

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 3<sup>rd</sup> day of <sup>April</sup>~~March~~ 2002.

QUORUM : HON. MR. S. DAYAL, A.M.

HON. MR. RAFIQUDDIN, J.M.

CCA No. 142 of 2001 in

O.A.No. 1142 of 1999.

Rakesh Kumar Malviya s/o Sri Vishnu Narain Malviya r/o 362,  
Malviya Nagar, Allahabad.....

..... Petitioner.

Counsel for petitioner : Sri S. Narain.

Versus

1. Sri S. Dashrathi, General Manager, N. Railway, Baroda  
House, New Delhi.

2. Sri Amit Vardan, Senior Divisional Commercial Manager,  
N. Railway, Allahabad.

3. Sri Om Prakash, Senior Divisional Personnel Officer,  
N. Railway, Allahabad.

4. Sri Joyanta Roy, Chief Commercial Manager, N. Railway,  
Baroda House, New Delhi.

5. Sri John Mathew, Divisional Railway Manager, N. Railway,  
Allahabad.....

..... Respondents.

Counsel for respondents : Sri A.K. Gaur.

O R D E R

BY HON. MR. S. DAYAL, A.M.

This contempt petition has been filed against five respondents arrayed in the contempt petition for willful disobedience of directions given in order dated 25.1.01 in O.A. No.1142/99. However, notices have been issued to Respondent Nos.2 and 3 as they were said to be responsible for compliance of the order.

2. We have heard Sri S. Narain for the applicant and Sri A.K. Ga-ur for the respondents.

3. The said O.A. came up before a bench of this tribunal on 15.10.99 against impugned transfer order dated



23.9.99 transferring the applicant from Allahabad to Delhi on administrative grounds. An interim order was passed staying the transfer order if the same had not already been implemented. The O.A. was finally decided by order dated 25.1.01 in which the following directions were given :-

"For the above, the impugned order dated 23.9.99 in O.A. No. 1142/99 and impugned order dated 14.7.00 in O.A. No.806/00, are quashed. However, liberty is given to the respondents to pass fresh orders in accordance with the law after consulting the Board or if they are advised, they may place the whole controversy before the Board for appropriate orders.

It is clarified that since the impugned orders have been quashed on the ground of jurisdiction, the applicants shall be deemed to have remained at the place of posting, notwithstanding the transfer orders."

4. The controversy is very small in the present case. The applicant had initially claimed that he was not allowed to join nor paid arrears of his salary from 23.9.99 onwards. The respondents filed writ petition No.15646/01 challenging order dated 25.1.01 in the High Court of Judicature at Allahabad. The writ was admitted by order dated 26.4.2001 and the respondents were required to file a counter reply. However, since this contempt petition was filed, the respondents issued order dated 24.8.01 treating the applicant as deemed to have been posted at the place of his earlier posting as head T.T.E. at Allahabad notwithstanding transfer order. The applicant was permitted to join duty on 24.8.01.

5. The applicant has treated letter dated 24.8.01 as part compliance because the respondents have not paid the arrears of salary and allowances from 24.9.99 to 23.8.01. On the other hand, the respondents have issued letter dated 29.11.01 in which they have stated that the applicant was relieved for going to his place of transfer on 24.9.99 and he was not entitled to any payment according to the rule of no work no pay. The applicant has alleged that this letter is contemptuous of second direction given in the final order made in the O.A. which clarifies that the applicant was deemed

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to have remained at the place of posting notwithstanding the transfer orders. The grounds on which the respondents have not paid the arrears of salary for the intervening period to the applicant are clearly violative of the directions given in the judgment in the O.A.

6. The counsel for the respondents has urged before us that the order has been substantially complied with by allowing the applicant to join his duties. He has also stated that the order of respondents dated 29.11.01 is in reply to order dated 2.11.01 of Division Bench of this tribunal which heard this contempt petition on the said date and ordered as follows :-

"After the order dated 25.1.01 was passed by this tribunal applicant made application dated 26.4.01 (Annexure-7) and prayed for giving duty and for payment of the amount due. Though respondents have permitted applicant to join duty on 24.8.01 but they have not passed any order regarding payment of salary to the applicant for the relevant period. It requires consideration by the respondents by a reasoned order. The respondents are granted one month time to pass a reasoned order on the representation of the applicant with regard to his claim of payment. List on 3.12.01."

7. The above order is in pursuance of the interim order given by the tribunal and cannot be taken to amount to contempt. Counsel for respondents has also relied on case law which was furnished along with his written argument .

8. We have considered the submission of counsel for the respondents. Any interim order passed in this contempt petition can not supersede the order passed in the O.A. The order passed in the O.A. clearly mentioned that the applicant shall be deemed to have remained at the place of posting notwithstanding transfer orders. Any act short of making payment for the intervening period in pursuance of the final orders of the tribunal in O.A.1142/99 and defending it on the basis of the argument of no work no pay will amount to contravention of the orders of the tribunal and will attract the provisions of Contempt of Courts Act.





9. We consider it appropriate in the facts and circumstances of this case to grant the respondents one more opportunity to comply with the orders passed in O.A. 1142/99 by retracing their steps and making payment subject to orders which may be passed in the pending writ petition on the basis of indemnity bond with surety. The respondents are allowed four weeks time to retrace their steps failing which they shall appear in person on 16.5.02 to hear the charges. Since the matter relates to compliance of order of the tribunal, copies may be sent to respondent Nos.1, 4 and 5 also requiring them to file counter reply or appear in person on the next date.

*Rajendra*  
J.M.

*A.M.*  
A.M.

Asthana/  
13/3/1.4.02

*Recd by C.A. 3-4-2002*  
*Copy 2 P.M. Bond*  
*Clear A.K. Case*  
*4/4/2002*

O.A.  
Copy of order  
order dated 3-4-02  
handed over to  
Sri A.K. Case on  
4-4-02.  
Noting to respondent  
No. 1, 4 & 5 along with  
copy of order dated  
3-4-02 issued on  
10-4-02.  
*Jul*