

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

A L L A H A B A D

DATED: THIS THE 7<sup>th</sup> DAY OF JUNE 1996

C. C. A. No. 204 of 1994

IN

ORIGINAL APPLICATION NO. 425 OF 1993

CORAM : HON'BLE MR. S.DAS GUPTA. A.M.

HON'BLE MR. T. LAL VERMA. J.M.

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Ram Lakhan son of late Ram Jiawan,  
Meth, gang no.40, working under P.W.I.  
Northern Railway Kanpur at Fatehpur.  
r/o village Dhumal Lodhan Ka Purwa,  
P.O.Kanwar, Tahsil Sirathu, Allahabad.

-----Applicant

C/A Sri D. P. Singh

VERSUS

1. Assistant Engineer, Northern Railway,  
Fatehpur.

2. Public Works Inspector (P.W.I.),  
Northern Railway, Fatehpur.

Shri G.M. Pan.

----- Respondents

C/R Sri S. N. Gaur.

ORDER

By Hon'ble Mr. S.Das Gupta A.M.

W/o

This document is for

ORDER

By Hon'ble Mr. S. Das Gupta. A.M.

This contempt application was filed, alleging non-compliance of the direction contained in the order dated 14.7.1994 by which O.A.No.425/93 was disposed of at the admission stage itself.

2. In the aforesaid O.A., applicant had challenged the order placing him under suspension. It was alleged therein that no enquiry had yet been ordered and the applicant was not being paid subsistence allowance since the date of his suspension. Application was disposed of in limine, without calling for a reply from the respondents with the following direction.

" In the facts and circumstances of the case, we direct the respondents to order appropriate inquiry and bring the proceedings to a conclusion in a time bound manner, within a period, not exceeding 6 months from the date of communication of this order. The applicant must also cooperate with the inquiry so that the same can be brought to expeditious conclusion. The applicant shall also be paid the subsistence allowance as per rule and if the same has not yet been paid, we direct the respondents that the subsistence allowance be paid within arrears of one month from the date of communication of this order and thereafter continued to be paid regularly in accordance with the rules. "

3. The applicant has alleged that copy of the order dated 14.7.1994 was communicated to the Opposite party no.1 and also to Opposite party no.2 personally by the applicant, but they have not so far paid the subsistence allowance to the applicant, which was directed by the Tribunal to be paid to him. They have thus intentionally disobeyed the order of the Tribunal, the applicant alleged. In separate C.As

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filed by both the Opposite parties, it was submitted that suspension was revoked by the order dated 19.2.93, which the applicant refused to accept and in proof of such refusal, signatures of two witnesses were taken. (annexure RA 1 and 2). It has, <sup>further</sup> ~~however~~, been stated that the I.O.W(Fatehpur) was appointed as the Inquiry Officer on 1.5.1993 to initiate disciplinary action against the applicant. The Inquiry Officer issued several letters to the applicant to appear and participate in the inquiry, but the applicant did not respond to these letters. Whereabout of the applicant was also not known as he remained absent with effect from 26.7.1994. Only after ex-parte proceeding <sup>v. Day Thakened, he</sup> appeared on 3.8.1994 and gave in writing that he needs no defence helper and would defend his case personally. Thereafter, taking a lenient view, major penalty ~~of~~ charge sheet was changed into the charge sheet of minor penalty and the applicant was asked to submit ~~afresh~~ representation on 10.8.1994. Representation of the applicant was received on 6.9.1994 and the order imposing penalty was communicated to the applicant by letter dated 21.9.1994. Thus the disciplinary proceedings were concluded on 21.9.1994, which is well within the time granted by the Tribunal by its order dated 14.7.1994. Moreover the subsistence allowance with effect from 2.1.1993 till 19.2.1993 had already been paid to the applicant. Question of payment of subsistence allowance <sup>beyond</sup> ~~for~~ that period did not arise as the suspension was revoked with effect from 19.2.1993 and thereafter the applicant deliberately absented himself from duty. It was submitted that the respondents have thus fully complied with the direction of the Tribunal. It was further submitted that for his un-authorised absence since 20.2.1993, another disciplinary proceeding had been initiated against him. In the C.A. of respondent no.2, it has also been stated that the applicant was found guilty of charge of unauthorised absence and penalty of removal from service with effect from 10.4.1995 was imposed.

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4. The applicant has filed rejoinder in which he has reiterated the contentions made in the contempt application. He has denied the contention of the respondents that the suspension was actually revoked. He has alleged that the documents at annexure <sup>RA-1 and</sup> RA-2 and also the order of revocation of suspension at annexure RA-3 to the CA are fabricated. It is also alleged that the Inquiry officer was appointed on 1.5.1993, applicant was never informed that the suspension order was revoked. He has asserted that he never absented himself from the inquiry nor the Inquiry officer proceeded ex-parte against him. Therefore, the applicant would be deemed to be present throughout and cannot be held to be unauthorisedly absent.

5. From the averments in the C.A., it would appear that the suspension of the applicant was revoked by an order dated 19.2.1993, copy of which is annexed as R-3 to the CA filed by the respondent no.1. Annexure RA-1 and RA-2 to this CA would indicate that the applicant refused to accept the order, revoking the suspension. It was also the allegation of the respondents that despite revocation of the suspension order, the applicant was not attending his duties and remained absent unauthorisedly. For this alleged misconduct, he was also charge sheeted and finally removed from service. Although the applicant has disputed the fact of revocation of the suspension, he has <sup>not</sup> denied the fact that he was charge sheeted for unauthorised absence and the penalty of removal from service had been imposed on him. There is thus <sup>a</sup> dispute of the fact as to whether the suspension was actually revoked and the order of revocation was communicated to the applicant or not. However, the adjudication of this fact would have a bearing on the subsequent disciplinary action against the applicant, which has resulted in his removal from service. It appears that the applicant had already filed an appeal against the order and therefore, we do not see any reason to enter into this dispute at this stage.

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6. The ~~subsequent~~<sup>specific</sup> direction of the Tribunal was that the applicant should be given subsistence allowance and also that the disciplinary proceedings should be brought to a conclusion within a specified period. It is clear from the averments that the disciplinary proceedings were concluded and penalty imposed within the time specified in the Tribunal's order. It is also clear that the applicant was paid subsistence allowance for the period 2.1.1993 till 19.2.1993. As already pointed out by us, whether or not the suspension was actually revoked by the order 19.2.1993 and whether the same was served on the applicant are the questions which cannot be gone into<sup>in</sup> this contempt application.

7. In view of the foregoing, we see no reason to proceed further with the contempt proceedings. Contempt application is, therefore, dismissed. Notices issued are discharged.

*J. M.*  
J.M.

*A. M.*  
A.M.

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