

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

C.A. 29/94
D.A. NO.: In
T.A. NO.: OA NO. 253/92

DATE OF DECISION: 3.5.95

----- Vijendra Nath Pandey & another PETITIONER(S)

----- Shri V.K. Srivastava ----- ADVOCATE FOR THE
PETITIONER

V E R S U S

----- Kuldeep Rai & another ----- RESPONDENT (S)

----- ----- ADVOCATE OF THE
RESPONDENTS

C O R A M

The Hon'ble Mr. T.L. Verma, J.M.

The Hon'ble Mr. K. Muthukumar, A.M.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether to be circulated to all other Bench ?

ND

Signature
SIGNATURE

ISH/

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

ALLAHABAD THIS THE DAY 3rd 5th of 1995.

CIVIL CONTEMPT APPLICATION No. 29 OF 1994.

IN

ORIGINAL APPLICATION NO. 253 OF 1992.

1. Vijendra Nath Pandey, S/o Jagannath Pandey,
R/o Village Rawatpur, P.O. Lar-Road,
District-Deoria.

2. Hare Krishna Yadav S/o Sri Ram Suchet Yadav,
R/o Village and post Pipra Bithal,
District-Deoria.

By Advocate Sri V.K. Srivastava:..... Applicants.

Versus

1. Kuldeep Rai Viz, General Manager,
North Eastern Railway,
Gorakhpur.

2. Bipin Nanda,
Divisional Rail Manager,
North Eastern Railway, Lahartara,
Varanasi. Respondents.

CORAM: Hon'ble Mr. T.L. Verma, MEMBER (J)
Hon'ble Mr. K. Muthukumar, MEMBER (A)

O R D E R (RESERVED)

By Hon'ble Mr. T.L. Verma, MEMBER (J)

1. This application for contempt arises
out of the order dated 13.4.1993 passed by this Bench
of the Tribunal in O.A. no. 253/92.

2. The copy of the aforesaid order was served on the respondents on 25.5.1993. This application has been filed on 8.2.1994.

3. According to Section 20 of the Contempt of Courts Act proceedings for contempt of court must initiate within one year from the date of commission of contempt. The ^{relevant} provision of Section 20 is extracted below for convenience of reference:-

"Limitation for actions for contempt— no court shall initiate proceedings 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."

4. The bare reading of the provisions Section 20 of the Contempt of Courts Act extracted above, prima facie indicate that cognisance of contempt of court can not be taken if the period of one year, from the on which contempt is alleged to have been committed has already elapsed. In the instant case, the copy of the direction issued by this Tribunal in O.A. No. 253/93¹ was served on 25.5.1993. Although, the direction issued does not contain any time limit for compliance with the direction issued in the aforesaid case but the respondents/under an obligation to comply ^{with} the same within a reasonable time, which has been fixed, by judicial pronouncement, at 6 months from the date of service of the order. In the instant case, the period of six months completed on 25.5.1994.

The learned counsel for the applicant submitted that this application was filed before the completion of the period of one year from the date of issue of the directions to the respondents, as such the action on this application can not put off on a mere technicality that since no action to initiate contempt of court

has been taken within a period of one year as prescribed Under Section 20 of the Contempt of Courts Act. In support of his argument the learned counsel was referred to the decision of the Allahabad High Court reported in 1990 ACJ Page 771 (Gorakh Nath and others Versus Ahmad Husain). We have perused the above judgment of the Allahabad High Court and we find that the same has no material bearing on the facts of the case on hand. In the case, before the High Court notices had been issued before the completion of period of one year from the alleged date of contempt but had not been served on the alleged contemnors. In the said decision of the High Court reference has been made to a decision of the Supreme Court in Mahabir Prasad Versus S.N. Mehrotra, where the Supreme Court has come to the conclusion that where notices for contempt had been issued before the period of expiry of one year, it cannot be contended that the action for contempt was barred Under Section 20 of the Contempt of Courts Act, 1971. In the case before us, although more than one year since the date of alleged contempt has passed but no action to initiate the contempt of court by issuing notice to show cause has been initiated. It is thus apparent that the decision of the Allahabad High Court relied upon by the learned counsel for the petitioner, has no application to the facts of the case before us.

5. The learned counsel for the petitioner has also placed reliance in the decision of the Supreme Court in Firm Ganpat Ram Raj Kumar Versus Kaloo and others reported in AIR 1989 SC Page 2285.

In this case, the order of eviction passed against the firm was confirmed by the Supreme Court and it was ordered that the order of eviction should not be executed for a period of six months on Firm's filing usual under-taking in the court and the order was not complied with, in as much as no such under-taking was given nor the premises was vacated by the firm. In the case, prefer to the Supreme Court, the contempt consisted of the Act of not giving the possession by force of the order of Learned Subordinate Judge, Narneul dated 3rd November 1988. It is clear from the decision of the Supreme Court in the said case that the application had been filed well within a period of one year and as failure to give possession amounted to contempt which was continuing in nature, there was no scope of Section 20 of the Act. The facts of the case before us, however, ~~are~~ altogether different and in the facts and circumstances of the case, the contempt alleged can not be said to be of the nature of continuing wrong.

6. Section 20 of the Contempt of Courts Act, as already been mentioned above, prohibits initiation of proceedings after the expiry of a period of one year from the alleged date on which the contempt is alleged to have been committed. As a corollary to that, if an application for taking action under the Contempt of Courts Act, is filed within a period of one year from the date of alleged commission of the contempt but the court has not initiated proceedings before the expiry of one year from such date, such application

automatically fails and the jurisdiction of the court is barred. This is ^{the} generally accepted position of law in regard ~~to~~ the initiation of contempt proceedings. The learned counsel for the applicant has failed to bring ^{to} our notice any decision of the Supreme Court or the other bench of this Tribunal holding a contrary view.

7. In view of the above, we find that this application for contempt of court is barred Under Section 20 of the Contempt of Courts Act and hence ^{is} dismissed at the admission stage itself.


MEMBER (A)


MEMBER (J)

ALLAHABAD: DATED:

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