

(RESERVED)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

ALLAHABAD this the 8th day of May, 2009.

**HON'BLE MR. A.K. GAUR, MEMBER- J.
HON'BLE MRS. MANJULIKA GAUTAM, MEMBER- A.**

CIVIL CONTEMPT PETITION NO. 162 OF 2006

(Arising out of O.A No. 899 of 2006)

R.P. Sharma, S/o Late Garusa Prasad Sharma R/o House No. N-8/198,
A-2B, In front of Kufe Kube Hospital, (Madhuban Lawn), Mevada
Sunderpur, District- Varanasi.

VE R S U S

Sri M.K. Dixit, Divisional Railway Manager (Personnel), N.E. Railway,
Varanasi.

.....Contemnor/opposite party

Present for applicant : Sri S.K. Mishra
Sri J.N. Maurya
Present for opposite parties: Sri P.N. Rai

ORDER

DELIVERED BY HON'BLE MR. A.K. GAUR, J.M.

The applicant has filed the instant Contempt Petition alleging willful disobedience and non-compliance of the interim order 28.08.2006 passed by this Tribunal in O.A No. 899/06 (R.P. Sharma Vs. U.O.I & Ors.), which are as under: -

"..... In the circumstances mentioned above, we proceed that while the examination as scheduled may take place but the result of the selection will not be declared and acted upon will 11.09.2006."

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2. According to the applicant, the interim order dated 28.08.2006 passed by the Tribunal was duly communicated to all the respondents alongwith representation dated 30.08.2006 (Annexure-2 of CCP). The grievance of the applicant is that inspite of interim order dated 28.08.2006, which was communicated to the respondents vide representation dated 30.08.2006, the respondents declared the result of selection held on 01.09.2006 and 08.09.2006 vide Notification dated 26.09.2006. It is alleged that the action of the respondents amounts to willful and deliberate disobedience of the direction of the Tribunal.

3. According to the applicant, the selection examination was held for two unreserved vacancies out of three vacancies notified vide letter dated 11.08.2006 and for the aforesaid two vacancies, total two persons were declared successful. No viva voce was to be held after declaration of the result meaning thereby the result so declared was a final result. It is alleged that the respondents have deliberately declared the result in defiance of stay order dated 28.08.2006.

4. In the Counter Affidavit filed by the opposite parties, it is submitted that since the order passed by the Tribunal was effective only till 11.09.2006 and no extension of the order, to the best of knowledge of the deponent, was passed by the Tribunal, the result of Written Examination alone was declared on 26.09.2006. respondents further argued that declaration of the Written Examination cannot be said to be the final selection.

5. Although the applicant has filed Rejoinder Affidavit but the facts enumerated in paragraph 8 of the C.A have not been specifically denied.

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6. The respondents have filed a Suppl. Counter Reply verified by Sr M.K. Dixit, Divisional Personnel Officer, N.E. Railway, Varanasi wherein it is submitted that the interim order dated 28.08.2006 was directed to be effective till 11.09.2006 and no information was received by the answering deponent in respect of extension. However, in para 9 of the Suppl. Counter Reply, it is submitted that on 26.09.2006, the result of written examination has only been declared on the basis of answers given by the candidates and upon examining by the nominated officer. According to the respondents, publication of the result of only written examination cannot be treated to be violation of the orders of this Tribunal inasmuch as till date no final selection has been made in compliance of the direction of this Tribunal.

7. We have heard learned counsel for both sides and perused the entire pleading as well.

8. A perusal of the record clearly indicated that interim order dated 28.08.2006 was extended from time to time. It is really surprising as to why and under what circumstances, the deponent of the Counter Affidavit has stated that the interim order passed by the Tribunal was effective only till 11.09.2006 and no extension of the order, to the best of knowledge of the deponent, was passed by this Tribunal, the result of written examination alone was declared on 26.09.2006. By filing the Suppl. Counter Reply, the respondents have taken the same plea in para 9. In Second Suppl. Counter Reply filed on 12.04.2007, the same stand has been taken by the respondents.

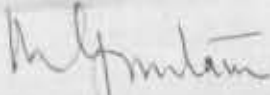
9. We have carefully seen the record and note that the interim order dated 28.08.2006 was extended from time to time and as such the plea taken by the respondents that the interim order was effective only till 11.09.2006 and no extension of the said order to the best of knowledge to the deponent, was passed by the Tribunal, is not at all corroborated from the record. The deponent of the Counter Affidavit has made this statement of fact on oath in a most irresponsible manner and the same is strongly deprecated. In the Suppl. Counter Reply filed on 14.03.2007, no doubt, the respondents have taken a specific plea in para 9 that publication of the result of Written Examination cannot be treated to be violation of the order of Tribunal inasmuch as till today, no result of final selection has been published in compliance of the interim order of the Tribunal. The stand of the respondents is amply clear that they have not committed willful disobedience of the interim order dated 28.08.2006 inasmuch as that the result of written examination alone has been published on 26.09.2006 and the result of final selection has been kept in abeyance in strict compliance of the interim order passed by the Tribunal.

10. Having given our anxious thought to the pleas advanced by the learned counsel for the opposite parties, we are satisfied that the respondents have not committed any willful disobedience of the interim order dated 28.08.2006. Accordingly the Contempt Petition is dismissed. Notice discharged.

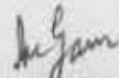
11. But at the same time it is also not worthy to observe that the Counter Affidavit has been filed in a most irresponsible manner by alleging that interim order was not extended. It is also seen from the

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✓ record that provision of rule 11 of Contempt of Courts (CAT) Rules 1992, which contemplates that "respondent/s may file their reply duly supported by an Affidavit on or before first date....." has not at all been followed either by the applicant or by the opposite parties. The applicant has filed Rejoinder Reply without Affidavit. Similarly, the opposite parties have filed two Suppl. Counter Replies, which are also not supported by any Affidavit.



MEMBER- A.



MEMBER- J

/Anand/