

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

THURSDAY, THIS THE 26TH DAY OF SEPTEMBER, 2002

C.C.P. NO.99 OF 2002 IN O.A. NO. 239 OF 2001

HON. MR. S. DAYAL, MEMBER-A

HON. MR. A.K.BHATNAGAR, MEMBER-J

Shishir Kumar,
s/o Shri Shambhu Prasad Sharma,
r/o Railway Quarter No. R.E.11(J),
R.E. Colony, North Eastern Railway,
Mathura Cantt. Mathura- 281001.

....Applicant.

(By Advocate:-Shri Saumitra Singh)

Versus

1. Shri Om Prakash,
General Manager,
North Eastern Railway,
P.O. Rly, Col, Gorakhpur.
2. Shri Vijay Prakash Pathak,
Additional Divisional Rly. Manager,
North Eastern Rly, Izzatnagar,
Dist. Bareilly (U.P.)
3. Shri Manoj Kumar Sharma,
Divisional Commercial Manager,
North Eastern Railway, Izzatnagar,
District Bareilly (U.P.).
4. Shri Roop Ram Pippal,
Station Superintendent,
North Eastern Railway,
Mathura- 281001 (U.P.).
5. Shri Somra Tirkey,
Divisional Commercial Inspector,
North Eastern Railway,
Mathura Cantt.
Mathura-281001 (U.P.)

....Respondents

(By Advocate:- Shri K.P.Singh)

O R D E R

HON.
HON. MR. S. DAYAL, MEMBER-A

The applicant had filed this contempt for wilful dis-obedience of the order passed in O.A 239/01 dated 4-4-02. The following direction was given in the order:-

" We therefore, set aside the order of disciplinary authority dated 10-8-2000 and appellate authority dated 23-1-2001. The applicant shall be reinstated immediately on receipt of a copy of this order by the respondents. The respondents may hold the enquiry denovo from the stage of furnishing of copies of two documents asked for by the applicant by his letter dated 14.5.99 and appointment of enquiry officer,

The respondents shall take care not to appoint Sri B.M. Saxena as an enquiry officer in this case."

2. The respondents have filed a counter reply claiming that the order has been complied with. He has filed a copy of order dated 18-9-2002 by which the applicant has been reinstated as Senior Commercial Clerk in the scale of Rs. 4000-6000 at Oljhani Station, It is also mentioned in the order that the regularisation of the period during which the applicant remain out of service, shall be done after the D.A.R. Enquiry is completed.
3. Learned counsel for the respondent has also stated that the respondents have undertaken to comply with the remaining part of the order regarding furnishing of copies of two documents^{and 1} for non-appointment of sh.B.M. Saxena as Enquiry Officer.
4. Learned counsel for the applicant claims that the order is not complied with because the applicant should have been paid the entire backwages as both the order of punishment as well as order of Appellate Authority have been set aside.
5. In claiming backwages, the learned counsel for the applicant has chosen to rely upon 1999 edition of Volume II of Fundamental Rules and Supplementary Rule as edited by Dr. S.K. Awasthi chapter III of this volume is regarding Central Government Rules and Orders. Part 10 of Chapter III is regarding Discipline Rules. Sub Part 2 is on reinstatement and item 3 of this sub part require proportionate pay and allowances to be paid in cases where earlier order is set aside on the ground of non-compliance with Article 311 of the constitution. Item 1 of this sub part require the reinstating authority

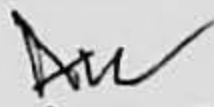
give a specific decision on treatment of period of suspension upto reinstatement. The respondents have stated in reinstatement under that regularisation of period from 10-8-2000 till the date of resumption of charge shall be done after completion of DAR proceedings. In view of the fact that the respondents have been allowed to hold enquiry *denovo*, the order passed by the respondents cannot be treated as amounting to contempt.


6. The learned counsel for applicant has chosen to rely upon *S S Shetty Vs Bharat Nidhi Ltd 1986(5) ELJ 118 SC* and *Sudhakar Baburao Bodke Vs State of Maharashtra and Others in Writ petition no 2516 of 1984 decided on 4-6-90*. Since in these cases there was no question of *denovo* proceedings after reinstatement the *ration decidendi* of these cases does not confer any right on the applicant to be granted a similar treatment. The case of *Dayaram Dayal Vs State of MP and another (1997)7SCC 443* is also not applicable for the same reason. The reliance on these cases does not lend any help to the applicant's case for contempt.

7. The contempt proceedings are, therefore, dropped. The notices issued to the respondents are discharged

No order as to costs.

madhu/


Member-J


Member -A