(6)

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

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Allahabad : Dated this 29th day of March, 2000

Contempt Petition No. 78 of 1998
In
Original Application No.646 of 1994

District : Varanasi

CORAM :-

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

Hon'ble Mr. Rafiquddin, J.M.

Bishwanath Prasad Tiwari,
S/o Late Sri Brij Narain Tiwari,
R/o C-30/38-B, Maldahia,
Varanasi.

(Sri M.M. Sahai, Advocate)

. . . . Applicant

Versus

1. Union of India through the
General Manager,
Sri S.N. Pandey, N.E.Railway,
Gorakhpur.

2. Smt. Sneh Bijalani,
The Financial Advisor and Chief Accounts Officer,
N.E.Railway, Gorakhpur.

3. Sri Ram Deo, Chief Personnel Officer,
N.E.Railway, Gorakhpur.

4. Sri N.P. Srivastava,
General Manager,
Railway Electrification,
Allahabad.

(Sri A.V. Srivastava, Advocate)

. . . .Opp. Parties

ORDER

By Hon'ble Mr. S. Dayal, A.M.

This contempt petition has been filed for the alleged wilful disobedience of the direction given in the order dated 24-10-1997 in O.A. No.646 of 1994.

2. The directions were given to the applicant to refund the amount of bonus being the Government's contribution to the Provident Fund alongwith the

interest under the instant rules and also as provided in the letter dated 8-7-1997. The applicant was also held entitled to be treated as Pension Optee and to be allowed penson as per extant rules alongwith interest @ 12%. The applicant has claimed that he was sent a consolidated cheque dated 3-8-1992 for an amount of Rs.2,54,699/- and no details of amount have been furnished to him.

3. The Opp. Parties have filed counter reply to which learned counsel for the applicant takes objection as the same was notfiled by the Contemner in this case but the General Manager N.E.R/F.A. Gorakhpur, C.P.O, Gorakhpur and General Manager Allahabad. The contentio of the learned counsel for the applicant that the Opp. Parties did not file the counter affidavit, does not appear to have been correct as one of the r esponden$ has filed counter reply and has stated that he is filing it on behalf of Opp. Parties no.1, 2 and 3. Learned counsel for the applicant now seeks time to file rejoinder affidavit on the ground that he was not given any time earlier o file the same but we find that each time learned counsel for the ~~applicant~~ respondent was allowed more time to file the CA, the learned counsel for the applicant was also given specific time to file RA which has notbeen done so far.

4. We find from the Annexure-CA-2 dated 7-7-1999 that the details of statement of amount due to the applicant have been worked out and after taking the amount on account of bonus and surcharge, Rs. 280959/- was paid by Cheque No.374060 dated 6-7-1999. The details of amountdue and recovery to be made from the applicant are contained in this letter.

5. At this stage learned counsel for the applicant again raises the issue of filing a rejoinder affidavit on the ground that counter affidavit has been filed later alongwith a MA for delay condonation, which has not been allowed. Once we have started dictating order, the application

should ~~have been~~ be deemed to ~~be~~ have been allowed. If the learned counsel for the applicant wanted to bring it to our notice, he should have brought it before we started dictating orders.

5. There is no elementof delay in passing the order of payments. Learned counsel for the Opp. Parties has brought to our attention Annexure-1 of the counter affidavit dated 7-6-1999 in which the Railway Board as a special case has decided that arrears of pension due to Sri B.P. Tewari will be worked out after deducting the amount due to him and the balance amount should be paid to him as arrears of pension. Since the applicant was seeking a special dispensation which was not in accordance with the normal rules of the procedure, we accept the explanation offered for delay.

6. We find that there is no deliberate disobedience of the order and dismiss the contempt petition and discharge the notices issued to the Opp. Parties.

Member (J) Member (A)

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