

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 4<sup>th</sup> DAY OF Sept. 1997

Civil Misc. Contempt Petition no. 27 of 1996

In

Original Application No. 410 of 1992

HON.MR.JUSTICE B.C.SAKSENA,V.C.

HON.MR.S.DAS GUPTA, MEMBER(A)

Ajai Kumar, S/o Changulal, resident  
of 290, Madhwapur, City and District  
Allahabad.

.. .. Applicant

Versus

1. Sri Jitendra Tyagi,  
Sr. Divisional Engineer(I)  
Northern Railway, Divisional  
Railway Manager's office,  
Allahabad.
2. Sri Mithai Lal,  
Sr. Divisional Personnel Officer,  
Northern Railway, DRM's office  
Allahabad.
3. Sri M.N. Chopra,  
Divisional Railway Manager,  
Northern Railway,  
Allahabad.

.. .. Respondents

Alongwith

Civil Misc. Contempt Petition No. 41 of 1996

In

Original Application No. 410 of 1992

Ajai Kumar son of Chhangu Lal  
Resident of House No. 290  
Madhwapur City and District  
Allahabad.

.. .. Applicant

Versus

1. Sri jitendra tyagi,  
Sr. Divisional Engineer(I)  
Northern Railway Divisional  
Manager's office,  
Allahabad.
2. Sri Mithai Lal,  
Sr. Divisional personnel Officer  
Northern Railway DRM's Office  
Allahabad.
3. Sri M.N. Chopra,  
Divisional Railway Manager,  
Northern Railway,  
Allahabad.

.. .. Respondents

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O R D E R (Reserved)

JUSTICE B.C.SAKSENA, V.C.

These contempt petitions have been filed on the allegation that the respondents have failed to comply with the directions given in an order dated 6.5.92 passed in OA 410/92. In the operative part of the said OA it has been stated that

"the ends of justice would be met if the respondent Nos. 2,3 and 4 are directed to consider the matter of screening, absorption and regularisation of the applicant in accordance with law, keeping in view the extant rules regulations and orders in this regard by reasoned and speaking order within a period of three months from the date of receipt of copy of this order and I order accordingly."

That subsequently the applicant filed CCA No. 1574/94 in OA 410/92 alleging non-compliance and willful disobedience to carry out the directions given in the order dated 6.5.92. The said contempt petition came up for final hearing and by an order dated 1.12.94 we had passed a detailed order dismissing the contempt petition on the conclusion that the respondents cannot be said to have wilfully disobeyed to comply with the said order.

2. It is relevant to indicate that in the contempt petition the applicant had referred to another OA viz OA No. 202/89 filed by him and has also annexed copy of order dated 13.2.91 passed in the said OA. In the prayer clause and paragraph 1 of this contempt petition initially it was indicated that the respondents are guilty of wilful disobedience of the judgment and order dated 13.2.91 and

6.5.92 passed in OA 202/89 and OA 410/92. In the relief clause also disobedience of the two orders in the two OAs was indicated but reference to OA 202/89 and the date of its decision has been scored out and initialled by the learned counsel.

3. In view of this, the question that arises is whether once the review petition had been dismissed, a second contempt petition on the same facts would be maintainable, The learned counsel for the applicant was unable to indicate any good ground to persuade ~~us~~ not to hold that contempt application no. 27/96 arising in OA 410/92 is ~~not~~ barred by principles of resjudicata and the order dated 1.12.94 passed in CCA No. 1574/94 in OA 410/92 is clearly binding between the parties. The contempt petition No. 27/96 is accordingly dismissed summarily,

4. Now taking up CCA no. 41/96 it may be noted that the same has been filed on the ground of alleged wilful disobedience to comply with the order passed on 13.2.91 in OA 202/89. Copy of the said order is Annexure 2 to this contempt petition. After noting the rival contentions of the counsels for the parties the Division Bench had also noted the information furnished by the learned counsel for the respondents that the name of the applicant finds place at sl.no.6 in the Live Casual Labour Register maintained in the office of IOW/Line/Northern Railway Allahabad. The said learned counsel, it has been noted in the order passed by the Division Bench, further informed that as soon as recruitment is taken up in the unit of IOW/Line/Northern Railway, Allahabad the applicant will be absorbed on his turn. In view of the submissions made, ~~by~~ the Division Bench was of the opinion that "this claim petition can be disposed of by a direction to the Railway Administration to consider the engagement of the applicant according to the entry as mentioned in the Live Casual Labour Register in

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in the Unit IOW/Line/Northern Railway Allahabad and that he will not be superseded by any outsiders."

