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Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD**

Contempt Petition No. 111 of 2007

IN

ORIGINAL APPLICATION NO. 64 OF 2006

ALLAHABAD THIS THE 31st DAY OF March, 2008

HON'BLE MR. JUSTICE A.K. YOG, MEMBER-J
HON'BLE MR. N.D. DAYAL, MEMBER-A

Janki Prasad, S/o Late Pratap Narain (Tiwari), Ex-gangman under PWI, N. Railway Phaphund, Permanent R/o Village Kasia, Ram (Chandwalia Ka Purwa) Post Rahatkar, District Pratapgarh, presently R/o C/o Shri Shiv Kumar, 205 H/25 L/IH Anandpuram Chakia, Allahabad.

.....Applicant

(By Advocate Shri S. Ram)

V E R S U S

Deepak Dave, D.R.M., N.C. Railway, DRM's office, Allahabad.

.....Respondent

(By Advocate: Sri Anil Dwivedi)

O R D E R

Justice A.K. Yog, Member-J

The applicant - Janki Prasad has come up before this Tribunal with the grievance that the final order dated 6.2.2007 passed by this Tribunal in O.A. no. 64 of 2006 Janki Prasad Vs. Union of India and Ors., has not been

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complied with by the respondent. The operative portion of the order reads:

"So the O.A. is finally disposed of with direction to respondent no.2 to dispose of the pending Special appeal dated 1.12.1005 of the applicant in accordance with law within a period of three months from the date of certified copy of this order is produced before him. No order as to costs."

2. The Opp. Party in this Contempt petition has filed Counter reply alongwith an application for condonation of delay in filing the same. M.A. (for praying condoning the delay) is allowed. As per Counter Reply of the Opp. Party, the appeal as directed by this Tribunal vide aforementioned order dated 6.2.2007 has been complied with, but subject to little delay. Copy of the order dated 4.6.2007 deciding the appeal has been annexed as Annexure CA-2 to the Counter Reply.

3. Before considering the Contempt petition on merit, we find ^{as} ~~that~~ ^{as} ~~though~~ on the basis of pleadings on record and statement made by the concerned learned counsel that the order of the Tribunal dated 6.2.2007 was communicated to the respondent on 30.4.2007. In view of it, three months time provided in the order shall come to an end on 30.7.2007. In view of it, we find no ^{as breach as} ~~prejudice~~ of the order of this Tribunal. Even for the sake of argument if we count three months' time from the date of the order itself i.e. 6.2.2007, three months' time shall come to an end on 5.5.2007, the order dated 4.6.2007 (Annexure CA-2 to the Counter Reply) has been passed just ^{as} ~~after~~ ^{as one a} within ~~of~~ month. Therefore, this delay cannot be said to be

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deliberate or intentional to harass the applicant. It is also interesting to note that the Contempt Petition was filed on 12.8.2007/20.8.2007 i.e. after passing of the appellate order dated 4.6.2007. The learned counsel for the applicant, however, submitted that the order of the Tribunal dated 6.2.2007 required ^{an} the DRM, N.C.R., Allahabad to decide the appeal, but the order, in question, dated 4.6.2007 has been passed by a different authority namely Sr. Divisional Engineer-III, N.C.R., Allahabad. The said authority was impleaded as respondent no.3 in the O.A. The Rules placed before us by the learned counsel for the applicant itself contemplates that the order be passed by the DRM or the Senior Administrative Grade Officer under whose control the employee, in question, is working.

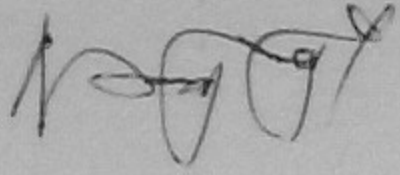
4. Be that as it may, we need not go into that controversy in absence of specific pleadings. ^{an} being ^{an} confessed.

5. Apart from it, we have no doubt that once the order has been passed and if the party is aggrieved on ^{an} any ^{an} ground including competency of the authority while passing such order, the party should have been advised to challenge the same on merits before appropriate forum. The contempt jurisdiction is not appropriate forum for the same. ^{an} ~~This is pre-conceived.~~ ^{an} The applicant is at liberty to file ^{an} subsequent ^{an} appeal/revision/review etc. as

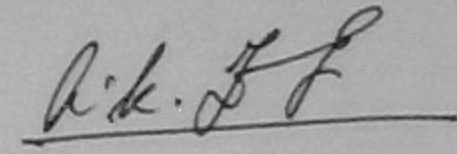
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may be provided under ^{the} ~~the~~ Rules/Act before the competent authority.

6. In view of the above, Contempt petition is dismissed. Notice issued to the respondent is hereby discharged.



MEMBER-A



MEMBER-J

GIRISH/-