

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

(THIS THE 12th DAY OF NOVEMBER 2009)

Present

**Hon'ble Mr. Justice A. K. Yog, Member (J)
Hon'ble Mrs. Manjulika Gautam, Member (A)**

Contempt Petition No.05 of 2006
in
Original Application No.1621 of 2003

Kamlesh Kumar Mishra, S/o Late Ram Khelawan Mishra, R/o
Village-Kabirpur (Mishran) P.O. Nibhapur, District-Jaunpur.

.....Applicant.

By Advocate: Sri S.K. Singh

V E R S U S

1. Sri R.P. Mishra, Senior Superintendent R.M.S. Division, Gorakhpur.
2. Sri R.B. Tiwari, The Sub Record Officer RMS 'G' Division Gonda.
3. Shri Kulveer Singh, Post Master General, Gorakhpur Region, Gorakhpur.

.....Respondents

By Advocate: Sri S. Srivastava

ORDER

(DELIVERED BY: JUSTICE A. K. YOG- MEMBER-JUDICIAL)

1. Heard Learned counsel for the applicant and Shri Saurabh Srivastava, learned counsel for the respondents.
2. This OA is filed on the ground that order of the Tribunal dated 24.01.2005 in OA No.1621 of 2003 (Kamlesh Kumar Mishra Vs. Union of India and Others), Annexure-1/Compilation-I has not been complied with. Relevant para 10 of the said order reads:-

"In the result, the O.A. succeeds on merit and is allowed. The respondents are directed to count the services of the applicant with effect from 18.03.1997, the date when Ratheen Kumar, an ex-casual labour like him has been engaged by the respondents. The applicant, however, will not be entitled to back wages as he has not worked for that period. The applicant, however, will be entitled for back wages as Casual Labour w.e.f. 17.11.2001, the date on which he was engaged as Part Time Attendant and his services shall be regularized. The entire exercise shall be completed within a period of three months from the date of receipt of a copy of the order."

3. In reply, opposite parties have filed counter affidavit. According to them they have complied with the directions given by the Tribunal in afore quoted para 10 of the order. In this reference he places reliance on order dated 7.4.2005 and 08.06.2005, Annexure 2 and 3 respectively/Compilation-I.

4. The Applicant has also filed copies of his objections/representations, Annexure Nos.4,5,6,7 and 7A to the counter affidavit.

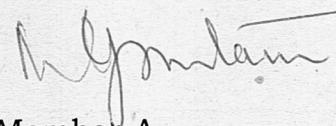
5. Learned counsel for the respondents contended that this Contempt Petition is misconceived. According to him, the applicant was free to challenge the consequential order passed by Respondent Authority in pursuance to the above referred order of the Tribunal, in case he is not satisfied. In other words, the implementation of the consequential order of the Respondents may not be to his satisfaction, but that does not show that opposite parties have deliberately violated order of the Tribunal.

6. Learned counsel for the applicant endeavored by making submissions to show that orders passed by the respondents are not as per correct reading of the order of the Tribunal (in question). We cannot sit in appeal and/or interpret the order of the Tribunal



in exercise of our Contempt Jurisdiction. If applicant is not satisfied with the order passed in pursuance of the order of the Tribunal, it is open for him to challenge the same before proper forum.

7. In view of the above, Contempt notices issued against opposite parties are discharged. The Contempt Petition is dismissed accordingly, subject to the condition that applicant can pursue his remedy if he is not satisfied with the action of the respondents in complying with the order of the Tribunal in accordance with law provided he initiates requisite proceedings before appropriate forum within two weeks from today and in case such Court/Tribunal objects with delay part, will consider condonation of the period spent in, on the ground that applicant has been bona fide pursuing his legal remedy. No Costs.



Member-A



Member-J

/ns/