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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 22nd DAY OF MAY, 2002

Civil contempt Application No.231 of 2001

In

Original Application No.769 of 2000

CORAM:

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

HON.MR.C.S.CHADHA, MEMBER(A)

V.N.Malviya,a/a 64 years, Son of
Late Chandra Shekhar Malviya, Resident
of 401-A/108-A Beniganj, Allahabad.

... Applicant

(By Adv: Shri A.K.Sinha)

Versus

1. Shri N.S.Dashrathi, General Manager
Northern Railway, Baroda House
New Delhi representing the Union
of India.
2. Shri C.S.Saroy, Principal Advisor
& Chief Accounts Officer, Northern
Railway, Baroda House, New Delhi.
3. Shri G.S.Heera, Sr.Divisional
Accounts Officer, Northern Railway
D.R.M.Office, Allahabad.

... Respondents

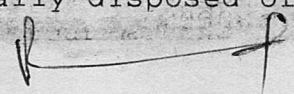
(By Adv: Shri A.K.Gaur)

O R D E R

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

By this contempt application u/s 17 of A.T.Act 1985
applicant has prayed to punish the respondents for
willful disobedience of the order of this Tribunal dated
31.10.2000 passed in OA 769/00. The direction given was
as under:-

"....For the reasons mentioned above, the
application is finally disposed of with



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direction to respondent no.3(Sr.Divisional Accounts officer, Northern Railway) to get the proceedings completed within a period of 4(four) months from the date a copy of this order is filed before him..."

There is no dispute that the proceedings could not be concluded by the respondents. However, they have sought to justify the delay on the ground that for similar transaction a criminal case is pending in the court of Special Judge, Anti Corruption(W) Lucknow in which applicant is accused. It is also submitted in this criminal proceeding charge sheet has been filed by CBI and all documents were taken by CBI during investigation ^{and} ~~if~~ they have been filed in court, and for want of those papers the compliance of the order of this Tribunal ^{had} ~~had~~ become impossible. We do not find any justification for this plea. Respondents have not filed copy of any application moved before learned Special Judge requesting release of the documents for purposes of completing the proceedings. The bare allegation that it is difficult to comply with the order of this Tribunal ~~is impossible~~ ^{is} for want of papers, in our opinion is not sufficient. Applicant retired from service on 31.8.1995. More than 6 years have passed. He is surviving only on provisional pension. ^A ~~A~~ ^{plight} ~~plight~~ of a retired employee can be well imagined if he is not paid retiral benefits for such a long time.


Shri A.K.Gaur learned counsel appearing for the respondents, however, submitted that if all the retiral benefits are paid, in the event of conviction of applicant in criminal proceedings, ^{and sentence of fine} ~~and amount of~~ recovery suggested in disciplinary proceedings, ^{amounts} ~~cannot~~ be recovered from applicant and for this reason also it is not advisable to

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pay the amount until criminal case pending against the applicant is concluded. However, from perusal of record we find that the allegation against the applicant is negligence ^{of} leading to a loss of Rs 20,000/- . In ^{of} NDR proceedings proposal to recover a penalty of Rs 12000/- was made. In these circumstances, in our opinion, just approach on the part of respondents ^{of} should have been to retain the requisite amount which may be sufficient and just against the recovery if any against the applicant and pay the remaining amount. Even under Rule 9 & 10 of the Indian Railway Pension Rules 1993 the maximum pension which may be deducted can go upto one third (under Rule 9(4)). In the circumstances, in our opinion, order could ^{of} not be complied with above safeguards. At this stage Shri A.K.Gaur learned counsel for the respondents submitted that the respondents may be given a reasonable time to comply with the order as suggested in this order.

The contempt application is accordingly disposed of with the direction to the respondents to pay entire retiral benefits to the applicant including pension after deducting Rs 20,000/- which may be ultimate liability of the applicant, ^{of} in NDR proceedings and criminal proceedings, and one third of the total pension payable to the applicant. Shri Gaur ^{Submitted} has committed that the orders shall be complied with within three months. In view of the aforesaid offer which came from the respondents for compliance of the order this contempt application is disposed of finally. Notices are discharged. No order as to costs.


MEMBER (A)


VICE CHAIRMAN

Dated: 22nd May, 2002

Uv/