

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL,  
ALLAHABAD BENCH, ALLAHABAD**

Allahabad, this the 4<sup>th</sup> day of **August**, 2021

**Contempt Application No. 330/00017 of 2020**  
**In**  
**Original Application No.330/645 of 2019**

Present:

**Hon'ble Mrs. Justice Vijay Lakshmi, Member- (Judicial)**  
**Hon'ble Mr. Tarun Shridhar, Member-(Administrative)**

Deepak Kumar Son of late Ramashray,  
R/o Loco Colony 403-F Mughalsarai,  
District-Chandauli.

.....Petitioner

By Advocate: Shri Vinod Kumar.

Versus

1. Sri L.C. Trivedi General Manager, East Central Railway, Hazipur (Bihar).
2. Sri Ajit Kumar Senior Divisional Personnel Officer, East Central Railway, Mughalsarai.
3. Sri Ravindar Kumar Assistant Personnel Officer, East Central Railway, Mughalsarai.

-----Respondents

By Advocate: Shri Ajay Kumar Rai.

**ORDER**

**Delivered by Hon'ble Mr.Tarun Sridhar, Member-A:**

We have joined this Division Bench online through video conferencing.

2. Shri Vinod Kumar, Id. counsel for the petitioner is present online through video conferencing and Shri Ajay Kumar Rai, Id. counsel for the respondents, is present in court.

3. The present contempt petition has been filed alleging non-compliance of the order passed by this Tribunal in OA No. 645 of 2019, whereby the impugned transfer order of the present petitioner Shri Deepak Kumar was set aside with a further direction that the period on which he remained absent on account of his transfer may be regularized by way of sanctioning leave if he makes an application in this regard.

4. For the sake of greater clarity, the operative part of the order in the said OA is reproduced below:-

*“19. In view of all above, especially in view of specific facts of this particular case and provisions of item No.9.5 of Master Circular No.24 and discussions from para 15 onwards, we quash the transfer order dated 06.06.2019 and direct the respondents to allow the applicant to join back at Mughalsarai within a period of one month from the date of receipt of certified copy of this order. The applicant will not be entitled for pay and allowances for the period he remained absent from duty. He can, however, be granted leave of the kind due to him in case he applies for the same. In that case, his pay and allowances will be regulated accordingly.*  
*20. In view of above, the present OA is allowed. There is no order as to costs.”*

5. Shri Vinod Kumar, learned counsel for the petitioner alleges that the compliance made by the respondents of this order has only been partial. He admits that while the respondents have cancelled the transfer order of the applicant and he has been allowed to join back at his previous station of posting which is Mughalsarai, the respondents have not regularised the period of absence by way of sanctioning leave.

6. Learned counsel for the respondents contests this claim and submits that the respondents are inclined to comply with the order in letter and spirit; however, he points out that the applicant is yet to make any formal application for grant of leave. Therefore, the respondents are not in a position to sanction leave in the absence of such an application.

7. Learned counsel for the respondents draws attention to the rejoinder affidavit filed by the applicant wherein he has alleged in para 4 that he has approached the respondents but they have not responded to the request. The learned counsel further draws attention to the application annexed along with the rejoinder affidavit. This application dated 21.12.2020 nowhere specifically states that leave should be granted to him nor is it accompanied with any proforma prescribed for the leave application. This application is merely a request that the order of the Tribunal be complied with and his period of absence be regularised as period of duty.

8. Learned counsel for the respondents also points out that vide a fresh OA numbered 53 of 2021, the applicant has also sought this very relief i.e. a direction to the respondents to sanction leave and at the same time he is raising up this issue in the present contempt proceedings.

9. Since the learned counsel for the respondents has made a categorical statement that the respondents are inclined to sanction leave to the applicant in compliance of the order of this Tribunal, nothing remains in this contempt petition and the applicant is advised to file a regular application for grant of leave for the period he was absent on duty on account of his transfer, so that the order of the Tribunal can be complied with in letter and spirit.

10. We hold that the onus of the compliance of this order, as also the order in OA 645 of 2019, lies equally with the applicant as with the

respondents. He cannot take shelter behind proceedings of contempt to cover up his own inaction.

11. With these observations, the contempt proceedings are dropped and the notices issued are discharged.

12. All the pending MAs in the aforementioned OA are dismissed as infructuous.

**(Tarun Shridhar)**  
**Member (Administrative)**

**(Justice Vijay Lakshmi)**  
**Member (Judicial)**

/Neelam/