

(6)

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

ALLAHABAD this the **23rd** day of **November, 2007.**

**HON'BLE MR. JUSTICE KHEM KARAN, VICE-CHAIRMAN
HON'BLE MR. P.K. CHATTERJI, MEMBER- A.**

CIVIL CONTEMPT PETITION NO. 103 OF 2007

IN

ORIGINAL APPLICATION NO. 168 OF 2005

1. Ram Chandra, S/o Vipati,
2. Ram Surat, S/o Shiv Mangal,
3. Daya Ram, S/o Sri Chandrika,
4. Ram Chandra, S/o Ganesh Prasad,
5. Shiv Bodhan, S/o Munna,

All Ex Trackman under Section Engineer, (P.Way),
Fatehpur, Distt. Fatehpur.

.....Applicants.

VE R S U S

1. Sri Ram Janam Ram, Senior Section Engineer (P. Way),
North Central Railway, Fatehpur.
2. Sri B.K. Verma, Divisional Engineer (DEN),
North Central Railway, Fatehpur.

.....Respondents

Present for the Applicant:

Sri A.D. Singh

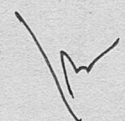
Present for the Respondents :

Sri A. K. Pandey

ORDER

BY HON'BLE MR. JUSTICE KHEM KARAN, VC.

The applicants have filed the present contempt petition for alleged willful disobedience of directions dated 26.04.2007, issued by this Tribunal, in O.A No. 168/2005. The relevant portion of the said directions dated 26.04.2007 is as under: -



“ So these O.As are finally disposed of with a direction that the applicants shall give a self contained representation to the respondent No. 3, in regard to their for the salary for a period from 26.01.2005 to the date their joining on the post of Khalasi/Chaukidar and thereupon respondent No. 3 shall take decision, within a period of three weeks, from the date a certified copy of the order together with copy of the said representation is produced before him.”

2. On filing of this Contempt Petition, notice was issued to respondent No. 1, asking him to appear and show cause. It was also provided that notice to the respondent No. 2, will be considered after the reply of respondent No. 1. Allegation of the applicant is that by not complying with the directions given in the last paragraph of the said order, the respondent No. 1 and 2 have shown willful disobedience. They say that as directed by the Tribunal, representation was given to respondent No. 3.

3. The respondent No. 1 has filed reply saying that in compliance of the above direction of the Tribunal, order dated 25.09.2007 (Annexure CA- 1) has been passed quoting the orders dated 17.05.2007 of the competent authority. He has tried to say that he was not competent to take a decision in regard to the payment of salary etc. of the applicant for the period in question, so the matter was considered by the competent authority and order orders passed by him is reproduced in Annexure CA-

1.



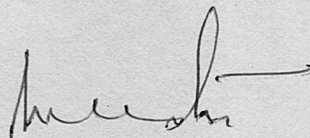
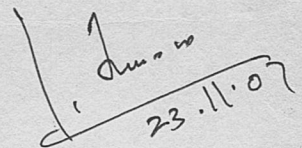
4. In Rejoinder Affidavit the applicants have tried to say that this order dated 25.09.2007 of respondent No. 1 or order dated 17.05.2007 of competent authority so reproduced therein do not constitute due compliance of the Tribunal's direction as there is no material to prove that after the interim order dated 25.02.2005 of this Tribunal, the authorities have passed orders for restoring the position of the applicants and for making the payment of salary. Sri A.D. singh has drawn our attention towards Letter dated 31.03.2005 (Annexure- 3) and Letter dated 18.04.2005 (Annexure- 4) to the Contempt Petition so as to substantiate the contention of the applicants that they were restored to their position and order for payment of salary were passed pursuant to interim order dated 25.02.2005. Sri Singh has also stated that representation dated 01.06.2007 had already been given to the respondent No. 2 in the contempt matter but he too pay no heed to the same and in this way, he has also shown willful disobedience to the direction dated 26.04.2007.

5. Sri A.K. Pandey, learned counsel for the respondents has tried to say that the respondent No. 3 has passed the orders in compliance of the order dated 26.04.2007 of this Tribunal and so no prima facie case for taking any action for disobedience of the order dated 26.04.2007 is made out and according to him, the proceedings deserve to be dropped and notice issued to the respondent No. 1 may be discharged.

6. We have considered the respective submissions and have gone through the material on record.



7. As is clear from operative portion of the order dated 26.04.2007, the applicants were given liberty, to give self contained representation to respondent No. 3, (who is respondent No. 1 in the Contempt Petition) and the respondent No. 3 was asked to consider and pass suitable orders, within a period provided therein. Thus our directions dated 26.04.2006 did not cast any duty on respondent No. 2 (in the contempt petition) to do something. The directions were given to respondent No. 3. Whether the respondent No. 3 was competent or incompetent to decide the representation in regard to payment of salary etc. is not the matter which is to be examined here in these contempt proceedings. Moreover, he has passed an order dated 25.09.2007 quoting the orders of competent authority. Whether the order dated 25.09.2007 (Annexure CA-1) is correct or incorrect, sound or unsound, cannot be examined in this contempt petition. If the applicants have any grievance in that context, they are free to pursue their remedy before appropriate forum but it is difficult to say that the respondent No. 1 has shown any willful disobedience to the directions dated 26.04.2006 of this Tribunal. Therefore, the contempt proceedings are dropped and notice issued to the respondents is discharged.

**MEMBER- A.**
23.11.07**VICE-CHAIRMAN**

/Anand/