

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 821 of 2003
alongwith

Original Application No. 1333 of 2002(D) &
Original Application No. 1566 of 2001(D)

Allahabad, this the 13th Day of August, 2003,

HON'BLE MAJ GEN KK SRIVASTAVA, MEMBER A
HON'BLE MRS. MEERA CHHIBBER, MEMBER J

1. Subhash Chand Sharma, son of Sri Tota Ram, working as YKC under Chief Inspector ticket (CIT), Central Railway Agra.
 2. Prem Pal Singh, son of Hamvir Singh, working as YKC under Chief Inspector Ticket (CIT) Central Railway, Agra.
-Applicants.
(By Advocate : Shri Markanday Rai) 'absent'

Versus

1. Union of India, through General Manager, North Central Railway, Allahabad.
2. Divisional Rail Manager, North Central Railway, Agra Cantt.
3. Divisional Traffic Manager, North Central Railway, Agra Cantt.
4. Chief Ticket Inspector, North Central Railway, Agra Cantt.

....Respondents.

(By Advocate : Shri A.K.Gaur)

ORDER (ORAL)

BY HON'BLE MRS. MEERA CHHIBBER, MEMBER J

2. we are deciding this case on merit under rule 15(1) of CAT procedure rules
2. By this O.A. applicant has sought the following 1987
relief(s) :

- " (a) to issue an order or direction of a suitable nature quashing the impugned order dated 30-06-2003 passed by respondent no.4 Chief Ticket Inspector, North Central Railway Agra Cantt.
- (b) to issue an order or direction of a suitable nature directing the respondents not to interfere in discharging and functioning of the duties of the applicants.
- (c) to issue any other direction as the applicants are entitled in law.
- (d) to award cost of the application to the applicants. "

3. Applicant's counsel had relied on ~~the~~ interim orders already passed by this Tribunal in two O.A.s filed by ^{him 12} earlier one order dated 27.12.2001 in O.A.No. 1566 of 2001 and ^{wd} order dated 18.11.2002 in O.A.No. 1333 of 2001. It was specifically stated by the applicant in para 4.11 of the O.A. that the stay granted by this Tribunal on 18.11.2002 ^{is 12} still operating, therefore, taking the statement made by the applicant's counsel as true, this Tribunal had directed the respondents to maintain status quo with regard to the applicant vide order dated 25.7.2003. On the next date i.e. on 11.8.2003 counsel for the respondents submitted before the court that stay has been taken by the applicant by suppressing certain material facts. The file could not be placed before the Court in time and had come only in the ^{Accordingly} later part of the day. It was felt appropriate to ~~the~~ list the case on 12.8.2003.

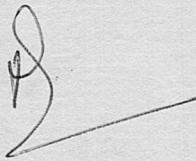
~~the~~ and in the interest of justice interim order was continued till the next date. It would be relevant to mention that 11.8.2003 counsel for the applicant was very much present in the Court when the order was dictated, yet on 12.8.2003 counsel for the applicant did not appear ⁱⁿ ^{however} in the Court, since on 12.8.2003 it was Raksha Bandhan, it was thought not proper to pass any adverse order and the case was again adjourned to 13.8.2003. ~~the~~ even today counsel for the applicant is not present.

4. Since counsel for the respondents had submitted that applicant had taken the stay by suppressing the material facts, we have called ~~the~~ the file in O.A.No.1333 of 2002



and 1566 of 2001. We have perused the said files and find that as far as O.A. No.1566 of 2001 is concerned, said O.A. was dismissed on 04.04.2002 at the admission stage itself by observing therein that applicant had not come to the Court with clear hands. Applicant's counsel, in the present O.A., had only referred to the interim order passed on 27.12.2001 in O.A. No.1566 of 2001 but purposely did not bring on record the final orders passed in O.A. No.1566 of 2001 by which the said O.A. was dismissed. Similarly, he only annexed the interim order passed in O.A. No.1333 of 2002 on 18.11.2002 in the present O.A. without informing the Court that the said O.A. had also been dismissed in default for non prosecution, as back as on 28.02.2003. On the contrary, applicant had categorically stated in para 4.11 that the interim order dated 18.11.2002 is still continuing. Perusal of both these files clearly show that applicant has misused the process of law and has approached the court not only with unclean hands but has tried to obtain interim orders by suppressing the material facts from the Court. This kind of approach in the Court can not be entertained nor can be ignored lightly. Hon'ble Supreme Court has repeatedly held that those, who come to the Court seeking equity must come with the clean hands and those who come with unclean hands, deserve no consideration or sympathy from the Court. This is one of those cases where we feel that not only this case has to be dismissed for abusing the process of law but heavy cost also needs to be imposed on the applicant, so that he may not dare to repeat this kind of action in this life again. This

we are saying, because earlier also applicant's O.A.No. 1566 of 2001 was dismissed for not having approached the Tribunal with clean hands yet in this O.A. he has again tried to mislead the Court. Therefore, this O.A. is dismissed with the cost of Rs.5000/- against the applicant and in favour of the department. It is made clear that if need be department can deduct this amount of Rs.5000/- from the salary of applicant.



Member J



Member A

Brijesh/-