

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD

Allahabad this the 26th day of Feb, 1997

Coram

Hon'ble Dr. R.K. Saxena, Judicial Member

Hon'ble Mr. D.S. Baweja, Administrative Member

Contempt Petition No. 62/95

in

Original Application No. 63/1995

1. Bhartia Dak Karmachari Sangh Class III
through its Divisional Secretray
Shri R.D.Singh Yadava
S/O Late Budh Ram Yadava, working as Postal
Assistant at Katchery H.P.O. Allahabad.
2. Ram Ji Yadava S/O Shri Baij Nath Yadava
working as Outsider Postman in Speed Post
Counter at H.P.O. Allahabad.

.....Applicants

Versus

1. Shri Vishnu Swaroop Saxena,
Chief Post Master General, Lacknow.
2. Shri Shyamdhari,
Senior Superintendent of Post Offices
Allahabad.
3. Shri Ashutosh Kumar Tripathi
Director Postal Services,
Allahabad Region, Allahabad.

.....Opposite Parties

Appearance

1. Shri Anand Kumar Advocate For the applicants.
2. Shri N.B. Singh Advocate For the opposite parties.

Judgment

By Hon'ble Dr. R.K. Saxena, J.M.

This contempt petition has been filed with the prayer that opposite parties did not comply with the directions which were given by the Tribunal on 27.1.95 in the O.A. 63/95 Bhartiya Dak Karmachari Sangh Class III through its Divisional Secretary and another vs. Union of India and others; and thus they should be punished. It appears that on 27.1.95 when the case was listed for admission, it was admitted and as regards the interim relief the following relevant part of the order was passed:-

"We, therefore, order that the last six selected candidates of general category shall not be appointed till the next date of hearing of this matter."

2. The case of the applicants is that despite the order passed by the Tribunal and the opposite parties being intimated, the appointments as disclosed in annexure-3 were made. Hence this application for initiating contempt proceedings.

3. All the three opposite parties have filed their separate counter-affidavits. The opposite parties no. 1 and 3 have stated that they were not concerned with the case, and no contempt was committed by them. The O.P. no. 3 denied to have received any representation. They, however, tender unqualified apology if they are deemed to have committed contempt in any manner.

4. The O.P.no.2 filed the reply by saying that the orders were issued on 27.1.95 whereas the stay order was received in his office on 31.1.95. It is further averred that the orders of appointment were issued on 27.1.95 but when the stay order was received in the office on 31.1.95, the last six candidates who had qualified, were not allowed to join their new assignment. The applicant himself stated in rejoinder that the copy of stay order was sent to the respondents on 27.1.95 night city Post Office. If it is so, it is not possible that the copy of the stay order may reach the hands of O.Ps. on 27.1.95 when the offices closed at 6-00 p.m. The O.P.no.2 stated that it was Saturday and Sunday on 28.1.95 and 29.1.95 and thus the offices of the respondents remained closed on those two dates also. The earliest possibility of service of the copy of stay order may be on 30.1.95. There is no cogent evidence to conclude that the order shown to have been passed on 27.1.95, was actually passed on subsequent date and was ante-dated.

5. The main elements in the contempt proceedings are whether there had been any wilful disobedience of the order of the court of Tribunal. The facts as have emerged in the pleadings, squarely indicate that the order of appointment was issued on 27.1.95. The Tribunal, no doubt passed the order on 27.1.95- the copy of which was sent by registered post in the night of 27.1.95, could be served on 31.1.95 or at the most on 30.1.95. It leads to the conclusion that O.P. no.2 in special and all others

in general had no knowledge of the stay order till 31.1.95 or 30.1.95. The bonafides of the O.P.no.2 can be ascertained from the fact that no doubt the order of appointment was issued on 27.1.95 but soon after the stay order came to its notice, last six persons were not allowed to resume duties of the posts assigned to them.

6. In the result, we find that no contempt of the Tribunal is established against the opposite parties. The proceedings are, therefore, dropped and notices discharged.

sd
(D. S. Baweja)
Administrative
Member

sd
(Dr. R. K. Saxena)
Judicial Member

/M. M./

Typed and compared.

Chatter

12.3.01