

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

CIVIL CONTEMPT PETITION NO.249 OF 2002

IN

ORIGINAL APPLICATION NO.1566 OF 1994
ALLAHABAD THIS THE 23RD DAY OF MARCH,2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J
HON'BLE MR. S. C. CHAUBE, MEMBER-A

Shyam Bahadur Singh,
Son of Shri Suraj Pal Singh,
R/o 319/E, G.R.P. Colony,
Leader Road, Allahabad.Applicant
(By Advocate Shri A.B.L.Srivastava)

Versus

Shri Mathew John,
Divisional Railway Manager,
Northern Railway, Allahabad Division,
Allahabad.Respondents
(By Advocate Shri A. K. Gaur)

ORDER

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

This contempt petition has been filed for wilful dis-obedience of the order of this Tribunal passed on 13.03.2002 in O.A. No.1566/94. By the said order following directions were given to the respondents:-

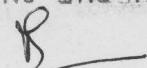
"The applicant shall be again trade tested for the post of Driver within a period of three months from the date a copy of this order is filed before respondent no.2 and if the applicant qualifies the trade test he shall be promoted as Driver. The respondent no.2 shall also examine his claim for payment for the period he has worked as Driver. The period shall be calculated on the basis of the documents produced by the applicant and possessed by the respondents. Then the applicant shall be paid the amount for which he shall be entitled on the basis of the Extant Rules



of the Railways. This exercise shall also be done within the same period of three months."

2. It is submitted by the applicant that after the orders were passed by this Tribunal applicant was trade tested on 07.08.2001 and was declared successful under memo dated 24.09.2002 yet the vacancy, which occurred on 30.09.2002 on retirement of Shri Lalta Prasad, instead of promoting the applicant, respondents transferred one Shri Ishrar Ahmad, Vehicle Driver from Kanpur to Allahabad in order to accommodate him, accordingly applicant was made to work as Call Man. They have thus, committed wilful dis-obedience of the Tribunal's order. He has further submitted that applicant has worked as Driver from 16.07.1987 to 15.10.1994 and from February 2000 to September 2002 apart from overtime duties but yet he has been paid only an amount of Rs.31,988/- in September 2002 that to without furnishing the details of the period for which the amount has been paid to the applicant.

3. Respondents have filed their CA to explain that as far as Shri Lalta Prasad is concerned the Electrical Loco shed Ghaziabad of / and Kanpur were bifurcated in the year 1997 and the Administrative control was handed over to the Delhi Division of Northern Railway and a policy was also formulated wherein it was decided that the staff will remain posted at the same station and the surplus staff will be redeployed against future vacancies. Similarly the cadre of Motor Vehicle Driver in RSD Department which also has a combined seniority and had more staff than the sanctioned strength, till the retirement of Lalta Prasad the surplus Vehicle Drivers could not be redeployed/adjusted against existing vacancies. Therefore, on retirement of Shri Lalta Prasad another Vehicle Driver Shri Israr Ahmad was transferred from Kanpur to Allahabad in administrative interest. This ~~offer~~ is however, objected to by the applicant who has stated



categorically that Shri Israr Ahmad was transferred from Kanpur to Allahabad on his own request and was not a surplus staff. He has thus, filed an application for production of records to see as to how Shri Israr Ahmad was transferred from Kanpur to Allahabad. They have further submitted that an amount of Rs.31,988/- is given to the applicant for working as Vehicle Driver as per directions of the Tribunal but they have not received any representation from the applicant. This part again is controverted by the applicant as he has shown to us ^{which} the representation dated 18.11.2002/ was duly received in the office of Senior Division Accounts Officer (Page 17). Subsequently respondents filed Supplementary counter affidavit and submitted that competent authority has accorded approval to promote the applicant against the direct recruitment quota against the vacancy available and he has also been issued an information to this effect that he has been posted under Senior Divisional Engineer (Carriage and Wagon), department Allahabad vide order dated 31.10.2003. They have annexed order dated 15.09.2003 and 31.10.2003. Perusal of the order dated 15.09.2003 shows that after the approval was granted by the competent authority applicant was advised to report to OS/EM-II Section of P. Branch DRM's Office/NC-Rly./ALD for his posting orders (Page 10), whereas by a subsequent order dated 31.10.2003 applicant ~~was~~ asked to give his options within the stipulated period otherwise the same shall be fixed from the date of his promotion. It is seen that both these orders are not marked to the applicant. However, since applicant has not disputed that he ~~has~~ received these orders, we have to take it that these orders have been communicated to the applicant, therefore, applicant has already been promoted as Motor Vehicle Driver u.e.f. 15.10.2003. Counsel for the applicant however, submitted that even though these orders have been passed but till dated



he has not been given actual effect of these orders as he is still being paid @ 3215/- as per calculation even in December 2003 which was being paid to him in September 2003 i.e. before the promotion order. He has annexed the pay slips alongwith his affidavit. We do not understand as to why applicant's pay has not been fixed so far in the new scale if he is said to have been promoted as Motor Vehicle Driver w.e.f. 15.10.2003 as per respondents own orders. In fact in the order dated 31.10.2003 it was made clear that in case applicant does not give his option within one month for fixation of his pay, his pay shall be fixed from the date he has been given his promotion. Therefore, it was incumbent on the part of respondents to have fixed his pay w.e.f. 15.10.2003 in the next scale as per their own order dated 31.10.2003 or at least from Jan,2004, if there was some valid difficulty for the department we, therefore, now direct the respondents to fix his pay in the post of Motor Vehicle Driver w.e.f. 15.10.2003 and to pay him all the arrears alongwith due drawn statement within a period of two months from the date of receipt of a copy of this order. Similarly respondents are also directed to give him the details with regard to the payments which has been made to him after the judgment given by this Tribunal for the amount of Rs.31,988/- so that applicant may check up whether he has been given the correct amount or not.

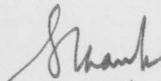
4. As far as applicant's claim in the contempt petition that he should have been promoted w.e.f. 1987, we only want to say that in contempt petition we cannot go beyond the scope of the main judgment. In the main judgment dated 13.03.2002 this court had specifically directed that applicant shall be again trade tested for the post of Driver within a

period



of three months from the date a copy of this order is filed before respondents and in case applicant qualifies the trade test he ^{should be} / promoted as Driver. Since no direction was given by the court to promote the applicant with ^{it} retrospective date we cannot add/in the main judgment. ~~where~~ The plain reading of the judgment shows that the promotion had to be given prospectively, therefore, applicant's contention that he should have been promoted ~~w.e.f.~~ an earlier date, is rejected.

5. In view of the above discussion, we find that nothing more survives in the contempt petition. Accordingly this contempt petition is dismissed and the notices are discharged.


Member-A


Member-B


/Neelam/