

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 01st day of OCTOBER 2004.

Contempt Application no. 03 of 2004
in
Original Application no. 74 of 1998.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman
Hon'ble Mrs. Roli Srivastava, Member-A

Sattan Prasad, S/o Late Haribansh,
Ex-Safaiwala, R/o Kurmaul, Post Bhaisaha,
Vaya Sundar Nagar, Distt. Gorakhpur.

... Applicant

By Adv : Sri S. Ram

V E R S U S

1. Sri Saket Bahaguna, Senior Divisional Mechanical Engineer (C&W), N.E. Rly., Gorakhpur.
2. Sri A.K. Srivastava, Coaching Officer Depot, N.E. Rly., Gorakhpur.

... Respondents

By Adv : Sri D. Awasthi

O R D E R

By Justice S.R. Singh, VC.

Heard Sri S. Ram, learned counsel for the applicant and Sri D. Awasthi, learned counsel for the respondents.

2. O.A. no. 74 of 1998, Sattan Prasad Vs. Union of India & Others was allowed vide order dated 02.07.2003 in terms of the following order :-

"In view of the above discussion both the orders dated 05.04.96 as well as 07.10.1996 are quashed

(Signature)

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and set aside but since applicant had admittedly remained absent unauthorisedly for the period from 31.07.1995 to 07.01.1996. The matter is remitted back to the authorities for passing proper orders in accordance with law after dealing with all the points raised by the applicant by passing a speaking and reasoned order under intimation to the applicant within 2 months from the date of receipt of a copy of this order. It is made clear that applicant need not be reinstated back or paid any arrears till the final orders are passed as admittedly charge of unauthorised absence is proved against the applicant. Counsel for the applicant had relied on 1996 SCC (L&S) 656 but that judgement would not be applicable in the present case as applicant therein was absent for only one day whereas in the instant case applicant was unauthorisedly absent for more than about 5 months without taking any permission from the competent authority."

3. It is alleged that the aforesated order has not, been complied with in the sence that the applicant has not been re-instated after the orders dated 05.04.1996 & 07.10.1996 were quashed and set aside by the Tribunal. We are not impressed by the submission of learned counsel for the applicant. While ^{quashing} ~~possessing~~ the order of removal the ^{tribunal} ~~applicant~~ made it clear that the applicant need not be re-instated back or paid any arrears till the final orders were passed.

4. The final order, it is stated by the respondents counsel, has already been passed (Ann 6 to the CA). In the above circumstances of the case, we are of the view that the respondents cannot be held guilty of committing contempt of court in relation to the aforesated order, passed by the Tribunal.

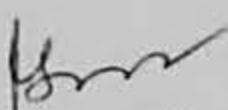
5. Applicant's counsel then submitted that a review

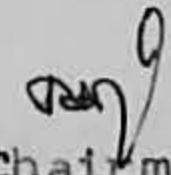
3.

application was filed which was disposed of in terms of the order that the applicant would be deemed to have been placed under suspension, pending final decision.

It is submitted by the applicant's counsel that in pursuance to the order passed on the review application, the applicant is entitled for subsistence allowance, but the same has not been paid. If that be so, the contempt, if any, would ~~not~~ lie in respect of the order passed on review application for which necessary foundation has not been laid in the present contempt application.

6. Accordingly, the present contempt application is dismissed. Notices issued to the respondents are discharged.


Member (A)


Vice-Chairman

/pc/