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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI.

C.P.No. 84/95.

in

O.A.No. 2267/90

New Delhi: Dated the 25<sup>th</sup> April, 1995

HON'BLE MR.S.R.ADIGE, MEMBER(A),

HON'BLE MRS. LAKSHMI SWAMINATHAN (J)

Ram Kumar Sharma,

S/o Shri Ram Kishan Sharma,

Ex.Head Clerk Claims Office,

N.Rly., NDCR Building,

New Delhi.

.....Applicant.

By Advocate Shri M.L.Sharma.

Versus

1. Shri V.K.Agarwal,

General Manager,

Northern Railway Headquarters Office,

Baroda House,

New Delhi.

2. Shri Jitender Kumar Thapar,

Chief Claims Officer,

N.Railway Claims Office,

NDCR Building, now in Baroda House,

New Delhi.

.....Respondents.

By Advocate Shri H.K.Gangwani.

ORDER

By Hon'ble Mr.S.R.Adige, Member(A).

is

This is a contempt petition filed by Shri Ram Kumar Sharma alleging wilful and deliberate disobedience by the respondents of the CAT, Principal Bench's order dated 7.4.94 in OA No.2267/90 Ram Kumar Sharma Vs. UOI & others.

2. The operative portion of the impugned

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order reads thus:

"now the appellate authority is enjoined to give a personal hearing to the applicant and to pass a speaking order, if it decides to reject the appeal. The other contention which has been raised at the Bar is that the applicant having not been appointed as Head Clerk by the Sr. CO (Claims), he had no jurisdiction to pass the punishment order. This question too will be examined by the appellate authority."

5. Since the matter is pretty old, we consider it in the interest of justice to fix a time-table for the appellate authority. The competent authority shall dispose of the appeal of the applicant within a period of three months from the date a certified copy of this order is presented by the applicant before it."

6. This application succeeds in part. The appellate order dated 28.11.89 as communicated to the applicant by the Senior Commercial Officer (Claims) is quashed.

With these observations the application is disposed of but without any order as to costs."

3. Pursuant to that order, the respondents issued order dated 2.6.95, addressed to the applicant which is extracted below:

"In terms of Rule 22(2) of R.S (D&A) Rules and as per directives of Hon'ble CAT/NDLS in OA No. 2267/90 dated 7.4.94, the Appellate Authority i.e. CCO has given you personal hearing on 26.5.95, and has considered your appeal dated 26.5.95, submitted by you and passed the following orders:-

- (1) The order of removal from service issued vide letter No. 117-Admn-D&AR-RK Sharma-89 dated 9.11.89, is set aside/quashed.
- (2) The charged employee should be reinstated to join duty immediately.
- (3) Denovo action should be taken from the stage of consideration of inquiry report without prejudice to any punishment, as per rules."

- (4) The intervening period from the date of removal from service to the date of reinstatement should be treated as suspension to be decided after the conclusion of the DAR Enquiry.

As such you are directed to report for duty at once in POC Section w.e.f. today i.e. 2.6.95. The period from the date of removal from service till date of reinstatement i.e. today would be decided on completion of D & AR as per CCO's orders above."

4. The first ground taken by the applicant is that by the Tribunal order dated 7.4.94, the respondents have been given three months from the date a certified copy of that order was presented to them by the applicant to dispose of the appeal, but that time was gradually extended by the respondents. In reply the respondents have stated that soon after the order dated 7.4.94 was pronounced, the respondents had filed a review petition on 30.6.94, which was admitted and finally disposed of and rejected as intimated by their Advocate on 28.2.95. After rejection of the review petition, the Railway Administration contemplated filing a SLP in the Hon'ble Supreme Court after taking legal opinion, but later upon receiving legal advise that there was no merit to file the SLP, that proposal was dropped. It is stated that the applicant was given a personal hearing by the Chief Claims Officer on 26.5.95 and during hearing he filed a fresh appeal dated 26.5.95 which has been referred to in the order dated 2.6.95. In the light of the fact that the applicant had filed a review petition on

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30.6.94 soon after the order dated 7.4.94, and that review petition was itself disposed of by rejection only 28.2.95, it cannot be said that there was wilful and deliberate disobedience committed by the respondents in not implementing the Tribunal's order dated 7.4.94 in OA 2267/90.

5. The next ground taken is that the Tribunal had directed the respondents to dispose of the applicant's appeal dated 16.11.89, but the respondents in their impugned order dated 2.6.95 did not dispose of that appeal. It is true that the applicant's appeal petition was dated 16.11.89, but subsequently he himself made another representation for reinstatement on 30.8.94. In his reply dated 26.5.95 to respondents' letter dated 24.5.95 asking him to attend the respondents' office for personal hearing, he himself referred to that representation as an appeal, and it is only after personal hearing the applicant on 26.5.95 that the respondents issued impugned order dated 2.6.95. In the personal hearing he would have canvassed all the points available to him. Under the circumstance it cannot be said that there was any deliberate or wilful disobedience of the Tribunal's order dated 7.4.94.

6. In the rejoinder certain additional points have been raised. It is contended that the appellate order is not a speaking one; that although the applicant has been given duty on 2.6.95 he has been further punished on the same charge; the petitioner has not been paid

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subsistence allowance at due rates; the period of suspension has not been decided; the applicant's request for exoneration of the charge in view of his acquittal by the Criminal Court was not considered; that the appeal has not been disposed of by the competent authority.

7. At the outset it must be stated that fresh grounds cannot be allowed to be urged in the rejoinder which has to confine itself to reply to the points urged in the counter affidavit.

8. Furthermore it must be remembered that a contempt of Court application is confined to a very narrow jurisdiction. What the Tribunal has to see is whether there has been a wilful and deliberate disobedience of its orders. No doubt there was some delay in the implementation of the Tribunal's order dated 7.4.94 but that delay has been explained by the respondents in terms of the review petition filed and its eventual dismissal and prima facie we have no reasons not to be satisfied with this explanation. From the grounds urged in the rejoinder and referred to in paragraph 6 above, it appears that the applicant is aggrieved by the impugned appellate order dated 2.6.95 but in that case it is open to him to challenge the same in accordance with law. A contempt of Court application is not the appropriate mode for the purposes.

9. In the background of paragraph 8 above, this CCP is dismissed and notices against the respondents are discharged. No costs.

*Lakshmi Swaminathan*  
( LAKSHMI SWAMINATHAN )  
MEMBER (J)

*S. B. Adige*  
(S. B. ADIGE)  
MEMBER (A)