

Central Administrative Tribunal
Principal Bench, New Delhi

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New Delhi this the 2nd day of August 1995.

CP 358/93 in
OA No.72/89

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)
Hon'ble Mr R.K.Ahooja, Member (A)

Smt. Maya Rani
840, Sector-3, R.K.Puram
New Delhi.
(By Advocate: Shri B.S.Charya)

...Applicant.

Versus

1. Shri S.N.Mathur
General Manager
Northern Railway
Baroda House
New Delhi.
2. Divisional Railway Manager
Northern Railway
Estate Entry Road
New Delhi.

...Respondents.

O R D E R(Oral)

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

The original application No.72/89 filed by the petitioner Smt. Maya Rani impugning the order of penalty of reduction in time scale passed on 22.10.87 and the order of the General Manager enhancing the penalty of reduction to the initial stage of time scale and the treatment of the period as deemed suspension was disposed of on 20.9.1991, allowing the prayer of the applicant for quashing the retrospective suspension and setting aside the order of the respondents treating the applicant as being under suspension from 11.6.82 onwards and with a direction that she shall be paid full pay and allowances as admissible from 11.6.82 onwards. It was further directed that arrears should be paid to her within a period of 3 months from the date of receipt of a copy of that order, and the representation of the applicant against the proposed enhancement of penalty submitted on 22.12.88 should be disposed of within a period of 60 days from the date of receipt of the order. Finding that the directions contained in the judgement were not implemented, the applicant made a representation to the General Manager, Northern Railway, as also The Divisional Manager, Northern Railway on 8.12.92. Finding that inspite of the specific directions in the order and even after being

reminded by the petitioner, the respondents wilfully defied the directions of the Tribunal by sleeping over the issue, the applicant has filed this contempt petition against Shri S.N.Mathur, General Manager, Northern Railway, praying that action under the Contempt of Court Act may be taken and exemplary punishment awarded to the contemner. On notice being served through on Shri S.N.Mathur, the alleged contemner, Shri H.K.Gangwani, learned counsel who appeared for the respondents in the original application and who has not put in appearance for quite a long time, no reply whatsoever has been filed to this contempt petition. As time crawled on, three incumbents in succession had taken over the office of the General Manager. However, finding that the respondent has not complied with the directions and as such it was prima facie found that the respondent has committed contempt, a charge was framed against the General Manager by order dated 29.3.95 for wilful defiance of the directions contained in the judgement dated 20.9.91. Pursuant to the charge framed, requesting for exemption from personal appearance, Shri V.K.Agarwal, the present General Manager filed an MA in which it has been admitted that there has been some delay in implementation of the directions contained in the judgement and sought pardon. The respondents in their reply statement filed earlier to the contempt petition stated that in obedience to the directions contained in the judgement, the entire amount of pay and allowances due to the applicant has since been paid and that an order has been passed on her representation on 31.3.94. In the above said counter affidavit also, the then ~~General Manager~~ accepted the fact that there has been delay and tried to explain the delay on the ground that as there has been frequent changes in the incumbents in the office of the General Manager and as the officers of lower level failed to process the matter ~~promptly~~, the directions could not be implemented in due time. However, an unconditional apology has been tendered by the present General Manager also.

2. We have heard Shri B.S.Charya, learned counsel for the petitioner and Shri B.K.Agarwal and Senior Counsel Shri Joseph for the respondents. On a careful scrutiny of the entire material available on record, we find that the delay on the part of the respondents in implementing the directions contained in the order is unduly inordinate and that the explanation furnished is not very appealing. However, as regards the payment of pay and allowances during the period for which the petitioner was kept under suspension, it is not in dispute that the entire pay and allowances during the period have been paid with a small difference that for the month of October 1987, the payment was made as if the penalty had taken effect as on date. This, according to the respondents, is the only basis of interpretation that the order of the General Manager disposing of the representation was given effect from 21.10.87. However, as far as the payment of pay and allowances are concerned, though belatedly there is ~~substantial~~ ~~compliance~~ ~~in~~ ~~the~~ ~~order~~, but we note that the compliance is not in full because the respondents should have paid interest on the arrears of pay and allowances from the date it was due till the date of payment. Arrears of pay and allowances fell due within a period of 3 months from the date of communication of the copy of the order dated 20.9.91. Therefore, the respondents should have paid interest on this amount to the applicant till the date it was paid. Though learned counsel for the petitioner would urge that the interest would be at the rate of 18% per annum, we consider it just and proper that the respondents pay interest to the petitioner on this amount at the rate of 12% per annum. Learned counsel for the respondents undertakes that this would be paid to the petitioner within 2 months. Coming to the validity of the order passed on the representation of the petitioner against the proposal to enhance the penalty, learned counsel for the petitioner argued that this order having been passed beyond the period stipulated in the order should be considered null and void. This, according to our considered view, does not come within the purview of the contempt petition. The petitioner will be at liberty to challenge the validity of that order in appropriate proceedings initiated by her in that behalf.

3. Now as a charge has been framed against the respondents and as the respondents have tendered an apology, we have to consider whether it is a fit case where the apology has to be accepted. As observed by us earlier, on account of the frequent changes in the incumbents in the office of the General Manager and in the light of the fact that the present General Manager had assumed office only very recently, we consider it is in the interest of justice to accept the unconditional apology tendered by the respondents. We do so.

4. Though we accept the apology tendered by the General Manager, we cannot forget the fact that the petitioner has been driven to the unhappy task of filing a contempt petition against the highest officer in the establishment under ^{which} she is working. The inordinate delay involved in implementation of the judgement though not in full justifies an order directing the respondents to pay costs to the petitioner of this proceedings. Therefore, we direct the respondents to pay to the petitioner a sum of Rs. 3000/- as costs within 2 months from the date of receipt of ~~a copy communication~~ of this order. Thus, accepting the unconditional apology and with the above directions, we close this contempt petition and discharge the alleged condemner.

R.K. Ahooja
(R.K. Ahooja)
Member (A)

A. V. Haridasan
(A. V. Haridasan)
Vice Chairman (J)

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