

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH ALLAHABAD**

Dated: This the 2nd day of December 2016.

**PRESENT:**

**HON'BLE DR. MURTAZA ALI, MEMBER - J**  
**HON'BLE MR. O.P.S. MALIK, MEMBER -A**

**Civil Misc. Contempt Petition No. 78 of 2007**  
**In**  
**Original Application No. 523 of 2007**

Sanjay Charles aged about 35 years son of Shri Anthony Charles, resident of Arajhi No. 103, Dev Prayagam Chauraha Near Dhussa Power House, Jhalwa, Allahabad.

... . Applicant

By Adv: Shri Sudama Ram/Shri S.K Kushwaha

**VERSUS**

1. Shri Budh Prakash, General Manager, North Central Railway, Headquarters Office, Allahabad.
2. Shri Rajeev Saxena, Dy. Chief Material Manager, North Central Railway, Sangam Palace, 3<sup>rd</sup> Floor, Allahabad.
3. Shri Sirish Verma, Assistant Material Manager, North Central Railway, Headquarters Office, Sangam House, 3<sup>rd</sup> Floor, Allahabad.

... Respondents

By Adv: Shri P. Mathur

**ORDER**

**BY HON'BLE DR. MURTAZA ALI, MEMBER - J**

The applicant has filed this Contempt Petition against the respondents for alleged wilful disobedience of interim

*Wz*



order dated 17.5.2007 passed by this Tribunal in O.A No. 523/07. The said O.A was filed against the order dated 17.4.2007 by which the services of applicant as Bungalow Khalasi was dispensed with.

2. It is stated that by the interim order dated 17.5.2007, the operation of impugned order dated 17.4.2007 was stayed till 31.7.2007 and it is stated that the copy of interim order dated 17.5.2007 was sent to the respondents by Speed Post and the applicant reported for duty on 18.5.2007. He personally met the respondents on 21.5.2007 but they refused to comply with the order of this Tribunal and they neither allowed duty to the applicant nor paid salary since 1.6.2007.
3. In the Counter Affidavit filed on behalf of respondents, it has been submitted that the impugned transfer order dated 17.4.2007 had already been served upon the applicant and had given effect to much before the ex-parte interim order dated 17.5.2007 was passed by this Tribunal. It has also been submitted that the Stay Vacation Application has already been filed on behalf of respondents and it was denied that the applicant ever met any of the respondents for his grievance.
4. In the rejoinder, the applicant reiterated the averments made in the Contempt Petition and further stated that the applicant met the respondent No.3 on 18.5.2007 with an application and when no response was given, he sent the copy of interim stay order again on 22.5.2007 and he also informed the respondents that in view of interim order dated 17.5.2007, he had been attending office but he was

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not allowed duty by the Controlling Officer. It is also stated that the respondent No.1 General Manager (P) N.C.R. Allahabad had also directed the respondent No. 2 vide letter dated 13.6.2006 to ensure the compliance of interim order dated 17.5.2007 but the respondent No. 2 wilfully disobeyed the interim order dated 17.5.2007.

5. In the supplementary counter affidavit, it has been submitted that the impugned order dated 17.4.2007 was served upon the applicant on 10.5.2007 and it was given effect to. It is noted that the services of the applicant was terminated w.e.f. 18.12.2006 vide impugned order dated 17.4.2007 on the ground that he was unauthorizedly absenting and his services were totally unsatisfactory. The interim order was passed by the Tribunal relying on an order dated 20.4.2007 passed in another O.A. No. 401/2007 and the said O.A. has already been dismissed vide order dated 20.3.2008.

6. Learned counsel for the applicant argued that the operation of impugned order of termination dated 17.4.2007 was stayed till 31.5.2007 and the General Manager, N.C.R. Allahabad also directed the respondent No.2 to implement the interim order of the Tribunal but the respondent No.2 has wilfully disobeyed the interim order passed by this Tribunal. He relied upon the decisions of Hon'ble Supreme Court in the case of *T.R. Dhannanjaya Vs. J. Vasudevan* reported in 1996 (1) A.I.S.L.J 87 and *Union of India and others Vs. Subedar Devassy PV* reported in (2006) 1 UPLBEC 745.



7. Learned counsel for the respondents contended that the applicant was unauthorisedly absenting himself w.e.f. 18.12.2006 and his services were dispensed with w.e.f. 18.12.2006 vide impugned order dated 17.4.2007 and the said impugned order was served upon the applicant before passing of interim order and thereby the impugned order had already been given effect to. It has also been contended that there was no such order that the applicant be taken back on his job whereas O.A. NO. 401 of 2007 has already been dismissed on which the Tribunal relied upon while passing the impugned order.

8. In the case of T.R. Dhannanjaya (supra), it has been held that only deliberate defiance of orders is contempt of court and in the case of Subedar Devassy PV (supra) it has been held by Hon'ble Supreme Court that the rightness or the wrongness of the direction of the Court cannot be gone into contempt applications. The Court cannot traverse beyond the direction/order under contempt. The Court cannot test the correctness or wrongness of the order nor it can add or delete any directions.

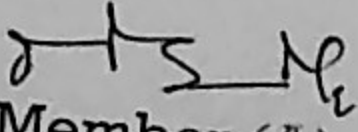
9. It is not in dispute that the impugned order dispensing the services of applicant as Bungalow Khalasi was served upon the applicant before passing the interim order by the Tribunal. There is no document on record to show that the applicant had ever informed the Tribunal about this fact and requested to modify the order to the effect that he could be taken back on the job and no such order was ever passed by this Tribunal. As the services of applicant had been dispensed with w.e.f. 18.12.2006 and there was no such

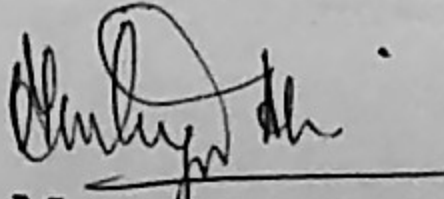
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order of this Tribunal that the applicant be taken back in the service.

10. Under above circumstances, we are of considered view that the petitioner has failed to prove that the respondents have wilfully disobeyed the interim order dated 17.5.2007 passed in O.A No. 523/07. Accordingly, the contempt proceedings are dropped and notices are discharged.

  
Member (A)

  
Member (J)

Manish/-