

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

C.C.P. 203 of 2003

IN

O.A. 807 of 1999

Dated: This the 4th day of November, 2004

HON'BLE MR. A.K.BHATNAGAR, J.M.
HON'BLE MRS.ROLI SRIVASTAVA,A.M.

Rameshwar Prasad,
S/o Sri Ganaur Prasad,
Shunting Jamadar,
North Eastern Railway,
Varanasi City.

....Applicant.

By Adv. : Shri Satish Mandhyan

VERSUS

1. Shri C.P.Verma,
Divisional Railway Manager,
North Eastern Railway,
Varanasi.
2. Shri Ajai Kumar Srivastava,
Divisional Railway Manager(P),
North Eastern Railway,
Varanasi.

.....Respondents.

By Adv. : S/Shri K.P.Singh, A.K.Gaur

O R D E R

By Hon'ble Mr. A.K.Bhatnagar, J.M.

This contempt petition, no.203 of 2003, has been filed for wilful and deliberate disobedience of the order of this Tribunal dated 03.06.2003 passed in O.A.No. 807 of 1999, Rameshwar Prasad Vs. Union of India and Others in which the following order was passed:

....pg 2/-

" For the reasons stated above, the O.A. is allowed. The order dated 21.01.1999(Annexure-1) is quashed. The respondents are ~~directed~~ to grant him promotion as Guard on proforma basis from the date Shri Ajai Kumar Mishra was promoted. The seniority of the applicant will be fixed as per rules."

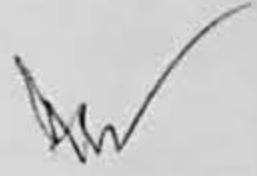
2. The certified copy of the judgment passed in O.A. 807 of 1999 was sent to the respondents through registered post on 09.06.2003. The postal receipts in support of photocopy of the registered receipts are filed as Annexure-7. Finally applicant sent representation on 09.09.2003 to D.R.M.(P), N.E.Railway, Varanasi to implement the judgment of the Tribunal, which has been duly received in his office on 10.9.2003. Even then the respondents have not complied with the order of this Tribunal and given his dues only for mala fide reason. On 25.11.2003 notices were issued to show cause as to why they should not be punished for committing contempt of this Tribunal. On 29.4.2004 respondents were granted six weeks time to bring stay order from the Hon'ble High Court or comply with the direction given by the Tribunal. On 09.09.2004 following order was passed:

"List on 11.10.2004, on which date respondents shall appear in person to answer the charge of contempt. Accordingly notices be issued to the respondents alongwith a copy of this order."

fixed for 07.10.04 on making
This contempt petition has been ~~mentioned~~ by the respondents'
Thereafter
counsel on 05.10.2004. the case was ordered to be put up
on the next date as already fixed i.e. 11.10.2004

along with M.A.No.4463/2004 with a prayer to exempt for personal appearance on 09.09.2004 of alleged ~~contemner~~^e/respondent along with an affidavit. M.A.No. 4464/04 has been filed by the respondents^{counsel} with a prayer to dismiss the contempt petition and discharge the notice issued against respondents alongwith Annexure-1 i.e. compliance report dated 30.9.2004. Counsel for the applicant, Shri Satish Mahdhan, Shri K.P.Singh and Shri A.K.Gaur counsel for the respondents alongwith Shri C.P.Verma, Chief Signal and Telecom Engineer, R.E.Allahabad and respondent no.2 i.e. A.K.Srivastava, Senior D.P.O., N.E.Railway, Varanasi made personal appearance and filed M.As., and C.As. which are taken on record.

3. Learned counsel for the respondents submitted that ~~respondents submitted that~~ the respondents have not at all wilfully disobeyed the order and direction of this Tribunal or any other Court of law which is sacred and sacrosanct and tendered unconditional apology in case the Tribunal comes to the conclusion that respondents wilfully disobeyed the order and direction of the Tribunal. Learned counsel for the respondents further submitted that earlier an affidavit has been filed in this Tribunal ~~that~~^{the} order dated 03.6.2003, passed by the Tribunal, has been complied/ ^{with} by the respondents subject to out come of the Writ Petition No.54485 of 2003. But the said Writ Petition has been dismissed by the Hon'ble High Court on 08.10.2004. The Respondents have decided to implement the judgment without there being any condition. The delay in implementation of the order of the Tribunal has been due to filing of the writ petition in the Hon'ble High Court. as averred in the Short Counter under para 5. The respondents have also regretted for the delay caused.



4. Learned counsel for the applicant has filed Counter Affidavits dated 10.10.2004 and 11.10.2004 which are taken on record ~~xxxx~~ and submitted that it is a clear cut case of contempt of the judgment of this Tribunal for which it is prayed that exemplary punishment be inflicted so that the same prove to be deterrent for any such recurrence of wilful disobedience of the order of the Court of Law.

5. We have heard counsel for the parties and perused the records available before us. We have also gone through the Short Counter Affidavit filed by the ~~respondents~~ dated 11.10.2004 and Annexure C.A.-1 filed by the respondents in compliance of the order of this Tribunal. As averred in para 5 of the Affidavit filed along with M.A.No. 4464/2004, it has been clearly stated by the respondents that the order passed by this Tribunal has been complied with by Competent Authority vide order dated 30.9.2004 (Annexure-1) and we are satisfied that the orders passed in O.A.No.807/1999 have been duly complied with.

6. We would like to make it clear that the Contempt is always between the Court and the Contemner. The Hon'ble Supreme Court has repeatedly held that in the matter of Contempt, the Court should proceed very cautiously and carefully. We are aware that the Hon'ble Supreme Court in the case of S.C.Poddar Vs. Dhaniram reported in 2002(2) ATJ 77 has held that the Contempt jurisdiction is to be exercised sparingly and in very deserving case only and not casually. The Court has further expected from the Courts to show judicial grace and magnanimity in dealing with the action for contempt.

and circumstances

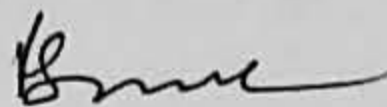
7. In view of the facts of the present case and in the light of the observations made in the judgment of the Hon'ble Supreme Court we are of the view that due compliance of the order of the Central Administrative Tribunal in O.A. No. 807/1999 has been made, therefore, no case of Contempt is made out. The Contempt Petition is dismissed

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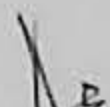
and notices issued to the respondents are discharged.

If the applicant is still aggrieved he may ^{take} legal recourse open to him.

8. There will be no order as to costs.



Member(A)



Member(J)

Brijesh/-