

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Misc. Application No. 245 of 2008

IN

CONTEMPT APPLICATION NO. 13 OF 2002

IN

ORIGINAL APPLICATION NO. 117 OF 1998.

ALLAHABAD THIS THE 26TH DAY OF MAY 2008.

Hon'ble Mr. Ashok S. Karamadi, Member (J)

Hon'ble Mr. K.S. Menon, Member (A)

Sant Raj Tripathi, S/o Sri Shiv Sharan Tripathi,

R/o Village Bheeti Tiwari, P.O. Khowaipur, District Gorakhpur.

.....Applicant

(By Advocate: Shri Bashist Tiwari)

Versus.

1. Ajai Kumar Srivastava, Divisional Rail Manager (P), N.E. Railway, Varanasi.
2. Pradeep Kumar Gupta, Divisional Rail Manager, N.E. Railway, Varanasi.

.....Respondents

(By Advocate: Shri K.P Singh)

ORDER

By Mr. Ashok S. Karamadi, Member (J)

This M.A. No. 245/08 is filed to proceed the contempt proceedings which are stayed by the order dated 10.09.2002. Learned counsel for the applicant submits that even though the Hon'ble High Court has passed the interim order in the writ petition No. 27981 of 2002 dated 23.7.2002. He further submits that the application for vacating the interim order was filed on 26.2.2002. Since the said application which was filed by the applicant is pending and no order was passed on this application by the Hon'ble High Court, therefore, he submits that automatically there is no interim order and as such the contempt proceedings shall be continued.

2. Learned counsel for the respondents submits that interim stay granted by the Hon'ble High Court in the writ petition is until further



orders, since writ petition is pending, this application is not maintainable.

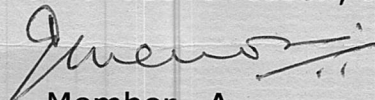
3. We have heard the parties counsel. It is an admitted fact that order dated 12.4.2001 was passed in the O.A. is the subject matter, pending before the Hon'ble High Court in the writ petition NO. 27981 of 2002. The Hon'ble High Court by order dated 23.7.2002 "the operation of the order dated 12.4.2001 passed in O.A. NO. 117/1998 and also further proceedings in contempt petition NO. 13/02 before the Central Administrative Tribunal, Allahabad shall remain stayed until further orders of this Court".

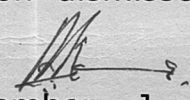
4. In view of this order, the Tribunal by order dated 10.9.2002 after hearing the learned counsel for the parties passed the order adjourning the contempt petition Sine die and further it is stated that once the orders of the Hon'ble High Court at Allahabad are given, the learned counsel for the applicant will file M.A. Accordingly, contempt petition to be adjourned sine die. These two orders are abundantly made clear that the interim order passed by the Hon'ble High Court is until further order staying the operation of order passed by the Tribunal. Based on that submission made by learned counsel for the applicant, order dated 10.9.2002 was passed, if that is so there is no reason for the applicant's counsel to make this application in absence of any specific order by the Hon'ble High Court either vacating or modifying the interim order. Basing on the submission, application was filed on 26.2.2004, the same was not disposed of by the Hon'ble High Court and it means that automatically there is no interim order as contended by the learned counsel for the applicant cannot be accepted, therefore, in absence of any direction or any order passed by the Hon'ble High Court, this application cannot be maintained and accordingly the same is rejected. However, learned counsel for the applicant has relied upon the decision of Committee of Management of Shri Maheswari Inter College and others Vs. State of U.P and others reported in (1994) 1 UPLBEC 63. In para 18 of the said decision, it is clearly stated that while considering the case for granting interim injunction the matter if it is continuing without vacating the interim



order. Hon'ble High Court has observed that taking the same case whether the automatically interim order gets vacated on the application made by the learned counsel for the application. Learned counsel for the applicant also relied upon the decision which was passed under Article 226 of the Constitution of India. Both the decisions relied upon by the learned counsel for the applicant are not applicable to the facts of the present case. We do not find any assistance on the decision, which is relied upon by the learned counsel for the applicant.

5. In view of above reason, the Misc. Application dismissed.


Member - A


Member - J

Manish/-