

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Dated: This the 4<sup>TH</sup> day of JANUARY 2007.

Contempt Application No. 38 of 2005

Original Application No. OA 792 of 1995

Hon'ble Justice Khem Kheran, Vice-Chairman  
Hon'ble Mr. P.K. Chatterji, Member-A

Heera Mani, Vill & Post Negvra Tej Singh, Mirzapur.

..... Applicant  
By Adv: Sri A. Srivastava  
VERSUS  
Sri Mohan Lal, Asstt. Divisional Engineer, N.C.  
Railway, Mirzapur.

..... Respondent

By Adv: Sri A.K. Pandey

O R D E R

Hon'ble Mr. Justice Khem Karan, VC

Heard Sri A. Srivastava learned counsel for the applicant and Sri A.K. Pandey learned counsel for the respondents.

2. Sri Srivastava has submitted that in view of the order dated 31.01.2003 passed in OA 792 of 1995, the respondents ought to have paid the retiral benefits of the applicant in accordance with law within a period of four months and since they have not done, it so they have wilfully disobeyed the said direction of this Tribunal and should be punished.

3. Sri A.K. Pandey has submitted that the recital in the order that the applicant retired from service

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on 31.12.2002 was factually not correct as according to the service record due date of retirement of the applicant was 31.12.2005 as his date of birth was 05.12.1945. Sri Pandey says that the respondents moved Review Application for reviewing order dated 31.01.2003, mentioning the said fact, but review was dismissed against which they filed Writ Petition, which was admitted and notices were issued. He has also shown to us a copy of order dated 15.07.2004 of the Hon'ble High Court passed in Civil Misc. Writ Petition No. 25755/04. Sri Pandey has further stated that disciplinary proceedings were initiated against the applicant as a result thereof, the applicant was removed from service vide order dated 07.11.2003. He wants to say that before the applicant could reach the age of superannuation, he was removed from service. He says that in view of all this, it cannot be said that the respondents have disobeyed the direction of this Tribunal by not paying the retiral dues.

4. Sri A. Srivastava has tried to meet these arguments of Sri Pandey by saying that the respondents cannot escape themselves from liability of obeying the direction dated 31.01.2003 in regard to the payment of retiral dues. He says that during the course of hearing of OA, respondents counsel stated that the applicant retired, so the Tribunal passed those order and now they are saying that he

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did not retire on that date, but his retirement was due on 31.12.2005, but before that he was removed from service.

5. Learned counsel for the applicant has also stated that the respondents had specifically stated in the Review Petition that the applicant had been removed from service, but even then the Review Petition was dismissed.

6. We have considered the respective submissions and we are of the view that there are no good grounds for proceeding against the respondents for committing contempt of Court. The facts as placed before us do not justify, for proceeding further in these Contempt Proceedings. The Contempt Proceedings are dropped. Notice issued is discharged.

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Member (A)

*Vice-Chairman*

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05/11/07*

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