

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Civil Contempt Application No. 17 of 1999
in
Original Application No. 1160 of 1996

Dated : this the 18th day of September, 2003

Hon'ble Mr. Justice R.R.K.Trivedi, V.C.
Hon'ble Mr. D.R.Tiwari, Member (A)

- 1- Akhil Bhartiya Shoshit Karmchari Sangh,
through its Secretary Shri M.K.Chaturvedi,
r/o 291 - B, Krishna Nagar, Izat Nagar, Bareilly,
- 2- Shashi Bhushan Pathak s/o Late Siya Ram Pathak,
Guard Grade - A r/o 660 Siklapur, Bareilly,

.....Applicants

Counsel for the Applicants : Shri T.S.Pandey

Versus

- 1- V.K.Agarwal, Chairman, Railway Board,
Rail Bhawan, New Delhi. - 110001.
- 2- Ram Prakash, Executive Director,
SC/ST Cell, Railway Board, Railw Bhawan,
New Delhi - 110001.
- 3- Som Nath Pandey, General Manager,
North Eastern Railway, Gorakhpur.
- 4- Prem Chandra Sharma, Divisional Railway Manager,
Northern Railway, Moradabad Division, Moradabad.
- 5- Vijay Kumar Bhargava, Divisional Railway Manager,
North Eastern Railway, Izat Nagar, Bareilly.

.....Respondents.

Counsel for the Respondents. : Shri V.K.Goel &
Shri P.Mathur.

O R D E R (Oral)

By Hon'ble Mr. Justice R.R.K.Trivedi, V.C.

We have heard Shri T.S.Pandey, learned counsel for the
applicant and Shri V.K.Goel, learned counsel for the respondents.

2- By this application filed under section 17 of Administrative Tribunals Act, 1985, applicant has prayed to punish respondents Nos.1 to 5 for committing contempt of this Tribunal by wilful disobedience of the order dated 28.8.1998 passed in O.A. No.1160 of 1996. The direction of the Tribunal was as under :-

"...in the result, as the decision is in operation since 10.02.1995, the order in question is passed on 3.1.96, the impugned order dated 3.1.1996 is quashed and respondents No.1 to 7 are directed to consider the applicant No.2 for promotion to the post of Guard Mail/Express and restructure the entire seniority List of Izzatnagar Division cadre - Guard in view of the Judgment of the Apex Court with effect from 10.2.1995 with no order as to costs"

3- The respondents filed a counter affidavit on 03.07.1999 stating that applicant No.2 has been granted promotion w.e.f. 3.1.1996. Shri K.C. Saxena, applicant No.2 had already retired on 30.09.1997. Shri K.C. Saxena has not filed this Contempt Application. Contempt Application has been filed by Akhil Bhartiya Soshit Karmachari Sangh through its Secretary Shri M.K. Chaturvedi and one Shri Shashi Bhushan Pathak. Though applicant No.1 was party in the O.A., Shri S.B. Pathak was not party. It is clear from the operative part of the order dated 28.8.1998 that benefit of the order was to be given to the applicant No.2 i.e..K.C. Saxena. He is not before us. He has not raised any grievance with regard to the compliance of the order.

4. Shri T.S. Pandey, learned counsel for the applicant, however, submitted that applicant No.1, Akhil Bhartiya Soshit Karmachari Sangh was applicant No.1 in the O.A. and this association could file contempt application pointing out to the Tribunal about non-compliance of the order with regard to seniority.

5. In this respect, learned counsel for the respondents



Shri V.K. Goel has invited our attention towards the affidavit filed by one Shri Ram Kamal annexing fresh seniority list dated 01.04.2002. In para 3 of the affidavit, it has been stated that this seniority list has been prepared by re-structuring in respect of 5 grades of Passenger and Goods Guards as directed by this Tribunal vide order dated 28.8.1998. The learned counsel for the applicant has raised objection with regard to the affidavit filed by Ram Kamal and has submitted that affidavit filed by Ram Kamal, who is serving as A.P.O., N.E. Railway, Izzatnagar, Division Izzatnagar is not admissible and proper as he is not party in the contempt application. In the same way he has challenged the affidavit of Sukhbir Singh, Senior Personnel Officer, N.E. Railway, Izzatnagar, Bareilly. However, we are not impressed by the objection raised by the applicant's counsel. Shri Ram Kamal and Shri Sukhbir Singh are Senior Officers in the N.E. Railway and they could come to the Tribunal to point out about compliance of the order. The affidavit is required to be filed by the party for answering ^{charges} ~~authority~~. There is no prohibition in law that other officers cannot come to file affidavit to correct and explain their stand.

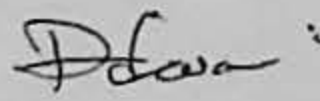
6. For these reasons, we are of the view that this application at the instance of the present applicants ^{is} ~~is~~ not maintainable as they are not aggrieved persons.


^a In the seniority list 01.04.2002, ⁱⁿ ~~in which~~ it has been provided that any person aggrieved may file objection within one month. Thus, all the members of the association applicant No.1 could raise objection against the seniority list and request the authorities to redress their grievances. We do not find ^{any justification} ~~any ground~~ for raising these issues, by applicant No.1 by filing this Contempt Application. By order dated 05.12.2000 notice was discharged so far as respondent No.4 is concerned and

by order dated 11.09.2002 notice was discharged with regard to respondent Nos. 1 and 2. Presently only respondents No.3 and 5 are before us.

7. In our opinion it will not in the interest of justice to continue this application at the instance of the applicants against respondents No.3 and 5. The application is accordingly dismissed. Notices are discharged. However, it is made clear that it will be open to the aggrieved persons to raise their grievance with regard to non-compliance of the order, if they are so advised.

8. There will be no order as to costs.


Member-A.


Vice-Chairman.

Brijesh/-