

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

CIVIL MISC. CONTEMPT PETITION NO.43 OF 2007
IN
ORIGINAL APPLICATION NO.659 OF 1999

ALLAHABAD THIS THE 7TH DAY OF JUNE, 2007

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

Heera Singh,
Son of Shri Surendra Singh,
Resident of B-615 Awas Vikas Colony,
Jhansi.

. Applicant

By Advocate : Shri Amit Kumar

Versus

1. Shri Budh Prakash,
General Manager, Central Railway,
Chhatrapati Shivaji Terminus, Mumbai.
2. Shri V. K. Singh,
Divisional Railway Manager,
Central Railway,
Jhansi.

. Respondents

By Advocate : Shri K. P. Singh

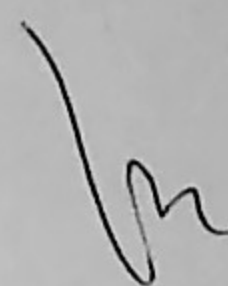
O R D E R

HON'BLE MR. JUSTICE KHEM KARAN, VICE CHAIRMAN

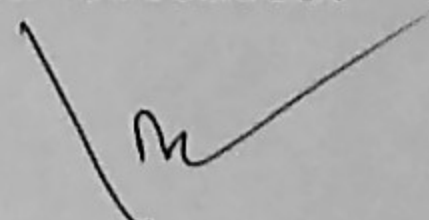
Heard Shri Amit Kumar appearing for the applicant
under section 17 of the Administrative Tribunals Act
read with Contempt of Court Act 1971.

2. This application was filed on 03.04.2007. Office
has given a report that petition is time barred.

3. This Tribunal vide order dated 02.03.2005 passed
in O.A. No.659/99 issued certain directions to the



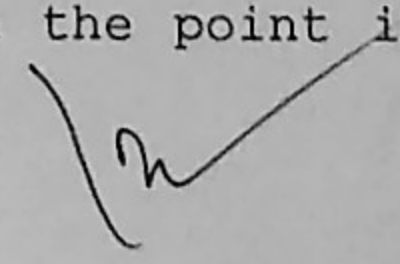
respondents therein to afford the applicant the benefits by filing necessary formalities for promotion within a period of six months from the date of receipt of certified copy of the order. Learned counsel for the applicant stated that on 20.04.2005 certified copy of this order was sent to the respondents by registered post. Even if the period of six months as mentioned in the said order is reckoned from 20.04.2005 it lapses on 20.10.2005. In absence of anything else the breach of the said orders took place on 20.10.2006, when the respondents failed to carry out the directions. Section 20 of the Contempt of Court Act prescribes a period of one year for taking cognizance of such contempt. In normal course this period would come to an end on 20.10.2006. Since this application for contempt was moved in April 2007, it was apparently beyond the period prescribed under section 20 of the Act of 1971 but what Shri Amit Kumar states is that since the respondents has filed writ petition together with an application for staying the operation of the said direction and since stay was rejected on 07.07.2005 and the factum of rejection was concealed by the respondents, so the period of one year would extend till April, 2007. The learned counsel for the applicant has cited Pallav Sheth Versus Custodian and Others reported in (2001) 7 SCC 549 with a view to say that by virtue of sub section (2) of Section 29 of Limitation Act 1963, the period up to which the respondents concealed the factum of rejection of stay application will stand extended. He



has also cited Suresh Chandra Poddar Versus Dhani Ram and Others reported in (2002) 1 SCC 766 so as to say that the period of limitation would stand extended by the period the applicant has no knowledge of the factum of rejection of the stay application.

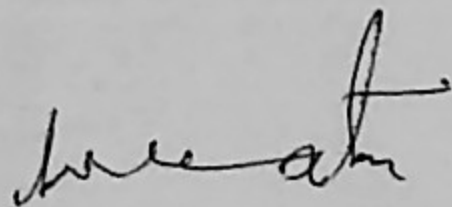
4. We are of the view, that the two judicial pronouncements are not applicable to facts in hand. In Pallav Seth's case (Supra) the factum of breach of orders was concealed by the respondents, whereas in our case, it is not so. Here the respondents were asked to do a particular thing, within a particular time, which they did not do upto 24.10.2005. The applicant knew that thing was not done and breach was there. We have not been able to understand as to how filing of writ petition or rejection of stay by Hon'ble High Court, is being read in the context of breach of order. Here was not concealment of breach of orders. IN Poddar's case (supra) period for compliance of orders, was not prescribed, here it was prescribed.

5. While we were dictating this order, Shri Amit Kumar cited Atma Ram Properties (P) Ltd. Versus Federal Motors (P) Ltd. reported in (2005) 1 SCC 705 but he is not in a position to tell us as to what he wants to say by citing this judicial pronouncement. It was a case the question was with regard to grant of stay under Rule (5) of Order 41 of the Code of Civil Procedure. It does not appear to be on the point in

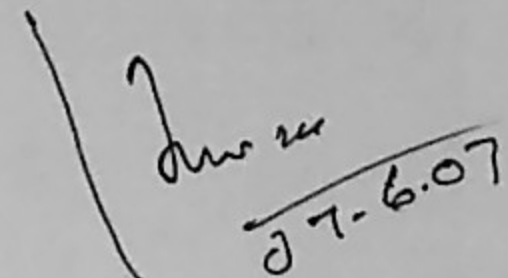


issue. Learned counsel for the applicant has also cited one more case namely Bank Of Baroda Versus Sadruddin Hasan Daya AIR 2004 SC 942 so as to say that petition filed within five months of petitioner getting knowledge of breach, will not be time barred. Again the said judicial pronouncement is not on the point. Here it is not a case that the applicant had no knowledge of the breach of the orders on 24.10.2006 when the period of six months expired after sending the copy of the order on 20.04.2005.

5. In the result this petition being time barred is rejected. This rejection will not affect any other remedy available to the applicant under the Act of 1985 or the Rules framed there under.



Member-A



Vice-Chairman

/ns/