

(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

CONTEMPT PETITION NO. 83/97
(Arising out of O.A. No.970 of 1993)

Allahabad, this the 19th day of March, 1999.

CORAM : Hon'ble Mr. S.Dayal, Member (A)
Hon'ble Mr. S.K.Agrawal, Member (J)

S.N.Bajaj, S/o. Late Shri Mahadev Prasad
R/o. 579, Shahganj, Allahabad.

.....Petitioner

(BY Shri Deva Sharma and Shri K.N.Katiyar, Advocates)

Versus

1. Shri B.P. Awasthi,
Divisional Superintending Engineer I,
Divl. Railway Manager's Office,
Northern Railway, Allahabad.
2. Shri R.S.Gangwar,
Assistant Engineer (Line),
Northern Railway,
Allahabad.

.....Respondents
Contemners

(BY Shri A.K.Gaur, Advocate)

ORDER

(By Hon'ble Mr. S.K.Agrawal, Member (J))

This is an application under Section 17 of
Administrative Tribunal Act, 1985 arising out of the
order passed in Original Application No. 970 of 1993
on 4-12-96.

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2. This Tribunal vide its judgement dated 4-12-96 gave the following directions :-

"In the light of the aforesaid discussion the impugned order dated 27-8-1992 is quashed. The applicant shall be reinstated in service forthwith. We, however, grant liberty to the respondents to proceed afresh against the applicant in case they feel that such proceedings are warranted. In case, the respondents decide to proceed against the applicant, they will also pass appropriate order regarding the intervening period. So far as the relief of arrears of salary for the period which the applicant claim he was kept waiting for being allowed duty, the same cannot be granted by us as the facts are in dispute. This matter may also be a subject matter of the departmental inquiry and a decision thereon shall be taken by the respondents based on the inquiry report."

3. It is stated by the applicant that in accordance with the orders of this Tribunal applicant made representations on 24-1-97 and 26-3-97, and with the representations dated 24-1-97 the copy of judgement dated 4-10-96 was also annexed, but the applicant was reinstated after four and half months on 17-4-97. The applicant again issued the reminder on 7-7-97 for complete compliance of this Tribunals order dated 4-12-96 but no compliance was made. Therefore it is stated by the applicant that respondent No. 1 & 2 have committed wilful disobedience of the orders of this Tribunal passed on 4-12-96. Therefore the applicant makes a prayer to punish the alleged contemnners for contempt.

4. Show cause was filed. It is stated in the counter that order dated 4-12-96 has been implemented and the applicant was reinstated in service as per the directions of this Tribunal. It is also stated that further directions

were issued for the compliance and in view of the directions issued Shri S.S.Singh was appointed as Enquiry Officer to complete the Enquiry. It is also stated in the counter that the order was passed regarding the payment of salary for intervening period. As the applicant was absent from duty unauthorisedly he was not granted the salary for intervening period, therefore there has been full compliance of the orders of this Tribunal and in this way alleged contemnors have requested to dismiss this Contempt Petition.

5. Rejoinder was filed. In the Rejoinder it is reiterated again that the applicant was reinstated in service after inordinate delay of four & half months and the payment of wages for the intervening period was decided on the basis of old Enquiry Report and starting the enquiry proceedings against the applicant after the lapse of more than one year is illegal and unwarranted.

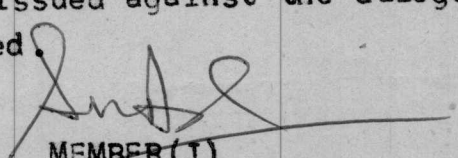
6. Disobedience of Court's order constitute contempt only when it is wilful or deliberate. It is the duty of the applicant to prove that the action of the alleged contemnors to disobey the order of this Tribunal was intentional. Mere delay in compliance of the directions/ order of this Tribunal does not constitute contempt unless it is wilful.

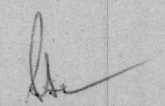
7. In AIR 1991 Supreme Court 326 Jiwani Kumari Parekh Vs. Satyabrata Chakravorty it was held that Before a party can be committed contempt, there must be a wilful or deliberate disobedience of the orders of the Court.

8. In (1994) 6 Supreme Court Cases 332 it was held that Civil Contempt is not like the execution proceedings under Civil Procedure Code - Disobedience of decree, order, judgement of Court must be wilful and intentional in order to constitute Civil Contempt - Court must record its findings to that effect - Whether the disobedience was wilful to be decided having regard to the particular facts and circumstances - If disobedience found to be under compelling circumstances contemner may not be liable to be punished for contempt.

9. In the instant case no wilful or deliberate disobedience of the orders/directions of this Tribunal could be established against the alleged contemnors. Only the applicant was not reinstated in time or after a delay of four & half months does not lead to conclusion that there was wilful or deliberate disobedience ~~of~~ on the part of the alleged contemnors. Likewise delay in starting the enquiry and taking the decision regarding the payment of wages/salary for the intervening period after the time fixed by the Court/Tribunal does not ~~if~~ so facto lead to the conclusion that there was a wilful/deliberate disobedience on the part of the alleged contemnors. This wilful and deliberate disobedience must be proved specifically by the alleged contemnors. In this case the applicant failed to establish deliberate/wilful disobedience on the part of the alleged contemnors. Therefore, we are of the opinion that no case of wilful disobedience against the alleged contemnors could be established by the applicant.

10. We, therefore dismiss this Contempt Petition and notices issued against the alleged contemnors are hereby discharged.


MEMBER (J)


MEMBER (A)

/satya/