

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH, ALLAHABAD

(This the 10th Day of April 2014)

Hon'ble Mr. Justice S.S. Tiwari, Member (J)
Hon'ble Ms. B. Bhamathi, Member (A)

Civil Misc. Application No.1369 of 2010
(Under Rule 24 CAT (Procedure) Rules 1987)

In

Original Application No.1600 of 2001

1. Ram Kumar S/o Shri Hajari Lal T.N. R 29 engine Cleaner/Khalasi Office/Deisel Road/Izatnagar, Distt. Bareilly (U.P.).
2. Virendra Pal S/o Shri Hardwari Lal, T. No.47R Engine Cleaner/Khalasi Office Diesel Road Izzat Nagar, Bareilly (U.P.).
3. Prem Nath Malik S/o Shri Topan Lal Malik T.N. 32 Engine Cleaner/Khalasi Office/Diesel Road Izzat Nagar, Bareilly.

By Advocate: Shri R.C. Pathak

..... Applicants

Versus

1. Union of India through General Manager, North Eastern Railway Gorakhpur.
2. Divisional Railway Manager, Northern Eastern Railway, Izatnagar, Bareilly.

..... Respondents

By Advocate: Shri K.P. Singh

O R D E R
(Reserved on 20.02.2014)

Delivered by Hon'ble Ms. B. Bhamathi, Member (A)

Present Civil Misc. Application No.1369 of 2005 on 23.3.2010 in O.A. No.1600 of 2001 has been filed under Rule 24 of CAT (Procedure) Rules, 1987. For ready reference the said Rule reads as under:-

"24. Order and direction in certain cases:-

The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its order or to prevent abuse of its process or to secure the ends of justice."

2. The main prayer by the applicants in the M.A. is as under:-

"It is therefore, most respectfully prayed that in view of the facts, circumstances, grounds and reasons narrated above the Hon'ble Tribunal may graciously be pleased to allow the application with further direction of quashing the order dated 05.01.2010 and the respondent No.2 be directed by way mandamus to pass order for the aforesaid claims of applicant for their pay fixation as claimed in O.A. with payment of arrears including 18% penal interest otherwise applicants shall suffer with irreparable loss and injury. "

3. The applicants had filed O.A. No.1600 of 2001 claiming payment of pay scale of Rs.2750 - 4400/- as against 2650-4000 granted by the respondents, with a prayer to quash the impugned orders dated 27.7.2001, 13.9.2001 and 27.7.2001 and to pay salary



according to above pay. The said O.A. was disposed on 10.07.2009.

The operative part of the order in the above reads as under:-

"4. In view of the above, we set aside impugned orders dated 27.7.2001, 13.9.2001 and 27.7.2001 (Annexure 1, 2, and 3/Compilation 1) with direction to the concerned competent authority to decide the claim/grievance of the applicant afresh. To avoid confusion, we further provide that applicant may file parawise comprehensive representation along with certified copy of the order as well as copy of Original Application (with all Annexure/s) before respondent No.2/Divisional Railway Manager, North Eastern Railway, Izzat Nagar, Bareilly, who may himself or through another Competent Authority get the said representation decided, within a period of six weeks from today and the said authority shall, provided it is filed as stipulated/contemplated above in this order, decide said representation within 4 months from the date of receipt of the Representation (as indicated above) by passing a reasoned and speaking order in accordance with the law exercising unfettered discretion. Decision taken shall be communicated to the applicant forthwith. It is made clear that we have not entered into the merit of the claim of the applicant at this stage.

5. O.A. stands partly allowed to the extent indicated above. No cost."


4. In pursuance of order dated 10.07.2009 in O.A. No.1600 of 2001, the applicants sent a letter on 12.09.2009 to the respondent for compliance of the aforesaid order. The applicants then submitted a representation on 11.10.2009 to respondent No.2

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regarding their grievance. The respondent No.2 decided the representation of the applicants on 5.1.2010 rejecting the claim of the applicants.

5. The applicants have stated that the order dated 5.1.2010 has been passed after expiry of 4 months from 14.9.2009, on which date the respondents received copy of the representation dated 12.9.2009. The order is also illegal, unlawful, arbitrary and mala fide because the respondent No.2 has not considered the contention raised by him in his representation and as such the said order is liable to be quashed and set aside. The applicants have also claimed that salary due to them be paid with arrears including 18% penal interest. Hence, this Execution Application has been filed under Section 24 of CAT (Procedure) Rules, 1987.


6. The case of the respondents is that respondent No.2 has examined the points raised by the applicants and after due consideration has passed the detailed reasoned and speaking order as directed by the Tribunal. Hence, the direction of the Tribunal has been fully complied with by the respondent No.2.



7. As regards the contention of the applicant that there was delay in passing the order dated 5.1.2010 it is observed that the order was passed by this Tribunal on 10.7.2009. As per para 4 of the Tribunal's order 6 weeks from that date was 21.8.2009. But the applicant sent his first representation with the enclosures only on 12.9.2009, which was received by the respondents on 14.9.2009, according to the applicant. It is clear from the above that the applicant himself contributed to the delay in compliance of the order of the Tribunal.

8. The Tribunal in that very para of its order had also provided the alternative of deciding the representation within four weeks from the date of receipt of the representation. Even if the date of the receipt of representation by the respondents is accepted as 14.9.2009, four months time from that date expired on 13.1.2010. The impugned order dated 5.1.2010 was passed before the expiry of 4 months. Hence, in our view no case of delay has been made out by the applicant.


9. The second issue is that the impugned order has not considered all the contentions raised by the applicant in his representation dated 12.9.2009. The respondent has in the impugned order dated 5.1.2010 considered the representation and



the enclosures and after stating the grounds has rejected the applicant's representation. In our view the respondents has considered the main grounds and contentions given by the applicant in various representations sent on 12.09.2009. It is observed that the applicant has not spelt out in his application filed under Rule 24 of CAT (Procedure) Rules 1987 dated 23.3.2001 as to what issues were left out in the impugned order. It is only a general statement occurring in the brief M.A. filed under Rule 24 of CAT (Procedure) Rules 1987 that the contention of the applicant in the representation dated 12.9.2009 has not been duly addressed in the impugned order dated 5.1.2010.

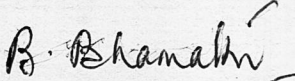
10. It is also appropriate to point out that the overall spirit of the order of the Tribunal was a direction to the respondents to pass a reasoned and speaking order. The order explicitly states that the Bench had not gone into the merits of the case. Hence, this Bench concludes, again without going into the merits of the case, that the respondents have fully complied with the order of the Tribunal dated 10.07.2009.

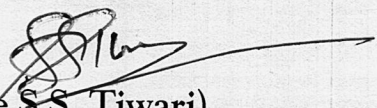
11. In view of the foregoing, we do not see any ground to interfere with the impugned order at this stage. It is, however, open



to the applicant to seek fresh legal remedy if any being aggrieved with the impugned order.

12. Hence, the prayer of the applicant is rejected and the M.A. is dismissed. No costs.


(Ms. B. Bhamathi)
Member-A


(Justice S.S. Tiwari)
Member-J

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