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QA No. QCA No. 32/97

21-1-2000

Hon'ble Mr. S. Deyai, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

None for the applicant. Sri AK Gaur, counsel the respondents. Heard Sri AK Gaur. Order is dictated separately.

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order of removal dated 30-12-1999 passed by the disciplinary authority and the order dated 10-7-192 of the appellate authority and had declared the applicant as entitled of all consequential benefits of quashing the punishment order.

3. Since the counter affidavit in this case was filed on 21-10-1997 and no rejoinder affidavit has been filed till date and the learned counsel for the applicant has also not chosen to remain present, we do not consider postponement of hearing and take up the contempt petition.

4. We have heard learned counsel for the Opposite Parties and perused the pleadings on record.

5. The Opp. Parties have filed counter reply in which it has been mentioned that after the order was received by the Opp. Parties they had sought the opinion of Senior Law Officer, Eastern Railway, Calcutta who opined for filing Special Leave Petition (SLP). This matter was again processed in the Railway Board in consultation with the Legal Adviser who disagreed with the recommendation for filing the SLP and the Opp. Parties decided to implement the order passed by the Tribunal in the OA. The delay in implementing the order is for this reason and not unintentional according to the Opp. Parties.

6. The Opp. Parties have claimed in the counter reply that the applicant has been given all the benefits of Head Clerk togetherwith all consequential benefits which consisted of payment of Rs.1,18,941/- towards other arrears and Rs.2,958/- towards arrear of HRA. The payment of productivity link bonus is also claimed to have been arranged. As regards promotion of the applicant to the post of Office Superintendent Grade II, it is mentioned that the applicant was called in the selection but he

remained absent and submitted refusal for appearing in the written examination.

7. No rejoinder affidavit has been filed and hence the averments made by the Opp. Parties is taken as proved.

8. It is, therefore, clear that the order of the Tribunal has been complied with. The delay has been suitably explained. The contempt petition is, therefore, dismissed and notices issued are discharged.

Rafiquddin

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