

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 12 TH DAY OF SEPTEMBER, 2002

CIVIL CONTEMPT APPLICATION No.105 of 2001

CORAM: (In OA No.1655/93)

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.DAYAL, MEMBER(A)

Shiv Mangal Shukla, a/a 45 years  
Son of Sri Udit Narayan Shukla,  
Resident of 128 Nanakganj, Sikari Bazar  
Jhansi.

... Applicant  
(By Adv: Shri Sudhir Agrawal)

Versus

1. Rajendra Nath, general Manager,  
Central Railway, Bombay VT  
(Now C.S.T.M.) Bombay.
2. A.K.Gupta, Divisional Railway  
Manager, Central Railway, Jhansi.
3. D.K.Singh, Senior Divisional  
Commercial Manager, Central Railway  
Jhansi.

... Respondents  
(By Adv: Shri D.C.Saxena)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

We have heard Shri Sudhir Agrawal learned  
counsel for the applicant and Shri D.C.Saxena  
learned counsel appearing for the respondents.

By this contenpt application u/s 17 of A.T.Act  
1985 applicant has prayed for punishing the  
respondents for committing willful disobedience of  
the order of this Tribunal dated 6.9.2000 passed in  
OA 1655/93. The direction given by the Tribunal





was as under:

"For the above, the OA is allowed to the extent that the impugned punishment order dated 28.5.1993(Annexure A-1) and the order passed by Appellate Authority respondnet no.5 on 22.2.1994 as communicated vide letter dated 24.2.1994(Annexure A-1/B) are quashed, and the applicant is entitled to consequential benefits. However, the respondents are not precluded from initiating fresh disciplinary proceedings against the applicant. No order as to costs."

On this application ~~by order dated~~ 29.5.01 it was pointed out that Sri Rajiv Bhargav has joined as new Divisional Railway Manager in place of respondent no.2 Sri A.K.Gupta. The applicant was directed to allow him fresh opportunity to comply with the order before he is impleaded as respondent. On the next date Shri D.C.Saxena put in appearance for Sri Rajiv Bhargav, D.R.M, Central Railway Jhansi and sought time to file reply as well as his vakalatnama. The time to file reply was given. The parties exchanged affidavits. However, on 18.2.2002 it was pointed out that the order passed by the Tribunal has been challenged in writ petition No.52099/01 before Hon'ble High court and the application for interim order is pending. On this the case was adjourned and parties were given time to bring the order passed by the High on record. On 18.3.02 the matter was considered in detail in the light of the judgment of Hon'ble Supreme Court in case of 'Suresh Chand Poddar Vs. Dhani Ram and Others' 2002(1) AWC 377(SC) and

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respondents were given two months time to implement the order. In compliance of the aforesaid order respondents have taken stand that the order of the Tribunal has been complied with. In support of this submission the reliance has been placed on the order dated 28.6.01 (Annexure A-1) by which applicant was reinstated with immediate effect as TTE in Grade of Rs 1200-2040 (RSD pay scale Rs 4000-6000) at Jhansi. However, it has been stated in the order that the order is provisional and subject to the outcome of the writ petition no.52099/00 pending before Hon'ble High court. Applicant joined the post in pursuance of the said order on 29.6.01. The remaining part of the compliance of the order of this Tribunal, has been stated in supplementary counter filed on 1.7.02. Along with this counter reply or copy of the order dated 17.5.02 has been filed by which applicant has been paid an amount of Rs 2,73,854/- towards the consequential benefits. The break up of the amount has also been mentioned in the order which reads as under:

Central Railway

DRM(P)OFFICE

No.P/PF/SMS/CA-3

JHANSI

Date: 17.5.2002

Shri S.M.Shukla  
128 Nanakganj  
Sipri Bazar Jhansi

Sub: Compliance of judgment dated 06.09.2000  
passed by Hon'ble CAT/ALD in OA 1655 of  
1993.

In compliance of judgment dated 06.09.2000 a  
cheque No.E098460 dated 17.5.02 amounting to  
Rs.273854/- is being send here with towards  
consequential benefit.





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Details of the period calculated for the purpose of consequential benefits are given below:

<u>Period</u>		<u>Treated as</u>
<u>From</u>	<u>To</u>	
13.06.1989	31.1.1991	Suspension period, payment of subsistence allowance already granted.
01.02.1991	28.05.1993	Duty period payment already arranged
29.5.1993	28.06.2001	Subsistence allowance payment @ 50% of basic pay being arranged through above cheque
29.06.2001	31.01.2002	Duty period payment already arranged.

