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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD.

Allahabad this the 23rd day of December 1994

Contempt Application no. 41 of 1994

In

Original Application no. 1008 of 1993.

B.K. Gupta, S/o Late Sri O.P. Gupta, R/o Qr. no. E/39-B  
Railway Colony Choupla, Bareilly.

... Petitioner

C/P Sri R.D. Agarwal

Versus

Sri Vinod Kumar Garg, Divisional Railway Manager, N.E. Rly  
Izzatnagar Distt. Bareilly.

... Respondents

C/R Sri A.K. Gaur

Hon'ble Mr. S. Das Gupta, Administrative Member  
Hon'ble Mr. T.L. Verma, Judicial Member.

O R D E R

(Hon'ble Mr. S. Das Gupta, Member-A)

This Contempt Application has been filed  
for alleged non compliance with the Tribunals interim  
order dated 22.09.93 passed in O.A. no. 1008/93.

2. The aforesaid O.A. was filed, challenging  
an order dated 14.06.93 passed by the respondents  
transferring the applicant, by the interim order dated  
22.09.93 the ~~same~~ order of transfer was stayed. It is  
now alleged in the contempt application before us that  
the respondents have disobeyed the ~~same~~ <sup>said</sup> direction by  
not staying the operation of the impugned order of  
transfer.

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3. In the Counter Affidavit filed by the respondents, it has been stated that the applicant was already transferred from Izzatnager to Gorakhpur by the time the interim order dated 22.09.93 was passed. Since the applicant was already spared on transfer on 21/06/93 the stay order would not be complied with by posting him back to Izzatnager.

4. The short point to be considered in this case is whether the order which had already <sup>been</sup> taken affect before the order have stayed of the same has passed can be stayed by the interim order. The Supreme Court in the case of Mulraj vs. Murti Ragunathjee Maharaj (AIR 1967, SC 386) observed that the order of stay cannot undo anything which has been done. It is utmost affect is to stop further action in <sup>the</sup> direction of execution.

5. The present case can be considered in the light of the observations of the Supreme Court in Mulraj's case. In this case the order of transfer is stayed to have been given effect on 21.06.93 it self by sparing him on transfer. Therefore, the interim order dated 22.09.93 could not have ~~done~~ done what had already been done. viz the transfer of the applicant from Izzatnager to Gorakhpur. The applicant has stated in the Rejoinder Affidavit that he had not been relieved from his headquarter after handing over charge. The respondents, however, in their Counter Affidavit stated that the applicant has been spared on 21.06.93 itself.

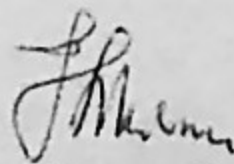
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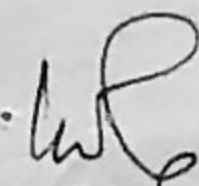
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We have no reason to <sup>disbelieve</sup> ~~disobedience~~ the statement of the respondents. While, <sup>therefore</sup> ~~thereafter~~, the question ~~is~~ as to whether the transfer order itself was unlawful shall be decided after finally hearing the matter in O.A. no. 1008/93, We find no ~~irrefutable~~ <sup>irrefutable</sup> evidence of any wilful or deliberate disobedience to the Tribunal's interim order dated 22.09.93.

6. The contempt petition is, therefore, dismissed.  
The notices already issued are discharged.

  
Member-J

  
Member-A

/pc/