

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Contempt Application No. 64 of 1999

In
Original Application No. 92 of 1998

Allahabad this the 22nd day of August, 2002

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Maj Gen K.K. Srivastava, A.M.

Laloo Prasad Tripathi S/o Late Ram Vishal Tripathi
r/o 450 Ganga Nagar Colony, Mohalla Sadipur, District
Fatehpur.

Applicant

By Advocate Shri P.K. Misra

Versus

1. Sri Sabbir Ahmed, Chief General Manager,
Communication(East) UP Circle, MPG Building
Hazratganj, Lucknow.
2. Sri Banwari Lal, Telecom Divisional Engineer,
Raibareilly, District Raibareli.
3. Sri Shiva Shankar Sachan, Telecom Divisional
Engineer, Fatehpur, District Fatehpur.
4. Sri A.B. Jauhar, Sub Divisional Officer,
Telegraph) Fatehpur, District Fatehpur.
5. Secretary, Ministry of Communication Sanchar
Bhawan, Parliament Street, New Delhi, New
Delhi (110001).

Respondents

By Advocate Shri Amit Sthalekar

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:: 2 ::

O R D E R (Oral)

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

By this application under Section 17 of the Administrative Tribunals Act, 1985 the applicant has prayed to punish the respondents for committing contempt of this Tribunal by wilful disobedience of the order dated 25.09.98 passed in O.A.No.92 of 1998. The direction given by this Tribunal in the aforesaid order was as under:-

"In the result, the O.A. is allowed to the following effect:-

(a) Order passed by respondent no.2 Annexure-1 dated 18.12.87 "UKT KARAMCHARI KA MUSTER ROLL SE NAM NAM ABHILAMB HA TAYA JAI ANNYATHA ZUMMEDARI APKI HOGI" is quashed.

(b) The respondents to verify from their record within three months from the date of receipt of the order, whether the applicant has worked for 240 days in a year till 1.10.89 and the scheme annexure A-1 is applicable to him. In case the said scheme is applicable to him provide all benefits arising from the scheme to the applicant.

(c) Pay cost of the litigation amounting to Rs.650/- (Rs.500/- as legal practitioner's fee and Rs.150/- as other expenses) within three months from the date of the receipt of the order."

2. There is no dispute ~~xxx~~ that directions contained in sub paras(a) and (c) have been complied with. The dispute is only with regard to directions contained in sub para(b). Shri P. K. Misra, learned counsel for the applicant has submitted that the applicant had ["]~~completed he had~~ worked for 240 days

:: 3 ::

in a year till 01.10.1989 and was entitled for being conferred the temporary status under the scheme w.e.f. 01.10.89. The respondents have deliberately denied the benefit under the scheme to the applicant. The reliance has been placed in the Judgment of Hon'ble Supreme Court in the case of Mohan Lal Vs. Management of M/s Bharat Electronics Limited A.I.R. 1981 S.C.1253. Sri Amit Sthalekar, learned counsel for the respondents on the other hand submitted that the directions contained in para-15(b) has also been complied with. The respondents calculated and found that the applicant had worked 240 days till 01.10.89 but he has not worked continuously for a year as required under the scheme. Hence he was not entitled for the benefit. The reliance has been placed by Sri Sthalekar on a Full Bench Judgment (Chandigarh Bench) of this Tribunal in the case of Bhuri Singh and another Vs. Union of India and Others reported in A.T. Full Bench Judgment 1997-2001 page 376. It is submitted that the respondents have not committed contempt of this Tribunal.

3. We have carefully considered the submissions of the counsel for the parties. A copy of the scheme has been filed as annexure C.A.-4. Paragraph 5(1) of the Scheme reads as under:-

5. Temporary status

(1) Temporary status would be conferred on all the casual labourers currently employed and who have rendered a continuous service of atleast one year out of which

:: 4 ::

they must have been engaged on work for a period of 240 days(206 days in the case of offices observing five days week) such casual labourers will be designated as Temporary Mazdoor."

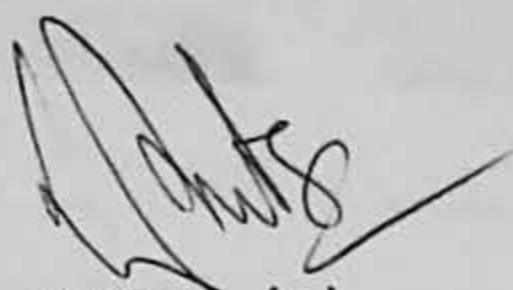
The respondents have also filed a chart showing the working days of the applicant from the year 1993 upto 1999 as annexure C.A.-3. A perusal of it shows that the applicant was on medical leave for the months of April, 1988 to December, 1988. Thereafter he resumed work from January, 1989. In a month of October, 1989 he worked for 31 days. The question for consideration is about the period of absence of the applicant on medical leave, whether the applicant shall be treated continuing in the service or he shall be treated as absent. In our opinion, if he was granted medical leave on account of some ailment, he cannot be treated absent from duty, and normally he shall be treated as continuing in service though not working. This aspect of the matter has not been considered by the respondents while considering the applicability of the scheme under the order of the Tribunal in respect of the applicant.

4. In our opinion, direction is required to the respondents to re-consider this matter in the light of observation made above. The contempt application is accordingly disposed of with the direction to the respondents topg.5/-

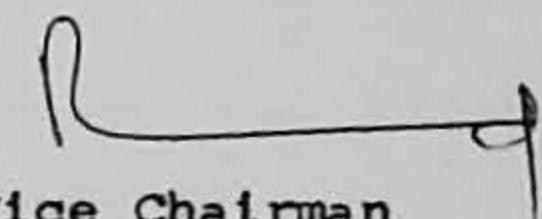


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re-consider the claim of the applicant in the light of the observations made above and pass fresh order within 3 months and if the scheme is found applicable in the case of the applicant he shall be given benefit by the respondents. There will be no order as to costs.



Member (A)



Vice Chairman

/M.M./