

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

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CCP 148/88 in OA 1167/88.

DATE OF DECISION: 4.1.1989.

Harbans Lal & Another	Applicants.
	v/s.	
Union of India	Respondents.
For the Applicants	Shri N.M. Popli, Counsel.
For the Respondents	Shri M.L. Verma, Counsel.
<u>CORAM:</u> Hon'ble Mr. Justice Amitav Banerji, Chairman. Hon'ble Mr. Kaushal Kumar, Member (A).		

This is a Contempt Petition filed by the applicants praying for action under the Contempt of Courts Act, 1971 against one Shri M. Bapi Raju, an officer working in the office of the respondents who had appeared before this Tribunal on 21.6.1988 and made certain statement.

2. The grievance of the applicants in the main application (O.A. 1167/88) is that they had not been sent for training in Computer which was scheduled to start in Madras in June, 1988. The matter came up for admission on 21.6.1988 when the applicants were represented by Shri R.C. Sawhney, counsel and Shri Bapi Raju, Deputy Director Accounts appeared for the respondents. The Bench passed the following order: -

"Admit. It is reported by Shri Bapi Raju, departmental representative that Mr. Chander Mohan, Accountant has already left and joined the training at Madras. Hence the question of stay does not arise at this stage. Counter may be filed within four weeks.

Post before the Deputy Registrar on 4.8.1988."

3. The contention of the learned counsel Shri Popli appearing for the applicants is that Shri Bapi Raju had made a false statement that Mr. Chander Mohan had already left and joined the training at Madras which influenced and

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weighed with the Tribunal in not passing the stay order or granting the interim relief prayed for. It is stated in para 4 of the Contempt Petition -

"That on that particular day i.e. 21.6.1988 when Shri M. Bapi Raju made statement in the Court, Shri Chander Mohan had neither left nor joined the Training at Madras and by making this statement Shri M. Bapi Raju has contemplated gross contempt of this Hon'ble Court and prevented to this Court by passing any order just and reasonable in the facts - circumstances of the case. And it is also manifest from the statement that only one person was to be sent and he has already joined the training, therefore, there was no question of stay at that stage also."

A photo copy of the relevant page from the Attendance Register has also been filed as Annexure I to the Contempt Petition which shows that Shri Chander Mohan marked his attendance in the forenoon on 21.6.1988.

4. The circumstances under which Shri M. Bapi Raju made the statement on 21.6.1988 that Shri Chander Mohan had already left and joined the training at Madras have been explained in paras 4 and 5 of the counter-affidavit filed by him. These are extracted below: -

"4. That the appearance of Shri M. Bapi Raju on 21.6.88 in the court was a sudden and unexpected development, unprepared and without any legal advice. He tried his best in answering questions according to the best of his knowledge and belief at the time. It was a fact that instructions have already been issued to all the Depts to send participants to the training that was to commence from 20.6.88.

"5. According to the tour programme of Shri Chander Mohan Accountant approved on 15.6.88 he was to leave Delhi on 17.6.88 and reach Madras

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on 19.6.88 to attend the training from 20.6.88. But due to certain difficulties as explained by him when he attended office on 20.6.88 he could not leave Delhi on 17.6.88. He was told to immediately rush to Madras whether by train or by air whether in reserved or unreserved accommodation. He agreed. On the next day i.e. on 21.6.88 the Deputy Director Accounts (Stores) started from his residence in the morning to go the C.A.T. building direct, picking up his colleagues on the way to be at C.A.T. for the purpose mentioned at (1) above. At the time he carried the firm belief that Shri Chandra Mohan has left for training the previous day for what all has happened that day. But that Shri Chandra Mohan has not gone that day i.e. 20.6.88 but will be going on 21.6.88 came to the knowledge of the Deputy Director Accounts (Stores) only after returning to office from the Court. It is pertinent to note here that if the Petitioners are aware that Shri Chandra Mohan has not left for training programme at the time of hearing i.e. on 21.6.88, the Tribunal ought to have been informed accordingly in support of the application. Logical deduction is they were also not aware and came to know only afterwards on the day."

