

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD.

DATED THIS THE 08TH DAY OF APRIL 1999.

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. S. L. Jain, J.M.

Contempt Petition No. 20 of 1996
(Arising out in Original Application No. 88/1992)

1. Ahmad Ali son of Millil,
2. Sahmat Ali son of Tej Ali,
3. Hamin Ali son of Tej Ali,

All resident of village Singhpur Karauli,
Post Kavaladah, District Maharajganj.

Counsel for the applicants:- Sri Syed. Vajid Ali, Adv.

. . . Applicants.

Versus

Sri Lalit Kumar Sinha, General Manager, Northern
Eastern Railway, Gorakhpur.

Counsel for Respondents:- Sri Prashant Mathur, Adv.
Sri Lalji Sinha, Adv.

. . . Contemner/Respondent.

Order

(By Hon'ble Mr. S. Dayal, Member (A.))

This application for contempt was filed by
learned counsel for the applicants for punishing the
opposite party for contempt for disregard of judgment
dated 16.5.1995 in O.A. 88 of 1992.

2. The directions given by a Division Bench
of this Tribunal were that the respondent was to
hold enquiry into the allegations that the applicants

obtained employment in the Railways on the basis of forged working certificates within three months from the date of service of the order, after giving notice to the applicants to present their respective cases and in case it was found that the working certificates were not forged, the case for appointment/absorption of the applicants were to be considered from the date of their juniors in the panel were appointed.

3. Learned counsel for the applicants has made two contentions, the first of these is that the direction was to comply with the order within three months while the Opp. party in his own averments stated that the clerk misplaced the file and after tracing out the papers the notices could be sent to the applicants on 10.5.96 for the first time and then again on 28.5.96. The learned counsel for the applicants mentioned in this connection that the opposite party himself has admitted in the counter that the notices were received on 23.6.95. Thus the notices were issued after contempt has been committed.


4. The second contention of the learned counsel for the applicants is that for the first time the respondents took the plea in C.A. filed by Sri Lalit Kumar Sinha that the Asstt. Engineer North Eastern Railway was the appointing authority and this plea was not taken by them in any of the proceedings earlier.


5. We find from order dated 18.12.92 that the order was passed after hearing the averments made by the counsel for the opposite party. It is true that the order of discharge of opposite party dated 18.12.97

mentions that the appointing authority of the applicants is Asstt. Engineer North Eastern Railway who has not been impleaded as respondent in the contempt petition. It is also the finding that the said respondent could ^{not} be said to have any responsibility to carry out the direction given in the order passed in the O.A. It is also mentioned that the facts contained in the C.A. showed that opposite party had taken necessary steps and notices issued to the applicants and the applicants failed to appear inspite of the notices sent to them.

6. Thus the order dated 18.12.97 was passed on merits after hearing learned counsel for the opposite party.

7. It is true that learned counsel for the applicants was not present and the ordersheet shows that the learned counsel for the applicants was not able to remain present on other days also. However, since the order in this contempt petition has been ^{made} ~~made~~ after taking into account the facts contained, the only course open to the applicants was to have challenged this order in appeal. Admittedly this ~~has~~ not been done. Therefore the application for recall ~~made~~ by him can not be allowed and is dismissed as non maintainable.


Member (J.)


Member (A.)

Nafees.