

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

**Contempt Petition No. 136 of 2006 in
Original Application No. 512 of 2001**

Tuesday, this the 22nd day of July 2008

**Hon'ble Mr. Justice A.K. Yog, Member (J)
Hon'ble Mr. K.S. Menon, Member (A)**

Sanjai, son of Chhote Lal, Resident of House No. 59/46, Birhana Road, Kanpur Nagar.

Applicant

By Advocate Sri B.D. Shukla

Vs.

K.K. Yadav, Senior Superintendent of Post Offices, Kanpur Nagar.

Respondent

By Advocate Sri R.K. Srivastava

O R D E R

By Justice A.K. Yog, J.M.

Heard learned counsel for the applicant-Sri B.D. Shukla, Advocate and Sri R.K. Srivastava, learned counsel representing the sole respondent-Sri K.K. Yadav.

2. According to the applicant he had filed O.A. No. 521 of 2001 Sanjai vs. Union of India and others, which was allowed vide final order dated 09.09.2005 by this Tribunal. Photocopy of Tribunal's Order is annexure-1 to the Contempt Petition. Relevant para-5 of the said order reads: -

“5. In view of the facts and circumstances discussed above, the O.A. is disposed of in terms of the order and Judgment in case of lala Ram (supra). The respondents are directed to take necessary action with regard to grant of temporary status to the applicant in accordance with rules prescribed. _____ entire exercise should be completed within a period of three months from the date of communication of this order.

3. Sri K.K. Yadav-sole respondent filed counter affidavit. In para-8 and 9 of the counter affidavit it is specifically stated that in pursuance of direction dated 09.09.2005, case of the applicant was considered by the competent authority according to relevant prescribed rules but there is no provision in the relevant

(Signature)

communication/scheme of Ministry to accord benefit of same to the applicant. It is further stated that the applicant was engaged as "part time contingency paid casual labour" and therefore not entitled for temporary status under relevant scheme of the department.

4. The sole respondent/K.K. Yadav also filed his affidavit (sworn on 28.10.2007). Para-4 and 5 of the said affidavit read: -

"4. That in compliance of aforesaid order dated 09-09-2005, the answering respondent considered the case of the applicant for regularization in view instructions issued by DG Post Communication No. 45-95/87/SPB dated 12-04-1991 read with DG Post communication No.66-7/SPB-I dated 07-12-1994 and passed a reasoned and speaking order dated 28-08-2007, which was also communicated to the applicant. A photocopy of reasoned and speaking order dated 28-08-2007 is annexed herewith and marked as ANNEXURE-1 to this affidavit.

5. That the answering respondent has not committed any deliberate or willful disobedience of any order of this Hon'ble Court. The deponent of this affidavit is a law abiding citizen of India and can never think to disobey the orders/directions of any Hon'ble Court. If the Hon'ble Court is still of the view that the answering respondent has flouted the orders of this Hon'ble Court, the deponent tenders his unqualified apology for the same.

5. In view of contents of afore quoted para-4 and 5, it cannot be said that order of Tribunal, in question, has not been complied with. The direction given by the Tribunal was to consider and that what, according to opposite party, has been done.

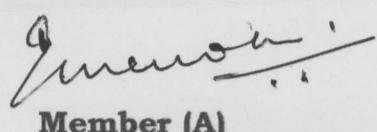
6. According to submission made by learned counsel for the applicant ~~now is that~~ that the respondent/opposite party in the Contempt Petition has not properly and correctly considered the claim of the applicant. This submission requires consideration of validity and merit of the order dated 28.08.2007 passed by respondent department whereby applicant has been refused to grant of temporary status while respondents have considering the case of the applicant in pursuance of order of the Tribunal. The Tribunal in exercise of its jurisdiction have initiated contempt proceedings, cannot go into the merit of Order. In view of it, contempt petition is misconceived and is accordingly dismissed.



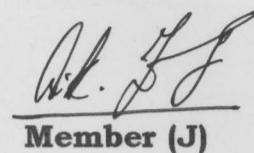
Notice issue to the respondent is discharged. Contempt Petition be consigned to records.

7. It is always open for the applicant to challenge the order dated 28.08.2007, mentioned in afore quoted paras (of the affidavit sworn by Sri K.K. Yadav-sole respondent), in accordance with law.

8. No order as to costs.



Member (A)



Member (J)

/M.M/