

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

(THIS THE 07th DAY OF January 2010)

Present

**Hon'ble Mr. Justice A.K. Yog, Member (J)
Hon'ble S.N. Shukla, Member (A)**

Civil Contempt Application No.02 of 2005

In

Original Application No. 485 of 2004
(U/S 19, Administrative Tribunal Act, 1985)

Smt. Pushpa Singh W/o Shri Pramod Kumar Sing, R/o Village & P.O.
Nizampur, District Badaun.

..... *Applicant*

By Advocate : Shri M.K. Upadhyaya

Versus

S.N. Prasad Sharma, Superintendent of Post Offices, Badaun, Division,
Badaun.

..... *Contemnor/Respondents*

By Advocate : Shri Saurabh Srivastava

ORDER

(Delivered by: Justice A.K. Yog, Member-J)

Heard parties counsel.

2. Opposite party has filed affidavit of compliance (Dated 11.09.2008) sworn by U.S. Sharma, Superintendent of Post Offices, Badaun Division, District Badaun.

W/

3. According to the Opposite Party, order dated 03.06.2004 passed by this Tribunal has been complied with. A perusal of the Annexure-2 (referred to the paragraph no.5 of the affidavit of compliance) shows that Applicant has been reinstated because the order of termination has been set aside by this Tribunal. The relevant portion of the said order of the Tribunal reads:-

"Accordingly, the O.A. succeeds and is allowed. The impugned order is quashed. The applicant is entitled to all consequential benefits. The Superintendent of Post Offices is directed to implement the order within a period of two months from the date of receipt of a copy of this order. No order as to costs."

4. Learned counsel for the applicant pointed out that applicant has not been paid back wages. There is no categorical averment in the affidavit of compliance regarding payment of back wages in pursuance of the Tribunal's order dated 03.06.2004.

5. Learned counsel for the applicant reiterated that not a single penny has been paid towards back wages.

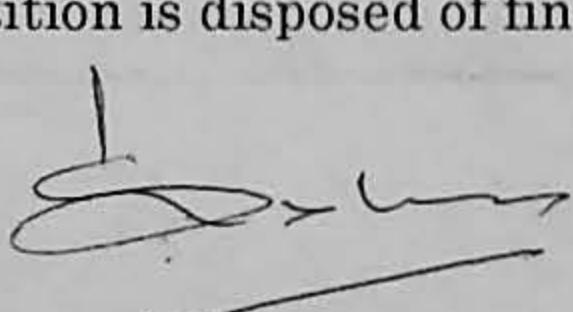
6. Learned counsel for the Opposite party refers to Memo dated 28.07.2008 (pp. 10 of the affidavit of compliance), which shows that while the applicant has been reinstated in service with certain consequential benefits (e.g.) TRCA has been fixed at notional stage giving benefit of increment in TRCA w.e.f. 12.03.2002, absent period of absence to be treated for purpose of duty, payment of ex-gratia/ severance allowances & compensation Gratuity and period of absence not to be excluded for purposes of appearing in departmental

examination and for computing seniority. Perusal of the Memo, however, clearly shows that there is no indication that the applicant shall be paid back wages.

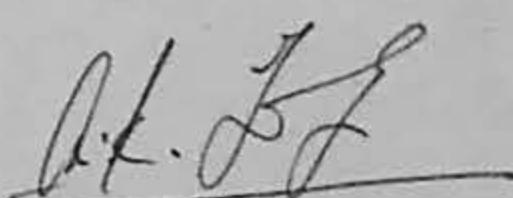
7. Learned counsel for the Applicant stated that Back wages (inspite of termination order being set aside) have not been paid.

8. Sri Saurabh Srivastava, Advocates is unable to defend non payment of back wages, though payable under order of Tribunal quoted above which clearly observed "The Applicant is entitled to all consequential benefits" submitted that lapse appears to be inadvertent and not deliberate. He submits that the opposite party may not be punished for contempt and 'lapse' should not be treated as wilful violation of the order.

9. In view of it, respondent/opposite party is directed to pay back wages along with 7.5% simple interest from the date amount became due till the date it is paid within two months on receipt of the order, otherwise shall face consequence of committing contempt deliberately. This Contempt petition is disposed of finally.



Member-A



Member-J

Sushil