

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 10TH DAY OF NOVEMBER, 2000

Civil Contempt Application No.47 of 1999

In

Original Application No.655 of 1999

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.DAYAL, MEMBER(A)

1. Ishrar Navi khan aged about 43 years
s/o late Sri Safi Mohammad Khan
R/o 265-A, New Model railway
Colony, izat Nagar, bareilly.
2. ABKHIL bharatiya Shosit Karmchari Sangh
Through Mithilesh Kumar Chaturvedi
a/a 40 years, S/o Sri H.P.Chaturvedi
R/o 291-B, Krishna Nagar,
Izat Nagar, Bareilly.

.. Applicant

(By Adv: Shri T.S.Pandey)

Versus

1. Shri V.K.Agrawal, Chairman and Ex-Officio
Secretary, Govt. of India, Ministry
of Railways, rail Bhawan, New Delhi-110 011
2. Shri Som nath Pandey, General Manager
North Eastern Railway, Gorakhpur.
3. Shri Ram Deo Chief Personnel Officer
North Eastern Railway, Gorakhpur.
4. Shri Vijai Kumar Bhargava, Divisional
Railway Manager, North Eastern
Railway, Izat Nagar, Bareilly.
5. Shri Shailendra Kumar, Senior Divisional
personnel Officer, North Eastern Railway
Izat Nagar, bareilly.

.. Respondents.

(By ADV: Shri V.K.Goel)

ORDER

(By Hon.Mr.Justice R.R.K.Trivedi,V.C.)

By M.A. 3787/2000 the applicant has prayed that D.R.M,N.E.Railway
and Senior D.P.O North Eastern Railway, Izat Nagar Bareilly may be

restrained from functioning in their official capacity. reliance has been placed by the learned counsel on the interim order of Hon'ble High Court dated 9.5.2000 in writ petition No.21896/2000. On perusal of the order and the facts of the present case, in our opinion no such direction is necessary. The Misc. application is rejected.

We have heard counsel for the parties on merits of this contempt application. This Tribunal by order dated 3.6.1999 passed in OA No.2522/99 gave following directionsxxxxxxxxxx

"Under these circumstances, we direct that the respondents shall finalise the seniority in consonance with the circulars of the Railway Board dated 21.8.1997 and 15.5.1998 applicable on today before considering persons from Feeder cadre for promotion."

In para 1 of the application applicant has himself stated that the seniority list has been issued but it is in defiance of the direction of this Tribunal as well as circular letters dated 21.8.1997 and 15.5.1998 of the Railway board.


learned counsel for the applicant has submitted that the seniority list issued is not in consonance with the Railway board's circulars which shall amount to contempt for which respondents may be punished. We have carefully considered this aspect of the matter. However, in our opinion, if the order has been complied with, even by passing a wrong order it will not amount to contempt as defined in Contempt of Courts Act 1971. A person can be punished for committing contempt of court only when it is established that he has willfully disobeyed the order or direction. There may be mistakes in exercise of the power but even a mistaken order may be passed in exercise of the power in good faith, in our opinion such an in-depth inquiry about the legality and illegality of the seniority list issued by the respondents cannot be gone into these proceedings u/s 17 of the Act. If the applicant is ^{aggrieved} ~~agreed~~ he may challenge the seniority list as well as the order of promotion to the post of Chief

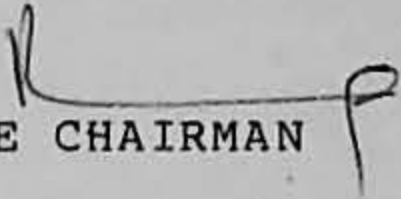
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Office Superintendent in original side by making amendment in the OA or by filing fresh application, as advised.

The contempt application is accordingly rejected. Notices are discharged. There will be no order as to costs.


MEMBER(A)


VICE CHAIRMAN

Dated: 10.11.2000

Uv/