to join duty without delay which was neither replied to nor responded upon. According to the petitioner, the respondent has deliberately disobeyed the directions contained in the judgment of the Tribunal.

3. On notice, the alleged contemnor contends in his reply that the petitioner did not report for joining the duty but admitted that it was received by post:

"It is further submitted that the petitioner approached the official concerned on 26th November 1990 for joining his duties, who in turn gave a letter to the petitioner and directed him to report to the Assistant Engineer, Tuglaqabad. A copy of the said letter is annexed as Annexure R-1. Thereafter the petitioner contacted the Assistant Engineer, Tuglaqabad, New Delhi on 27th November 1990. Immediately the Assistant Engineer concerned gave telephonic instructions to the PWI, Nizamuddin in the presence of the petitioner to allow him to join duties. The petitioner was also given letter dated 27th November 1990 to that effect but he refused to accept the said letter and left the office. A copy of the said letter dated 27th November 1990 is attached as Annexure R-2. It is respectfully submitted that the petitioner last worked in IDAL Gang under PWI Nizamuddin and his name was never struck off the rolls."

The alleged contemnor expressed his utmost respect to the directions and commands of this Tribunal and contended that the heavy and sluggish machinery of the office did not bring to his notice the case of the petitioner but immediately on being informed the answering alleged contemnor directed his subordinates to comply with the command of this Tribunal. He further contended that he is the head of the Northern Railway which extends from Mugal-sarai to Jammu and all such matters are seldom brought to his personal notice. However, according to him the directions have been complied with. In support, document R-1 has been produced.

4. The petitioner in para 4 of his rejoinder has admitted that he was allowed by the respondents to work from 12.4.91 and since then he has been working in his post. But he has not been paid his full salary for the period from 27.4.88 to 12.4.91 according to the directions.

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5. In contempt proceedings under the rules of Central Administrative Tribunal (Contempt of Courts) Rules 1986, the principles of the Contempts Act of 1971 are applicable. Unless there is wilfull disregard of disobedience to the directions of this Tribunal, the alleged contemnor cannot be convicted under the rules of the contempt. It is the intention of the alleged contemnor which has to be judged on the touchstone of intention.

6. To us, there appears no wilful disregard to the authority of this Tribunal, and thus the most important element of contempt to the authority of this Tribunal is absent. Now, as the directions have been complied with, by the alleged contemnor, there remains no ground to proceed in the matter.

7. Consequently, the notice of contempt issued against the alleged contemnor is discharged. Parties shall bear their own costs.

*(P.C. JAIN)*  
(P.C. JAIN)

MEMBER (A)

*(RAM PAL SINGH)*  
(RAM PAL SINGH)

VICE-CHAIRMAN (J)