

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Dated : This the 04th day of FEBRUARY 2004.

Contempt Application no. 07 of 2004  
in  
Original Application no. 210 of 1995.

Hon'ble Maj Gen K.K. Srivastava, Member-A  
Hon'ble Mrs. Meera Chhibber, Member-J.

Vinod Kumar, S/o Sri Ajab Singh, Cook,  
North Central Railway Under C.C.C/ Mughalsarai,  
R/o Vill Ullau, P.O. Hirangaon,  
Distt. Firozabad.

... Applicant

By Adv : Sri S. Ram

V E R S U S

1. Shri Shri Prakash, D.R.M., N. Rly.,  
now NC Rly., Allahabad.
2. Shri Rajesh Singh, Senior Divisional Electrical  
Engine ( RSO ), N. Rly., NC Rly., Allahabad.
3. Shri Kishan Lal, Divisional Electrical Engineer (RSO),  
N. Rly., now NC Rly., Allahabad.

... Respondents

By Adv : ...

O R D E R

Mrs. Meera Chhibber, JM

This contempt application has been filed by the applicant stating therein that the order dated 18.4.2002 passed in OA no. 210 of 1995 has been flouted by the respondents. It is submitted by the applicant that vide above mentioned order the following direction was given to the respondents :-

"....However, it will be open for the respondents



....2/-

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to have the inquiry properly conducted on the charges issued to the applicant regarding the unauthorised absence from November 1988 to February, 1991 and take necessary action according to law. In normal circumstances, the applicant would also be entitled to backwages but from the record before us we feel that the interest of justice would be met if he shall be reinstated without backwages. However, if in the subsequent enquiry for the said period of unauthorised absence he is found not guilty of charges, he will be entitled to backwages...."

Thereafter, the enquiry was held and the applicant was not found absent unauthorisedly. The report was given on 17.4.2003, therefore, <sup>applicant's counsel has submitted that</sup> he ought to have been given back wages. But instead of doing so, the respondents vide order dated 14/25.7.2003 held the applicant guilty of unauthorised absence without giving him <sup>any</sup> disagreement note or reasons thereof and imposed the penalty of withholding of increment for a period of one year with postponing future increments.

2. Learned counsel for the applicant submitted that this order is absolutely wrong and is liable to be quashed as no disagreement note was given to the applicant. Since the applicant has already ~~not~~ filed his statutory appeal against the said order, he could not have challenged the order dated 24/25.7.2003 as his appeal has not yet been decided.

3. It is seen that the applicant had filed his appeal on 10.10.2003 and almost four months have passed by, ~~then~~, therefore, it would be better if the applicant challenges the penalty order itself after giving a final reminder to

...3/-

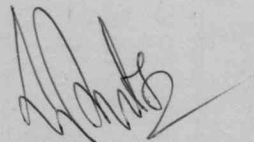
3.

the appellate authority because once the penalty order *has been* ~~was~~ passed by the respondents, contempt would not be maintainable in the said circumstances.

4. In view of the above, this contempt application is dismissed as withdrawn with liberty to the applicant to give final reminder to the appellate authority to decide his appeal and in case the appeal is not decided within one month from the date of reminder it shall be open to the applicant to challenge the penalty order by filing fresh OA.



Member (J)



Member (A)

/pc/