

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 9TH DAY OF JANUARY, 2002

Civil Contempt Application No.68 of 2000

In

Original Application No.581 of 1998

CORAM:

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

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

Sanjay Kumar Saxena, Son of
Shri K.S.Saxena, R/o 205
K/L-9, 'Anandpuram', Kasaria
Road, Chakia, Allahabad
(Near Kasaria Road Post Office)

... Petitioner

(By Adv: Shri K.S.Saxena)

Versus

Shri Sukhbir Singh,
Divisional railway manager
Northern Railway,
Allahabad.

... Respondent

(By Adv: Shri B.B.Paul)

O R D E R(Oral)

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

By this contempt application u/s 17 of A.T.Act 1985, the applicant has prayed that the respondents may be punished for committing contempt of this Tribunal for wilfully disobeying the order dated 25.10.1999 passed in OA No.581/98. The direction given by this Tribunal was as under:

"The impugned orders dated 22.4.98 terminating the services of the applicants are, therefore set aside. The applicants are directed to be re-engaged within a month as casual labour having temporary status and be given CPC scale in Group 'D' category.

The respondentss are also directed to regularise their services in Group 'D' as and when vacancies arise if persons junior to them as casual labour have not been regularised so far after 26.2.92. If any casual labour junior to them has been regularised, they shall be regularised in group 'D' from the ~~date~~¹ date of regularisation of their juniors. They shall, however, not be entitled to any back wages as well as cost of the application."

Shri B.B.Paul learned counsel for the respondents has invited our attention towards the letter dated 14.12.2000 filed alongwith ~~the~~¹ counter reply by which applicant was offered to join as casual labour/Porter in group 'D' post. He was required to appear in the office by 24.12.2000 alongwith the documents mentioned in the order. The applicant, however, it appears, did not respond to this order. It is submitted by the learned counsel for the respondents that the order has been complied with and there is no question of any contempt of this Tribunal.

Shri K.S.Saxena learned counsel for the applicant, on the other hand, submitted that it was not necessary for the applicant to appear before the respondents in pursuance of this order dated 14.12.2000 as the offer of engagement was ~~not~~¹ in terms of the order of this Tribunal. The objection against the order, according to learned counsel for the applicant, is that it does not speak that the applicant shall be paid CPC scale. It is also submitted that no conditions could be put while offering the re-engagement but the respondents has said that this appointment shall be subject to decision of Hon'ble High court in writ petition No.1605/2000 which is pending consideration. Learned counsel has placed reliance in a judgement of Hon'ble Supreme Court in case of 'Daya Ram Singh Vs. R.K.Thakkar and another 1999 SCC(L&S) 1076.

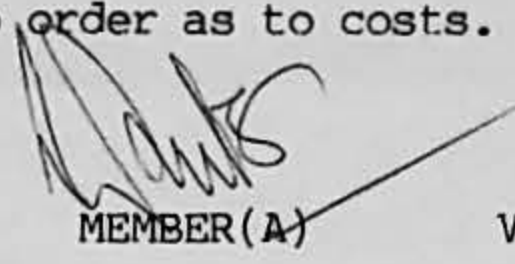
We have carefully considered the submissions of the counsel for the parties. In our opinion, in the facts and circumstances of the case it is difficult to say that respondent has wilfully disobeyed the direction given by this Tribunal. The direction is clear that the applicant was entitled to be immediately re-engaged as casual labour with temporary status and was entitled to get CPC scale in group 'D' category. The non mentioning of the fact that applicant will have temporary status and he shall be paid CPC scale cannot be of any consequence. The order of this Tribunal is very clear. The learned counsel has submitted that if the applicant had joined in pursuance of this order he would have been paid ordinary wages of a casual labour and not CPC scale. The order does not say anything about the payment. In the circumstances, it is not proper on the part of the applicant ~~would~~ have such apprehension that he will be paid some other scale than provided specifically in the order.

The second submission of the counsel for the applicant is that the appointment had been made subject to judgement of Hon'ble High court in writ petition pending consideration. It is submitted that the applicant is not party to this petition and this condition was unwarranted. In our opinion, for this fact only the applicant could not have shown reluctance in joining, if he was really keen to join the post. The writ petition is still pending and has not been decided. The applicant could make an application before the respondents that this condition will not be applicable to him as he is not party in the writ petition and order passed in his favour has become final but nothing has been done by the applicant which may show that he has ^{any} inclination to join in pursuance of the order dated 14.12.2000. The Judgement of Hon'ble Supreme court is clearly distinguishable as it has been given entirely in different set of facts. The judgement does not help the applicant in any way. At the end, the learned counsel for the applicant has submitted that the applicant may be given opportunity to join on the basis of the order dated 14.12.2000. Shri B.B.Paul learned counsel for the respondents

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has no objection if the applicant is given time to join on the basis of the order dated 14.12.2000. The applicant is thus given liberty to report before the respondent, D.R.M., Northern Railway, together with documents mentioned in the order and shall offer himself for joining the post within six weeks from today. The respondents shall allow the applicant to join in pursuance of the order.

Subject to aforesaid, this application is disposed of. Notices are discharged. No order as to costs.


MEMBER (A)


VICE CHAIRMAN

Dated: 09.1.2002

Uv/