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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

C.C.P. No.103/1990

IN

O.A. No.1027/1989.

Date of decision: July 18, 1991.

Shri Sukh Dev Singh

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Petitioner.

Vs.

Shri P.K.Sharma,
Senior Divisional Personnel
Officer (Delhi Division),
Northern Railways,
State Entry Road,
New Delhi.

Shri Vijay Kanwar,
Divisional Rly. Manager,
(Delhi Division),
Northern Railways,
State Entry Road,
New Delhi.

...

Respondents.

CORAM

HON'BLE MR. JUSTICE AMITAV BANERJI, CHAIRMAN.

HON'BLE MR. I.K. RASGOTRA, MEMBER (A).

For the petitioner ...

Shri B.B.Raval, counsel.

For the respondents ...

Shri Shyam Moorjani, counsel

(Orders of the Bench delivered by Hon'ble
Mr. Justice Amitav Banerji, Chairman)

This C.C.P. has been filed by the petitioner,
Shri Sukh Dev Singh to initiate contempt of court proceed-
ings against the respondents for their failure to comply
with the order passed by a Bench of Learned single
Member dated 12.7.1989.

The Original Application No.1027/1989 was filed
by the applicant for quashing the transfer order from
Delhi to Ambala. On 15.5.1989, an interim relief was
granted and the transfer order was kept in abeyance till
26.5.1989. The case was finally heard on 12.7.1989.

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On that date the respondents filed their reply along with an order (Annexure R-3) indicating that the transfer order had been cancelled. Another order had been filed as Annexure R-2 by which the seniority of the applicant had also been revised. It was pleaded on behalf of the respondents that the application had become infructuous and may be dismissed.

The learned Member held:

"The learned counsel for the applicant desired that the period from 16.5.1989 to the date of the cancellation of the transfer order dated June, 1989 should be treated as regular service in the same post. He also stated that the Department has granted him relief only from 28th June, 1989.

In the facts and circumstances of the case, since the original interim injunction was granted on 15.5.1989 and reached the department on 16.5.1989, the benefit will accrue to the applicant with effect from 16.5.1989. The respondents are accordingly directed.

Ordered as above.

There is no order as to costs."

Learned counsel for the petitioner urged that this order had not been implemented inasmuch as the petitioner had been granted half average pay in contravention of the Tribunal's order dated 12.7.1989.

The respondents' stand is that the entire payment as admissible under the extant rules and in the light of order dated 12.7.1989 passed by the Hon'ble Tribunal had been made to the petitioner and nothing was due to him from the respondents. Learned counsel for the

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respondents further contended that according to the order of the Tribunal dated 12.7.1989, the petitioner had to be treated as on regular service in the same post and he had been so treated. Thus, there was no defiance or contravention of the order passed by the Tribunal. Learned counsel further contended that there was no wilful disobedience of the order passed by the Tribunal and if there was an error in interpreting the order passed by the Tribunal, it was only a bonafide mistake and is liable to be condoned.

Learned counsel for the petitioner, however, stated that he had been writing to the respondents to comply with the order passed by the Tribunal, which they had not complied with and the petitioner had to come to the Tribunal in C.C.P. Thus the respondents, he argued, wilfully disobeyed the order passed by the Tribunal.

We have heard learned counsel for the parties and perused the material on the record.

In our opinion, the order of the Tribunal dated 12.7.1989 is clear and unambiguous. In the first part of the order dated 12.7.1989, the applicant desired that the period from 16.5.1989 to the date of the cancellation of the transfer order dated June, 1989 should be treated as regular service in the same post, and he had also stated that the Department had granted him relief only from 28th June, 1989. Read together


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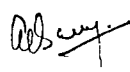
this meant that he wanted the ^{same} relief, which should have been given to him from 16.5.1989 when the transfer order was passed. It is not in dispute that the transfer order was cancelled by the respondents in June, 1989. On the cancellation of the transfer order, his position would be status quo ante, i.e. on 16.5.1989. It is also significant that the Learned Member further directed that the benefit will accrue to the applicant with effect from 16.5.1989. The intent is absolutely clear. The relief that was granted from 28.6.1989 was to be granted from 16.5.1989. The question of treating that period as on half pay leave does not arise. The petitioner is entitled to full pay for the above period and the order directing payment of half average pay is not correct. The respondents must correct the same and pay the amount due to the petitioner within a period of one month from the date of receipt of a copy of this order.

It is a fact that in this case the order of the Tribunal has not been fully complied with and the petitioner has been made to file this C.C.P. The plea of the respondents that they had understood the order differently and that there was no wilful intent to disobey the order may be accepted. However, we must express ourselves that orders passed by the Tribunal are meant to be implemented as directed within a reasonable period of time. If the respondents

are not satisfied with the order, it is always open for them to go to the Hon'ble Supreme Court and pray for Special Leave to file an appeal. One cannot delay the implementation of the order on the ground that a Special Leave Petition is contemplated or is being filed. It is always open to the respondents to say while implementing the order that it will be subject to the outcome of the S.L.P./appeal filed in the Supreme Court. This will preclude the filing of a C.C.P. in the Tribunal.

We are, therefore, of the opinion that ends of justice will be served if we proceed no further in the C.C.P. and order it to be filed with the observation that in case the above order is not implemented within the time granted, the petitioner may file a fresh C.C.P. for initiating action against the respondents. We order accordingly. Notice of contempt is discharged.


(I.K. RASGOTRA)
MEMBER (A)
18.7.1991.


(AMITAV BANERJI)
CHAIRMAN
18.7.1991.