

Open Court

Central Administrative Tribunal,
Allahabad Bench, Allahabad.

Dated: Allahabad, This The 24th Day of May, 2000.

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

Civil Contempt Application No. 46 of 1998

in

Original Application No. 1453 of 1992.

R.B. Maheshwari,
son of Sri Pyare Lal
Extra Departmental Sub-Post Master
Sub Post Office Nadrai
Distt. Etah.

. . . Applicant.

Counsel for the Applicant: Sri A.B.L. Srivastava, Adv.

Versus

1. Sri S.S.P. Tripathi,
Superintendent, Post Offices, Etah.
2. Ms. Asha Bhatnagar
Director of Postal Services,
Office of the Post Master General,
Agra Region, Agra.
3. Sri R.S.V. Prasad,
Secretary, Deptt. of Post,
Ministry of Communication,
Dak Bhawan, New Delhi.

Contemner/Respondents.

Counsel for the Opp. Parties: Km. Sadhna Srivastava, Adv.

Order (Open Court)

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

This contempt petition has been filed for

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punishing the alleged contemnors for willful non compliance of the order of this Tribunal dated 30.10.96 in O.A. 1453 of 1992. The direction of the Division Bench is reproduced as under:-

" As the question of payment of allowance during put off duty is still sub-judice, we refrain from giving any decision as to whether the applicant is entitled to any allowance during the period, he was put off duty even though he was finally exonerated. However, in case the order dated 24.4.94 referred to by the learned counsel for the applicant is still in force, we direct that the applicant should be extended all the benefits of aforesaid order subject to the final outcome of the decision on S.L.P."

From the Annexure C.C.A.-1, it is made out that the order was ready on 10.3.97. The applicant claims to have received a copy by registered post on 9.7.97. The applicant it appears made a representation on 13.6.97. He served a legal notice on the Opp. Parties on 1.9.97. Thereafter this contempt petition was filed on 8.5.89.

2. The learned counsel for the Opp. parties states that the notices in this case were ordered to be issued on 22.3.99. The case was not taken up for issuance of notices from 9.9.98 onwards because of the orders communicated through Deputy Registrar, Lucknow Bench regarding challenge to the jurisdiction of the Tribunal to hear contempt petitions. In the light of the above facts, we hold that the contempt petition was filed within time.

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3. The learned counsel for the applicant has contended that he was entitled to the payment of benefit under amended rule 9 of E.D. Agents (Conduct and Service) Rules 1964 which relates to put off duty.

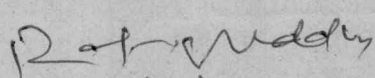
4. The Tribunal by its order dated 30.10.96 had declared the applicant entitled to the benefit of order dated 24.4.94. The learned counsel for the Opp. Parties has mentioned in the counter reply that efforts were made to make payment of Rs.500/- as per the provisions of order dated 24.4.94 regarding exgratia payment but the applicant refused to receive the same. The applicant has taken the stand that letter dated 24.4.94 had become non-est after the judgment of the Apex Court dated 10.7.95. This contention of the applicant can not be accepted because the applicant himself has annexed a copy of letter No. 19-36/95-E.D. & Trg. dated 13.1.97 in which the orders of the Apex Court in S.L.P. No. Nil/90 in the matter of Secretary, Ministry of Communication and others Vs. S. Gundu Acharya has been mentioned. It has been stated the Apex Court left it open to the Union of India to examine each case to reach the conclusion as to whether the individual is entitled to the salary for the period when he was kept off duty under rule 19(1) of the Rules. It also provided that in the event of any respondent being exonerated/re-instated in the disciplinary

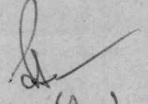
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proceedings, the salary of duty period can only be denied to him after affording an opportunity and by giving cogent reasons.

5. The Opp. Parties in this case have taken a view that since they had already taken action with regard to exgratia payment provided for in letter dated 24.4.94, no action was necessary on the directions given by the Apex Court in the said case. However, since the direction of the Division Bench of this Tribunal was made subject to the outcome of the S.L.P., the respondent should have examined the case of the applicant also in the light of the directions of the Apex Court.

6. We do not hold the Opp. Parties guilty of contempt in the light of the situation narrated above but direct them to consider the case ^{of} the applicant in the light of the directions of the Apex Court. The contempt proceedings are, therefore, dropped and the notices issued are discharged.


Member (J.)


Member (A.)

Nafees.