

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

Civil Misc. Contempt Application No.08 of 2004.

In

Original Application No.357 of 1997.

Allahabad this the 19th day of May 2004.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman.
Hon'ble Mr. S.K. Hajra, Member-A.

Jitendra Kumar Bhattacharya
aged about 49 years,
son of late Mukund Chandra Bhattacharya
R/o 771/648 Colonelgunj, Allahabad.

.....Applicant.

(By Advocate : Sri T.S. Pandey)

Versus.

1. I.P.S. Anand,
General Manager,
North Central Railway,
Headquarters Allahabad.
2. Sri Prakash,
Divisional Railway Manager,
North Central Railway,
Nawab Yusuf Road,
Allahabad.
3. Nooruddin Ansari Senior Divisional
Personnel Officer, North Central Railway,
Nawab Yusuf Road, Allahabad.

.....Respondents.

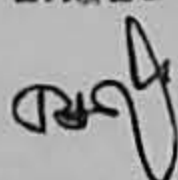
(By Advocate : Sri A.K. Gaur)

O_R_D_E_R

(By Hon'ble Mr. Justice S.R. Singh, V.C.)

Heard Sri T.S. Pandey learned counsel for the
applicant and Sri A.K. Gaur learned counsel for the respondents

2. This contempt application has been instituted with
the allegation that the order passed by the Tribunal in
O.A. No.357 of 1997, Jitendra Kumar Bhattacharya Vs.
Union of India and others has wilfully been not complied
with.



3. Sri A.K. Gaur learned counsel for the respondents, on the other hand, has submitted that against the order passed by the Tribunal, the Department preferred a writ petition which came to be disposed of in terms of certain direction vide order dated 10.03.2004 and in purported compliance of the order passed by the Hon'ble Court, the Competent Authority issued an order dated 06.04.2004, a copy of which has been annexed as Annexure 6 to the counter affidavit. In that view of the matter, submits Sri A.K. Gaur, the remedy to the applicant is either to file a fresh O.A. challenging the legality of the said order or to approach the Hon'ble High Court in contempt jurisdiction. Sri A.K. Gaur, learned counsel for the respondents has placed reliance on the decision of Hon'ble Supreme Court in case of Lalith Mathur Vs. L. Maheswara Rao and others reported in (2000) 10 Supreme Court Cases 285. In that case the High Court had issued a direction to consider the employee's representation. In compliance of the said direction the representation was considered and rejected on its merits. Instead of assailing the rejection, a contempt petition was filed. The High Court while disposing of the contempt petition, issued a direction to the effect that the employee be absorbed, in a suitable post. The Apex Court held that such an order was without jurisdiction and should not have been passed on a contempt petition which itself was not maintainable.

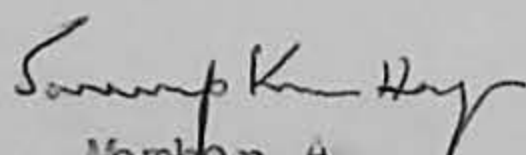
4. Sri T.S. Pandey, learned counsel for the applicant has placed reliance on a decision of the High Court in Ved Prakash Joshi Vs. Amrit Prakash and others (2004) 1 UPLBEC 972. In that case the services of the applicant were regularised and benefits of seniority and increments given. It appears that the Department did not give the arrears of salary. Hence the contempt petition was

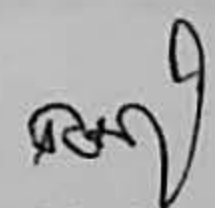
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instituted. The High Court held that while exercising the powers as executing Court, the Court can issue further direction to compel the authority to take action in consonance with a settled law. Since in view of the Hon'ble High Court the applicant therein was entitled to get arrears of salary from the date of termination of services till the date of reinstatement, the Hon'ble High Court issued a direction to release arrears of salary to the applicant within six months while disposing of the contempt petition.

5. In the present case, the Hon'ble High Court disposed of the writ petition filed against the order passed by the Tribunal in terms of certain direction and in purported compliance of the said directions of the Hon'ble High Court, the department have passed an order, legality of which can not be examined herein.

6. Accordingly, the Contempt Petition is dismissed as not maintainable. Notices stand discharged.


Member-A.


Vice-Chairman.

Manish/-