5. It appears that thereafter a review application no. 465/91 was filed by the applicant which was rejected by order dated 8.1.92. When this contempt petition came up for orders on the earlier dates the learned counsel for the applicant was required to indicate how cognizance can be taken in this contempt petition ~~hence~~<sup>where</sup> more than a year has lapsed and in view of the provisions of Section 20 of the Contempt of Courts Act no cognizance can be taken. The learned counsel for the applicant submitted that it is a recurring cause of action and secondly the bar of Section 20 of Contempt of Courts Act would not apply. Section 20 of the Contempt of Courts Act 1971 reads as under:

20-limitation for actions of contempt:

"No courts shall initiate any proceedings for contempt either on its own notion or otherwise after the expiry of a period of one year from the date on which the contempt is alleged to have been committed."

6. In paragraph 15 of the contempt petition the applicant has taken the plea that "since the non compliance of the judgment dated 13.2.91 and the respondents undertaking are being done on every day therefore the cause of action for this petition is occurring on each day".

On the basis of this averment the applicant seeks to plead that there is recurring cause of action and ~~th~~<sup>u</sup>s the bar of section 20 would not apply. To understand the applicability of the principle of recurring cause of action in the facts of the present case it would be relevant to determine when the act of contempt can be said to have been committed. We have already extracted hereinabove the direction given in the decision in OA 202/89. For proving wilful disobedience of the said direction it was necessary 182

that the applicant should have indicated whether any other person lower than the applicant in the Live casual labour Register maintained in the office of the IOW/Line/Northern Railway Allahabad had been considered for engagement. There is no allegation also that he has been superseded by any outsider. May be the order passed can be said to be required<sup>ing</sup> compliance when a person upto the serial number of the applicant in the Live Casual Labour Register are considered for engagement and in that sense may afford a cause of action without any specified time limit. The disobedience of the said direction would arise only when person lower in the Live Casual Labour register of the concerned unit is considered for engagement. That would be the date on which the contempt can be alleged to have been committed. In the absence of any such averments it is difficult to hold that the respondents are shown to have committed contempt and wilful disobedience of the directions.

7. Even if the contempt petition has to be entertained in the absence of any positive facts indicating wilful disobedience to comply and thus the contempt having been committed, the contempt petition deserves to be dismissed.


8. In paragraph 16 the applicant has referred to two persons viz Lal Mani and Ram Adhar. The allegations in respect to them have also been made in contempt petition no. 1574/94 arising in OA 410/92 and it was held on the basis of the service card of the aforesaid two persons that they have larger number of working days than the applicant and they have worked under PWI/SDL/FTP.

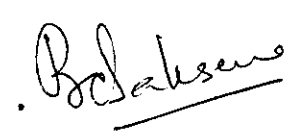
9. Having indicated the scope of concept of recurring cause of action it may be noted that Section 20 of the Contempt of Courts Act does not prescribe any limitation. it prohibits initiation of proceedings by a court. It places an embargo on the court from initiating any

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proceedings of contempt after expiry of one year from the date on which the contempt was alleged to have been committed. In the light of the conclusions hereinabove since the applicant <sup>has</sup> failed to indicate any act of contempt having been committed by the respondents the petition deserves to be dismissed. The submissions made by the learned counsel for the applicant and the decisions cited by him on the question of applicability of the Bar of Section 20 of the Contempt of Courts Act or the doctrine of recurring cause of action are not required to be considered.

10. Both the contempt petitions ~~are~~ therefore fail and are dismissed accordingly.

  
MEMBER(A)

  
VICE CHAIRMAN

Dated: 4-9-1997

Uv/