5. The question that arises for consideration is whether there has been any contempt of court committed as alleged by the applicants. The learned counsel for the applicants referred to the definition of "criminal contempt" in Section 2 (c) (ii) and (iii) of the Contempt of Courts Act, 1971, which reads as follows: -

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"(c) "criminal contempt" means the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise of any matter or the doing of any other act whatsoever which -

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(ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding, or

(iii) interferes, or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;"

6. Learned counsel Shri Popli vehemently argued that the statement of Shri M. Bapi Raju had prejudiced and interfered with the due course of judicial proceedings on 21.6.1988 inasmuch as this Tribunal was prevented from passing the stay order prayed for by way of interim relief. Shri Popli also attributed the observation made by the Tribunal "Hence the question of stay does not arise at this stage" to the statement made by Shri Bapi Raju. This position is obviously not correct. The applicants were represented by another counsel on 21.6.1988 and we have no doubt whatsoever that the aforesaid observation was made by the Bench to which one of us (Shri Kaushal Kumar) was a party.

7. In Baradakanta v. Misra C.J., Orissa High Court (AIR 1974 S.C. 2255), the Supreme Court observed as under: -

"5. Now, while considering this question, we must bear in mind the true nature of the contempt jurisdiction exercised by the High Court and the law in regard to right of appeal which obtained immediately prior to the enactment of the Contempt of Courts Act, 1971. It has always been regarded as well settled law that so far as criminal contempt is concerned it is a matter entirely between the Court and the alleged contemner."

8. In Amrit Nahata v. Union of India (1985) 3 S.C.C. 382), the Supreme Court observed as follows: -

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"7.There is a marked difference between a complaint made by an individual for wrong done to him and a petition moved before this Court inviting the Court to take notice of the fact that its contempt has been committed.The power to commit for contempt of court has to be exercised with the greatest caution. Neither too sensitive attitude nor an easy escape from performing the harsh duty would help in maintaining respect and decorum for the judicial process which is essential for establishing a society based on rule of law. The Court is to steer clear between two extremes but it must be remembered that the petitioner who has moved for taking action in contempt is not entitled as matter of right to withdraw the petition whenever it suits his purpose. Once the act, which prima facie shows that contempt of the court has been committed, is brought to the notice of the court, it is the court which has to decide whether the contempt has been committed or not or whether it is appropriate to take action or at a later date whether to drop the proceedings. The matter is primarily between the Court and the contemner...."

9. In Naraindas v. Government of M.P. (AIR 1974 S.C. 1252), the Supreme Court observed as follows: -

"Now there can be no doubt that if a wrong or misleading statement is deliberately and wilfully made by a party to a litigation with a view to obtain a favourable order, it would prejudice or interfere with the due course of the judicial proceeding and thus amount to contempt of court. But here we cannot say that it is established satisfactorily by the appellant that any deliberately wrong or misleading statement was made or got made by Y.N. Chaturvedi with a view to obtaining a relaxation of the interim order dated 18th May, 1973."

10. In the present case, we are satisfied that the alleged contemner Shri M. Bapi Raju did not deliberately or wilfully make a wrong statement with a view to obtaining a favourable order or prejudicing or interfering with the due

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course of the judicial proceedings. It is a fact that Shri Chander Mohan had in fact been deputed for Computer Training in Madras and a decision had been taken on 20th June, 1988 that he should immediately rush to Madras on that day. Shri M. Bapi Raju came to the court directly from his residence on 21.6.1988 and could have been under the impression that Shri Chander Mohan had already left on the previous day. In fact the learned counsel for the applicants Shri Popli conceded that Shri Chander Mohan did leave on 21.6.1988 in the evening by G.T. Express. This fact is also stated in the rejoinder filed by the applicants. Although Shri M. Bapi Raju did make a factually incorrect statement as subsequently events disclosed, he cannot be held to have wilfully and deliberately made a wrong or false statement with a view to prejudicing or interfering the due course of judicial proceedings. Contempt being essentially and primarily a matter between the alleged contemner and the court, we are satisfied that no contempt has been committed in this case. Accordingly the contempt notice is discharged and the Contempt Petition is dismissed.

kaushal kumar

(KAUSHAL KUMAR)
MEMBER (A)

AMITAV BANERJI

(AMITAV BANERJI)
CHAIRMAN

4.1.1989.