

## CENTRAL ADMINISTRATIVE TRIBUNAL

## ALLAHABAD BENCH

THIS THE <sup>21<sup>st</sup></sup> DAY OF JULY 1997

HON. MR. JUSTICE B.C. SAKSENA, V.C

HON. MR. D.S. BAWEJA, MEMBER (A)

Contempt Application No. 48/97

In

Original Application No. 1160/96

Akhil Bharatiya Shoshit Karmchari Sangh  
 through its Secretary Mithlesh Kumar  
 Chaturvedi, R/o 291 B. Krishna Nagar  
 Izzat Nagar Bareilly, U.P.

.. Applicant

By Advocate Shri T.S. Pandey

Versus

1. C.L. Kaw, Chairman, RAILWAY Board  
Rail Bhawan, New Delhi
2. Ram Prakash, executive Director  
SC/ST Cell railway Board  
Rail Bhawan, new Delhi
3. Som Nath Pandey, General Manager  
North Eastern Railway, Gorakhpur. U.P.
4. S.K. Jain, Divisional Railway Manager  
North Eastern railway, Izzat Nagar Division  
Bareilly
5. Ashish Agrawal Divisional Controller (Stores)  
North Eastern Railway, Izzat Nagar  
Division, Bareilly U.P.

.. Respondents

O R D E R (Reserved)JUSTICE B.C. SAKSENA, V.C.

We have heard the learned counsel for the <sup>ap</sup>applicant. Through this contempt petition the applicant alleges that the respondents are guilty of having wilfully disobeyed the order dated 21.1.87 passed in OA 647/86 V.P.S Chauhan Vs. union of India and Ors. The applicant's case further is that the said decision of this Tribunal has been confirmed by the Hon'ble Supreme court by judgment dated 10.10.95. The respondents therefore are guilty of willfully disobeying the directions and law laid down by the Hon'ble Supreme court. <sup>in</sup> the said judgment as also ~~in~~ the judgments passed by it in Indira Sahney's case and A.K. Juneja's case. <sup>1</sup> <sup>Bo</sup>



It is alleged that the respondents are guilty of having committed contempt of court inasmuch as a Full bench decision of the Bangalore Bench of the CAT in the case of John Lucas Vs. Addl. Chief Mechanical Engineer and Ors reported in (1987) 3 ATC 328 whereby it was held that in the service matter the judgments of the Tribunals are judgment in rem and not judgments in personam. The applicant alleges that the Executive Director Establishment (RES) Govt. of India Ministry of Railways Railway Board by a letter dated 10.3.91, copy of which is ANNEXURE 2 ~~was~~ guilty of contempt of court since therein ~~he~~ ~~has~~ expressed the view that generally a judgment from the CAT should be treated as a judgment in personam and not in rem.

2. From what has been indicated hereinabove it would be evident that the applicant has chosen to allege willful disobedience on the part of the respondents and to have ~~validly~~ <sup>willfully</sup> committed contempt of court by not following the direction given in the various judgments of this Tribunal and also of the Hon'ble Supreme court. We had therefore put it to the learned counsel for the applicant on the last date to pinpoint the order in any petition filed by the applicant the direction of which are being violated by the respondents. This aspect was posed in view of the fact that in a recent Supreme Court decision in Packraft (India) Pvt. Ltd Vs. U.P. Financial Corporation through its Managing Director reported in (1996) 1 SCC 304, it has been laid down by the Hon'ble Supreme court:

\* A contempt petition alleging willfull disobedience of law laid down by the Supreme court would not be maintainable. It was observed that the proper remedy would be to have it corrected by a judicial review,. The contempt petition which

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came up for consideration before the Supreme court in the said case it was alleged that the decision by the Hon'ble Supreme court in Mahesh Chandra Vs. Regional Manager U.P. Financial Corporation reported in (1993) 2 SCC 279 has been disobeyed.

3. In view of the proposition of law laid down in the said decision we expressed the view that alleged violation of orders and directions contained in the judgments of the Hon'ble Supreme court or even the benches of this Tribunal in cases in which the applicant was not a party cannot be gone into at the ~~ins~~stance of the present applicant.

4. The learned counsel for the applicant therefore confined his submissions to ~~have~~<sup>show</sup> willfull disobedience if any of the order passed in a petition filed by the present applicant. He drew our attention to an interim order passed in OA 1160/96 A.B.S. Karmchari Sangh and Ors Vs. Union of India and Ors. The interim order was passed on 27.3.97 in the following terms.:

"We have considered the Misc. application no 997/97. In view of the fact that the applicants has also filed affidavit alleging that promotions have been granted in violation of the law laid down by the Hon'ble Supreme court in the case of Union of India and Ors Vs. Vir Pal Singh Chauhan.

We hereby direct the respondents not to make any further promotions of the post of Mail/Express Train Guards contrary to the principles laid down by the Hon'ble Supreme court in the case of Veerpal Singh Chauhan, R.K. Sabarwal and also subsequently further explained in the decision in Ajit Singh Juneja and Ors Vs. State of

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Punjab and Ors

5. The learned counsel for the applicant submitted that the Railway Board by its letter dated 28.2.97 copy of which is Annexure 14 has issued advance correction slip no.25. The submission of the learned counsel is that the provision in the said advance correction slip are contrary to the dictum of the Hon'ble Supreme court in its judgment dated 10.10.95 in Union of India Vs. Veer Pal Singh Chauhan etc(JT) 1995 (7) SC 321 The Railway Board in its letter has extracted two observations and on the basis of its perception of what the said observations laid down has issued the correction slip. In view of the Supreme court decision in Packraft (India) Pvt. Ltd (Supra) we are not inclined to entertain this submission.

6. The learned counsel for the applicant next submitted that the respondents has issued various promotion orders in violation of the direction issued by this Tribunal in OA 647/86 Veer Pal Singh Chauhan Vs. Union of India and Ors. The violation of the direction given in the said promotion order also cannot be gone into at the instance of the applicant since it was not the applicant in the said OA. The learned counsel for the applicant then drew our attention to office order no. 11755 dated 3.4.97 making promotions to the posts of Office Supdt Grade II. The learned counsel submitted that this order of promotion is subsequent to the interim order dated 27.3.97 passed in OA 1160/96. This submission is also baseless and untenable. Since the promotion which was directed not to be made contrary to the principles laid down in various Supreme court decisions was in respect of the posts of Mail/express Train Guards, The said interim order is not attracted for promotion to the post of Office Supdt. There is no merit

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in the contempt petition. It is dismissed summarily.

We, however, wish to observe that the applicant would be better advised not to initiate such unwarranted and ~~frivolous~~ <sup>frivolous</sup> contempt petitions.

*[Signature]*  
MEMBER(A)

*[Signature]*  
VICE CHAIRMAN

Dated: July 22<sup>nd</sup> 1997

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