

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 13th day of December 2001

Contempt Application no. 134 of 2000

in

Original Application no. 1094 of 2000.

Hon'ble Mr. Justice RRK Trivedi, Vice-Chairman
Hon'ble Maj Gen K.K. Srivastava, Administrative Member

1. Syed Irshad Hussain,
S/o late Sri SZ Hussain,
General Fitter.
2. Shri Bans Narain Ram,
S/o Shri Ambika Ram,
Overseer Shift I/c.
3. Shri Asgar Hussain,
S/o Sri Ali Hussain,
Working as Foreman.
4. Shri Pyarey Mohan,
S/o late Shri Jeet Lal,
Electric Mechanic.
5. Shri Ram Kishun Ram,
S/o Shri Mukh Ram,
presently serving as Mechanic.
6. Shri Ram Janam,
S/o Shri Durga,
presently Working as Boiller Attendant.
7. Shri Barku Ram,
S/o Late Shri Sahdev Ram,
presently working as General Fitter.
8. Shri Ramu Ram, S/o Sri Sita Ram,
presently working as Factory Asstt. Foreman.

All applicanta are presently serving on the respective posts mentioned above with the respondent no. 1 (Agovt. of India under taking). Ghazipur (UP).

... Applicants

By Adv : Sri AK Dave

... 2/-

VERSUS

1. Shri Prem Chandra, General Manager,
Govt. Opium & Alkaloid Works
(A govt. of India Undertaking)
Ghazipur (UP)
2. Mr. Binayak Dass Gupta, Manager,
Govt. Opium & Alkaloid Works,
(A Govt. of India Undertaking)
Ghazipur (UP).

... Respondents

By Adv : KM Sadhana Srivastava.

ORDER

Hon'ble Mr. Justice RRK Trivedi, VC.

By this contempt application under section 17 of the A.T. Act, 1985, the applicants have prayed that the respondents be punished for committing contempt of this Tribunal as they have not obeyed the interim order dated 28.09.2000 passed in Diary No. 4575 of 2000.

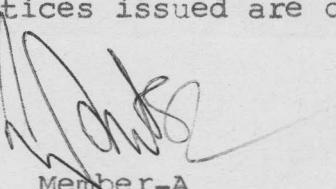
2. The ~~disputed~~ facts are that the order passed by this Tribunal was served on respondent no. 1 on 29.09.2000. By that time the salary bills were already prepared and the amount directed by order dated 17.12.1999 was deducted. The amount was paid and it was accepted without any objection by eight out of ten applicants. However, it is ~~not~~ disputed fact that from the month of October all the applicants have been receiving full amounts of salary and deduction ~~directed~~ was kept in ~~since~~ ^{obeyance} as directed by this Tribunal. The salary is normally paid to General Govt. Employees on the last day of the month. The order was passed on 28.09.2000, it was communicated to the higher authorities on 29.09.2000 in the Afternoon. In the circumstances it would not be possible to give effect to the order in respect of the salaries paid in the month of September and this aspect has been explained in para 11 of the counter affidavit.

3. Sri A.K. Dave, learned counsel for the applicant however, submitted that even if the deduction of the amount could not be prevented, as the order was passed by this Tribunal the amount should have been returned to the applicants. However, there is no such direction in the order dated 28.9.2000 that amount if deducted shall be given back to the applicants, such order shall be passed only on the final conclusion of the O.A. From the month of October the order has been followed.

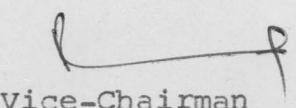
4. In the circumstances we are of the opinion that the breach of the order is notwithstanding any malafide so far as the payment in the month of September is concerned.

5. Sri A.K. Dave, also raised objection that the notices was issued by this Tribunal to respondent no. 1 and 2 namely Shri Prem Chandra, General Manager & Shri Binayak Dass Gupta, Manager, however, the counter affidavit has been filed by Shri S.K. Singh, presently posted as Manager and officiating as General Manager. It is submitted that the counter affidavit should be filed by the contemner himself. Shri Dave, has also placed reliance on the judgment of Calcutta High Court, in case of Samarendra Kumar Mukherjee Vs. K.M. Lal & others, 1991 C.R.L.J. 246. The legal position as stated by the learned counsel for the applicant cannot be disputed that normally the counter affidavit should be filed by the contemner himself, but in the present case since there is no dispute about the facts it does not appear necessary to direct the respondents to file counter affidavit.

6. For the reasons stated above the contempt petition is dismissed. Notices issued are discharged. No order as to costs.



Member-A



Vice-Chairman