The above amount is being paid subject to out come of the writ petition no.52099 of 2000

Kindly acknowledge the receipt

Sd/

Smt. Garima Srivastava

For D.R.M(P)JHS

Alongwith the supplementary counter affidavit a photocopy of the cheque given to the applicant has also been filed. Receipt signed by the applicant has also been filed (Annexure CA-3). In the circumstances, there is no dispute that applicant in pursuance of the order of this Tribunal has been reinstated and he has been paid the amount mentioned above.

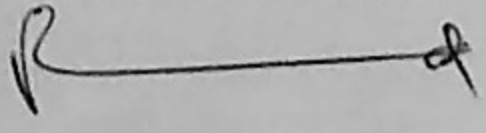
The counsel for the applicant, however submitted that the order has not been complied with and respondents are guilty of the contempt. The submission is that applicant





was kept out of service for the period from 1989 to 29.6.01 i.e. for about 12 years. The amount for which the applicant was entitled <sup>1989</sup> ~~against~~ backwages for the entire period <sup>which</sup> ~~which~~ has not been paid to him. The amount paid to him <sup>is</sup> ~~is~~ ridiculously low and it is just an eye wash. It is also submitted that the consequential benefits include promotion of the applicant to higher post for which he would have been entitled during the aforesaid period which has not been granted. Shri Sudhir Agrawal alongwith his supplement <sup>ABJ</sup> ~~ABJ~~ Rejoinder has filed the charts served on the applicant indicating the manner of calculation of the amount of Rs 273854/-. He has submitted that accounting is not correct as the annual increments have not been granted. The question for our consideration is as to whether in such facts and circumstances it can be said that respondents have committed willful disobedience of the order of this Tribunal. The Hon'ble Supreme Court in case of 'R.M.Ramaul -Vs.- The-State-of Himachal pradesh & Others, AIR 1991 Supreme Court 1171 observed as under:

"..... The withholding of the monetary benefits in respect of this period is inconsistent with what was decided in the judgment and what complainant was clearly entitled to. Since there was no specific direction in this behalf in the order, technically, there may be no case for punishment for contempt; but we make it clear that the promotion for the period from 28.5.1982 to 3.9.1986 should be accompanied by the monetary benefits. If a specific direction is necessary we issue it here and now. The appropriate monetary benefits





shall be granted within two months from today."

If the direction issued by this Tribunal is perused in the light of the aforesaid judgment of the Hon'ble Supreme Court it is clear that this Tribunal has not given any specific figure. The only direction is that the 'applicant is entitled to consequential benefits'. This has been interpreted by respondents in their own way and amount has been calculated. The calculation has been served on the applicant and it has also been disclosed in the order. In the circumstances, it is difficult to accept that they <sup>are</sup> ~~may be held~~ guilty of willful disobedience of the order. If the calculation was served on the applicant, he is entitled to challenge the same before the Authority by pointing out the infirmities in the calculation and the amount which according to applicant was due to him, has not been paid. For this purpose he is entitled to file objection before respondents which will require a decision by a reasoned order. If the applicant remains dis-satisfied, he may challenge the same on the original side and claim the amount for which he feels entitled as consequence of the order of this Tribunal.

For the reasons stated above, though we find that a case of contempt is not made out, but the applicant has given liberty to file an objection <sup>against</sup> ~~about~~ the account served on him by respondents and may also claim other consequential benefits for which he may be entitled. If such an objection is filed, it shall be considered and decided by a reasoned order within three months and in case he is found <sup>entitled</sup> for any additional amount that shall be paid to him without any delay.

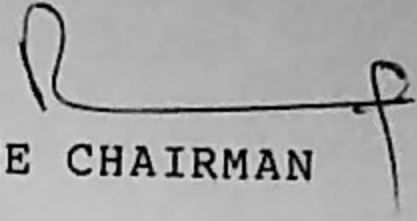
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Subject to aforesaid direction, this contempt application is disposed of ~~accordingly~~<sup>as</sup>. No costs.



MEMBER(A)



VICE CHAIRMAN

Dated: Sept: 12th, 2002

Uv/