

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 19TH DAY OF MAY, 2003

Civil Contempt Application No.116 of 2002

Original Application No.1178 of 1999

CORAM:

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

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

M.A. 1050/03 is for staying the proceedings and to dismiss the CCA in view of the writ petition pending before Hon'ble High court. Reliance has been placed on the judgment of Hon'ble Supreme Court dated 20.8.01 passed in S.L.P(Crl) No.2253/00 'Ram Awadh Singh Vs Lalji Yadav and Ors.

The counsel for the respondents, on the other hand, submitted that the judgment of Hon'ble Supreme court relied on by counsel for applicant is not applicable in the present case as it was a case arising out of criminal proceedings and Hon'ble Supreme court passed the order in exercise of its jurisdiction under Article 142 of the Constitution of India. It is submitted that Hon'ble Supreme Court has given detailed judgment in a case of 'Suresh Chandra Poddar Vs Dhani Ram and Ors 2002(1) AWC 377 (SC). In para 11 whereof, Hon'ble Supreme Court has observed as under:-

"Even if appellant had not implemented the order and if the appellant had brought to the notice of the Tribunal that the order of the Tribunal is under challenge before the High court under Article 226 of the Constitution of India (the course which has been judicially recognised by a seven Judge Bench of this court in 'L.Chandra Kumar V.Union of India and Others,(1997) 3 SCC 261, the Tribunal should have been slow to proceed against the party in a contempt action.

Of course, it can be said that no stay was granted by the court when the appellant moved the Division Bench of the High court under Article 226 of the Constitution. Not granting the stay by itself is not enough to speed up proceedings against a person in contempt because the very order is yet to become final. At any rate, the Tribunal should have directed the appellant to implement the direction. In the absence of the stay order from the High court, within a time-frame fixed by it. We would have appreciated if the Tribunal had done so and then considered whether action should be taken in the event of the non implementation of the order after the expiry of the said time frame."

We have considered the submissions made by counsel for parties. In our opinion, the judgment of Hon'ble Supreme court in case of 'Suresh Chandra Poddar(Supra) is applicable to the facts of the present case. In view of the pendency of the writ petition before Hon'ble High court and in view of the fact that no interim order has been passed so far, respondents are entitled for one more opportunity to comply with the order. Considering the facts and circumstances and the delay already involved, we direct the respondents to comply with the order of this Tribunal dated 29.11.01 passed in OA No. 1178/99 within three months from the date of receipt of the copy of this order by counsel for respondents. M.A.1050/03 is disposed of. List for further orders on 1.9.03.


MEMBER(A)


VICE CHAIRMAN

CCA 116/02 in
OA 1178/99

01.09.2003

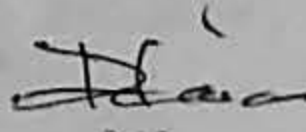
Hon. Mr. Justice RRK Trivedi, VC
Hon. Mr. D.R. Tiwari, AM

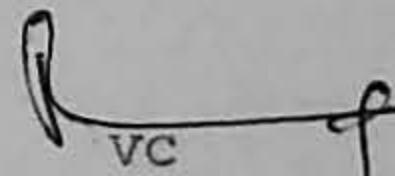
Sri S.S. Sharma, learned counsel for the applicant and Sri A.K. Gaur, learned counsel for the respondents are present.

By order dated 19.05.2003, respondent no. 2 was given a fresh opportunity to comply with the order of this Tribunal dated 29.11.2002 passed in OA no. 117 of 1999. However, the order has not been complied with nor any explanation has been filed. In the circumstances, we have no option but to proceed with the case further.

List this case on 06.10.2003 for framing charges against respondent no. 2. However, it shall be open to respondents to comply with order during this period.

Copy of this order be given to learned counsel for the respondents within 02 days.


AM


VC

/pc/

Recd Copy of
Order dated 1-9-03
R.N. Bhatnagar
AKG
4/9/03

CC P No. 116/02

in

OANo. 1178/99

06-10-03

Hon'ble Mr. Justice R.R.K. Tripathi, V.C.


Hon'ble Mr. D.R. Tiwari, A.M.

We have heard Sri S.S. Sharma counsel
for the applicant and Sri A.K. Gaur
counsel for the respondents.

Order dictated, typed separately.



A.M.


V.C.

Merr

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Civil Contempt Application No.116 of 2002

in

Original Application No.1178 of 1999

Monday, this the 6th day of October, 2003

Hon'ble Mr. Justice R.R.K.Trivedi, V.C.
Hon'ble Mr. D.R.Tiwari, A.M.

Imlak Ahmad,
S/o Shri Saeed Ahmad,
aged about 41 years,
resident of 343,
Rani Mandi, Allahabad .

.....Applicant.

(By Advocate : Shri S.S.Sharma)

Versus

1. Shri V.K.Kaul,
Chief Administrative Officer/Construction,
Northern Railway, Kashmere Gate,
Delhi -6.
2. Shri Dalbir Singh,
The then Dy. Chief Engineer/Construction,
N. Railway, Allahabad at present
The Dy. Chief Engineer/Construction/Planning,
Northern Railway, Kashmere Gate,
Delhi -6.

.....Respondents.

(By Advocate : Shri A.K.Gaur)

ORDER (ORAL)

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

We have heard Shri S.S.Sharma, learned counsel
for the applicant and Shri A.K.Gaur, learned counsel
for the respondents.

2. By order dated 01.09.2003, respondent No.2 was
required to appear inperson for framing charges, liberty

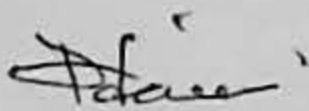


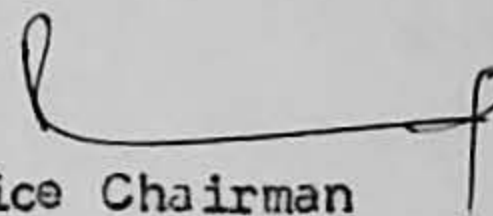
..... 2.

was also given to comply with the order ^{at during} ~~from~~ this period. Shri A.K.Gaur has filed Civil Misc. Application No.3715 of 2003 alongwith affidavit saying that the order of this Tribunal has been complied with. To corroborate the aforesaid submission, copy of the order dated 25.09.2003 has been filed. After perusal of the order and after hearing counsel for the parties, in our opinion, the order has been complied with. If applicant has any grievance, he may raise before appropriate forum.

3. For the reasons stated above, the Contempt Application is rejected. Notices are discharged.

No order as to costs.


Member-A


Vice Chairman

Manish/-