

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 07TH DAY OF AUGUST, 2001

Contempt Application No.81 of 2000

In

Original Application No. 437 of 1998

CORAM:

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

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

Veer Chandra Rai, S/o Dev Kumar Rai  
R/o 190/F Baulia Railway Colony  
Gorakhpur.

... Applicant

(By Adv: Shri M.K.Sharma)

Versus

1. Vinod Kumar Garg  
General Manager, North  
Eastern Railway, Gorakhpur.
2. Kamal Kishore Agrawal  
Chief Commercial Manager,  
North Eastern Railway  
Gorakhpur.

...Opp.Parties

(By Adv: Shri Umesh Sharma)

O R D E R(Oral)

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

We have heard Shri M.K.Sharma counsel for the applicant and Shri Umesh Sharma and Shri Prashant Mathur learned counsel for the respondents.

This contempt application u/s 17 of A.T.Act 1985 is for punishing respondents for committing contempt of this Tribunal by not <sup>implementing</sup> ~~impleading~~ the order dated 28.10.1999 passed in OA 437/98. The direction given was to the following effect.

"..... the respondents are directed to consider the case of the applicants in terms of the judgment within a period of three months from the date of communication of the order. There shall be no order as to costs."

The judgment referred to is the order dated 28.10.1999



The judgement referred to in the aforesaid operative portion was the judgement of Hon'ble Supreme court in case of 'Union of India and Others Vs. Belal Ahmed and Others. The respondents challenged the order of this Tribunal before Hon'ble High court. The writ petition no.48243/2000<sup>was</sup> however dismissed on 6.11.2000. After dismissal of the writ petition on 6.11.2000 respondent no.2 Chief Commercial Manager passed a detailed and reasoned order on 24.11.2000. for not accepting the claim of the applicant. The substantial reason given is that Hon'ble Supreme Court by order dated 18.11.1998 passed in civil appeal no.5000/94 'Union of India and Ors Vs. Om Vir Singh, discussed its earlier judgment dated 27.7.1995 in Belal Ahmed's case (supra) and held as under:-

"..... on the date when the respondent was ~~ceased~~ engaged as a Volunteer Ticket Collector and when he ceased to be in service there was already an existing Scheme for ~~collectors~~ regularisation and absorption of Volunteer Ticket Collectors in force. This scheme ceased to operate only on 17.11.86. Under the said scheme, it is provided that Volunteer Ticket Collectors could be considered for absorption in regular employment after they complete three years of service. the respondent was not eligible for absorption under the said scheme since he had not completed three years of service when he was dis-engaged In view thereof, he was not entitled either for being re-engaged or for being regularised after re-engagement....."






Following the judgment of Hon'ble Supreme Court respondent no.2 has taken the view that as applicant does not satisfy the two conditions provided by Hon'ble Supreme court he cannot be absorbed on regular basis and the claim has been rejected.

Now the question is whether it can be said that respondents have willfully disobeyed the order of this Tribunal. Learned counsel for the applicant has submitted that as this Tribunal directed respondents to decide the claim in terms of the judgment of 'Belal Ahmed's case which was binding and subsequent judgement of Hon'ble Supreme court could not change the position.

We have considered this aspect carefully, however, we do not agree with the view expressed by the learned counsel. This Tribunal left it to the respondents to pass the order in terms of the judgement of Hon'ble Supreme Court. If before order could be passed Hon'ble Supreme court change its view and it has been followed by the respondents it may be termed illegal or not proper but it is difficult to say that they have willfully disobeyed the order. In the circumstances, it may be a bonafide exercise according to the understanding of the legal position arising out of the ~~few~~ judgements of Hon'ble Supreme court. It is difficult to accept that it may amount to willful disobedience of the order.

In the circumstances no case for contempt is made out. The contempt application is dismissed. Notices are discharged. No order as to costs.

  
MEMBER (A)

  
VICE CHAIRMAN

Dated: 07.8.2001