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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

C.P.(Civil) No.137/94

In

O.A. 1479/1992

New Delhi, this the 23rd day of September, 1996

Hon'ble Shri A.V. Haridasan, Vice Chairman(J)
Hon'ble Shri K. Ramamoorthy, Member(A)

Yoginder Kumar Sharma
S/o Shri B.S. Sharma
Ex-Mobile Booking Clerk,
Railway Station Aligarh,
Presently 1-126, Shastri Nagar,
N. Delhi.Petitioner

By advocate Shri B.S. Mainee, Counsel for
the petitioner.

Versus

1. Union of India through
Secretary, Ministry of
Railway, Railway Board,
Rail Bhawan, New Delhi
2. The General Manager
Northern Railway
Baroda House
New Delhi
3. The Divisional Railway
Manager, Northern
Railway, Allahabad. ...Respondents

By advocate Shri H.K. Gangwani, Counsel for
respondents.

O R D E R (ORAL)

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

This is a Civil Contempt Petition filed by the
petitioner in O.A.1479/92. The Original Application
was disposed of by an order dated 19.08.93 giving
the same directions which was given in the case of

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Miss Usha Kumari Anand's case. Alleging that the respondents by not complying with the terms of the said order this Civil Contempt Petition was filed by the petitioner in March, 1994. When the contempt petition came up before the Division Bench on 12.09.1994 taking note of the fact that a SLP was filed against the judgment alongwith the certain other cases and that the Hon'ble Supreme Court had issued an order staying the operation of the judgment in this case on 09.08.1993, the hearing of the contempt petition was adjourned sine die to be reopened after the disposal of the SLP. After the SLP was disposed of by the Hon'ble Supreme Court the petitioner filed M.A.1031/96 for revival of this Civil Contempt Petition.

2. Learned counsel for the petitioner Shri B.S. Mainee stated that the respondents have not reinstated the petitioner as Mobile Booking Clerk as he was entitled to in accordance with the directions contained in the judgment of the Tribunal. The respondents have acted in utter violation of the directions contained in the order of Tribunal, therefore, they have to be prosecuted under the provisions of Contempt of Courts Act.

3. Shri H.K. Gangwani, learned counsel for respondents stated that the Supreme Court in Civil Appeals No. 14756-61 of 1993, 11631 of 1994 and 20114 of 1993 all disposed of by a common order dated 27.07.1995

has, after considering the merits of these cases, disposed of the appeals with certain directions, different from the direction given in the individual cases by the Tribunal and, therefore, he argued that if the petitioner or any of the parties to the above said civil appeals has a case that the respondents had failed to implement the said directions, the contempt if any committed is that of the Hon'ble Supreme Court by not implementing the directions of the Hon'ble Supreme Court, and therefore, the petitioner has to approach the Hon'ble Supreme Court with a Civil Contempt Petition. The order of this Tribunal have been varied and modified by the order of the Hon'ble Supreme Court. The Petitioner cannot seek action to be taken against the respondents for violation of the directions contained in the order of the Tribunal which is no more in existence argued the counsel.

4. In the bunch of cases disposed of by the Hon'ble Supreme Court by combined order dated 27.07.95, it was found that in some cases the directions given by the Tribunal were in excess of those granted in Miss Usha Kumari Anand's case and, therefore, to that extent the Tribunal's order had to be modified. We note that this observation of the Hon'ble Supreme Court does not affect the directions given by the Tribunal in this case because in this case the Tribunal disposed of the O.A. in exactly the same directions as were given in Miss Usha Kumari Anand's case. However, saying that the Tribunal's order had to be modified to that extent the Hon'ble Supreme Court disposed of these appeals including the Civil Appeal No.11631 which arose from

the order in question with the following directions in general -

"Accordingly we dispose of these appeals giving the same directions as extracted from the Tribunal's order in Miss Usha Kumari Anand's case and direct the applicants to examine the case of other respondents in accordance with the directions given in Miss Usha Kumari Anand's case as contained in para 37 and para 38 of the Tribunal's judgment. This exercise would be performed by the appellant within a period of 6 months. No costs."

From the above quoted, we note that without exception all the cases have been dealt with and disposed of by the Hon'ble Supreme Court with one direction. This direction was to be complied within a period of 6 months. If the abovesaid direction naturally and obviously exempt to the case on hand also, if the abovesaid direction has not been complied with by the respondents or if the respondents have shown a defiance to these directions, it will be the Hon'ble Supreme Court which would take action against the respondents under the Contempt of Courts Act.

5. Learned counsel for the petitioner Shri B.S. Mainee stated that in purported implementation of the directions contained in the order of Tribunal in this case the respondents themselves had issued an order re-engaging the petitioner as a Casual Labour by order dated 01.09.1996 which is against the finding of the Tribunal that the Petitioner was entitled for reinstatement as

a Mobile Booking Clerk. Therefore, Shri B.S. Mainee argues that the Tribunal under these circumstances has to initiate action from the Contempt of Court Act against the respondents. Shri B.S. Mainee also stated that even in the SLP filed by the respondents, they had conceded that the petitioner was working as Mobile Booking Clerk.

6. Factually, it appears that action of the respondents in re-engaging the petitioner as Casual Labour is not in consonance with the directions given in the Tribunal's order and also the direction given by the Hon'ble Supreme Court in its judgment, However, ^{is} as the Tribunal ~~has~~ ordered, ~~has~~ been modified by the Hon'ble Supreme Court ^{regard to its} in its order ² implementation ~~has been made by the Supreme Court's order~~ within the timeframe stipulated by them. In the facts and circumstances of this case, we are of the view that this Tribunal cannot initiate any action against the respondents under the provisions of Contempt of Courts Act. The appropriate course to move in this regard by the petitioner is the Hon'ble Supreme Court. The Civil Contempt Petition is dismissed and notice discharged.



(K. Ramamoorthy)
Member(A)



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

/Skant/