

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

Dated : Allahabad the 1st ^{August} ~~June~~, 1995

C. C. A. No. 1585 of 1993
in

Original Application No. 1317 of 1992.

Hon'ble Mr. S. Das Gupta .A.M.
Hon'ble Mr. T. L. Verma, J.M.

1. N. K. Mishra s/o. S. N. Misra
R/o. 10/A , Beharipur, Premnagar, Jhansi
2. Om Dayal s/o. prabhu Dayal,
R/o. 703/A, Rani Laxmi Nagar, Jhansi.
3. shabbir Khan s/o. Kalla Khan,
r/o. 1071, Thatipur Shivajinagar, Gwalior.
4. Harish Chand s/o. Kanhaiya Lal,
r/o. 125, Dholi Piau, Mathura.
5. Kailash s/o. Gore Lal
r/o. F.263, Ambedkar Nagar Marg,
Rly. Colony, Jhansi.
6. B. N. Sharma s/o. Krishan Lal,
r/o. 105, Pratappura Nagra, Jhansi.
7. Iqbaluddin s/o. Rafiquddin
R/o. 34/2, Bade Khan, Pulia No. 9,
Jhansi. A plicants.

(By Advocate Shri V. K. Barman)

Versus

1. P. Guha, Sr. DCM, Central Railway,
Jhansi.
2. Ram Kumar Dwivedi, APO(W),
Central Rly. Jhansi.
..... Respondents.

(By Advocate Sri A. V. Srivastava & Sri P. Mathur)

(by Hon'ble T. L. Verma, Member(J))

1. In this contempt application, the applicant has alleged violation of the interim direction given by the order dated 21.12.1992 in O. A. No. 1317 of 1992. Order dated 21.12.1992 reads as follows :-

"In view of the submissions and in view of the fact that the respondents have not appeared and filed counter-affidavit, interim order and stay is granted, till the hearing of the application. In the meantime the respondents are directed to file counter-Affidavit within 4 weeks and rejoinder, if any within 2 weeks thereafter. Copy of this order be given to the counsel for the applicant, List this case on 19.2.93 for hearing/admission."

It has been alleged that inspite of the order passed by this Tribunal, the respondents have deliberately not given the work of Coach Attendent to the applicants. The respondents, it is alleged have thus, violated the order dated 21.12.1992 and thereby committed contempt of Court.

2. The respondents have resisted this application. The defence of the respondents is that the exparte interim order has been obtained by the applicants by concealing material fact and that in compliance of the interim direction of this Tribunal status-quo as on the date of the order was maintained in respect of the applicants and the applicants have been allowed to work in the capacity they were working on the date, the interim order has been passed, therefore, there being no

violation of the direction. In the alternative, it has been contended that the respondents have filed misc. application No. 565 of 1993 for vacating the interim stay order dated 21.12.1992 and the same has not yet been disposed of, so there was no question of the respondents committing breach of the directions of this Tribunal.

3. We have heard the learned counsels for the parties and gone through the record. In order to bring commission or omission within the mischief of the contempt of Court, it has to be established that the commission or omission is deliberate and intentional and that such commission or omission has been done with a view to flout the direction given by the Court/Tribunal. The substance of the direction issued by order dated 21.12.1992 is that the respondents were restrained from interfering with the applicants' work as Coach Attendent till the disposal of the application. The implication of the above direction in our opinion is that if the applicants were Coach Attendants on the date, the aforesaid order was passed, then in that case the respondents ~~the respondents~~ were not to interfere with their working as such. According to the respondents, the applicants were not working as Coach Attendent on the date, the aforesaid order was passed and that they were allowed to continue to work on the post on which they were working on the date, the aforesaid order was passed. The applicants have not been able to demonstrate by tangible material that the applicants were in fact working as Coach Attendent, on the date the aforesaid order was passed. The

applicants in para 4(viii) of the application, rather disclosed that the services of the applicants were being utilised on the post other than Coach Attendant on the date, the application was filed. That being so, we are of the view that there was no occasion for the respondents to interfere with the applicants' functioning as Coach Attendant on the date, the interim direction was issued. We are unable to read in the said direction the respondents were required to allow the applicants as Coach Attendants even though they were not working on the said posts, on the date, the interim directions were issued. In this view of the matter, we are satisfied that there is no material on the record to show that the respondents have committed breach of the directions issued by this Tribunal so as to warrant action against them under the provisions of Contempt of Courts Act.


4. In addition to the above, we find from the record that the respondents have filed misc. petition for vacating the stay order dated 21.12.1992. The aforesaid stay vacation petition was pending on the date, this contempt application was filed. So in view of the decision of the Supreme Court in State of Jammu & Kashmir Vs. Mohd. Yakub, reported in 1992 (3) Judgment Today page 278, action for breach of the direction can not be taken where application for vacating the interim order was pending for disposal on the date the contempt petition was filed. In the instant case not only a stay vacation petition was pending on the date this contempt petition was filed, the same has not

5-

so far been decided. In that view of the matter, no action for contempt of Court can be taken against the respondents.

5. For the reasons stated above, we find no-merit in the application and dismiss the same. The notices, issued to the respondents are accordingly discharged.


J.M.


A.M.

VKP/-