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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

T.A.No. 196 of 1987

B.R.Patel

applicant

Vs.

I.B.Gulati, Director Indian Institute of
Petroleum, Dehradun.

Respondent.

Hon'ble Ajay Johri, A.M.

Hon'ble G.S.Sharma, J.M.

(By Hon'ble G.S.Sharma, J.M.)

This application for taking action against the respondent under section 340 Cr.P.C. and the Contempt of Court Act 1971 has been received by transfer from the court of Addl. District Judge, Dehradun under section 29 of the A.T. Act and arises under the circumstances stated below.

2. The applicant was employed as Senior Scientific Assistant (hereinafter referred to as SSA) in the Council of Scientific and Industrial Research Dehradun. On the basis of some misconduct alleged to have been committed by him, he was placed under suspension by the competent authority and subsequently by an order dated 22.8.74 he was awarded the punishment of reduction at the lower stage of his basic scale. The applicant challenged the validity of the said order by filing suit no. 328 of 1974, in the court of Munsif Dehradun and sought a declaration that the aforesaid order dt. 22.8.74 is null and void and for permanent injunction to restrain his departmental authorities from interfering with his duties and functions as SSA. The suit was ~~decided~~^{contested &} by the defendants ~~and was ultimately dismissed on merit on 30.9.80, against the~~^{& the applicant filed an appeal} decree passed against him and also applied for temporary injunction. The defendants (respondent) had ~~decided~~^{opposed &} the said application for ad interim injunction and on 9.8.82 they filed three documents with the leave of the appellate court on payment of certain costs. One of the said three documents was office-memorandum dated 23.12.80 issued by the respondent Sri Gulati to the effect that the services of the applicant shall stand terminated with effect from the date of the expiry of a period of one month from the date on which the said notice is served on him. Thereafter, the applicant filed the present

application on 8.7.86 with the allegation that the said document was manufactured by the respondent falsely with a view to interfere with the course of justice and he has expressed his opinion when the rights of the applicant ~~were~~ sub-judiced in the said appeal. The application has been contested on behalf of the respondent.

3. We have carefully considered the contentions raised on behalf of the applicant in the light of the submissions made before us and feel that so far as the contempt of the court of the Civil Judge is concerned, it was committed at-least on 9.8.82 when the said document was filed. Under Section 20 of the Contempt of Courts Act, 1971, no court can initiate any proceeding for contempt, either on its own motion or otherwise after the expiry of a period of one year from the date on which the contempt is alleged to have been committed. The applicant himself delayed the matter too much and he could think of moving the present application only in July, 1986. Neither a reference to the High Court of Judicature at Allahabad can be made for punishing the respondent for committing the contempt of the court of the Civil Judge, in whose court the appeal was then pending nor can this tribunal take the cognizance of the contempt committed more than a year ago.

4. Regarding the action under section 340 Cr.P.C., we are of the view that there is no material before us to establish that the office memo dated 23.12.80 is a forged document or was manufactured illegally with a view to file the same in the judicial proceeding between the parties. The allegation of the applicant to this effect has not even ^{been} supported by ~~the~~ affidavit. On the other hand, the presumption is that official acts are performed in a regular manner. Thus in the absence of any evidence to the effect that the order dated 30.9.80 is a forged or fictitious document and such order was not actually passed on the date on which it purports to have been issued, no case for prosecuting the respondent under section 340 Cr.P.C. has been made out.

The application is accordingly rejected without any order as to costs.

31/11/87
A.M.

31/11/87
J.M.