

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

C.A.88/95 in

O.A. NO/447/89

T.A. NO.

DATE OF DECISION 13th March 1996

Western Railway Employees Union, **Petitioner**
Bhavnagar.

Mr.M.M.Xavier **Advocate for the Petitioner (s)**

Versus

Union of India & ors. **Respondent**

Mr.R.M.Vin **Advocate for the Respondent (s)**

CORAM

The Hon'ble Mr. N.B.Patel **: Vice Chairman**

The Hon'ble Mr. V.Radhakrishnan **: Member (A)**

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JVo

Western Railway Employees' Union,
Bhavnagar.

Applicant

Advocate Mr.M.M.Xavier

versus

The Union of India, Western
Railway & ors.

1. S/Shri D.V.Anand,
Divl.Railway Manager,
Bhavnagar para.
2. S/Shri G.L.Meena,
Sr.Divl.Pers.Officer.

Respondents

Advocate Mr.R.M.Vin

ORAL ORDER

C.A.88/95 in

O.A.447/89

Date: 13-3-1996


Per Hon'ble Shri N.B.Patel


Vice Chairman

It appears that the decision which was required to be taken by the Respondents within a specified period was not taken within that period but it is actually taken after service of notice of this C.A. on the Respondents. So far as our direction in the judgment is concerned, it required the Respondents to take a decision and it also made it clear that it will be open to the applicants to take appropriate legal steps if the decision taken by the Respondents was adverse to them. The decision having already been taken, we do not see

enough ground to proceed further with this C.A. which is based only on the ground that the decision was taken beyond the permitted period. However, it is the contention of Mr. Xavier that the Respondents have committed a more grave disobedience of the directions issued by us by taking a decision without considering the Rules relevant to the issue and the entire exercise of taking the decision is only a camouflage behind which the Respondents try to defeat the directions of this Tribunal. Mr. Xavier states that if the proceedings in the C.A. are closed, it may be kept open to the applicants to file a fresh C.A. on the aforesaid ground. The present proceedings are closed even though the decision was taken beyond the permitted period. However, it will be open to the applicants either to file a fresh C.A. or O.A. on the above ground, ^{may be added} (C.A. stands disposed of accordingly).

2. We would have ordered payment of cost to the applicant in this case for the default committed by the Railways in not taking any decision even though no extension of time was sought for or obtained by them. However, after hearing the ^{peremptory} ~~cogent~~ plea of Mr. Vin not to award cost in this particular case, we do not pass any order as to cost, but make it clear that in future we may have to consider awarding cost in such cases.


(V. Radhakrishnan)
Member (A)


(N. B. Patel)
Vice Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Application No. CA/58/95 in OA/667/89

Transfer Application No. _____

CERTIFICATE

Certified that no further action is required to be taken and
the case is fit for consignment to the Record Room (Decided).

Dated : 19/3/96

Countersign :

21/5/96
Section Officer.

JP
19/3
Signature of the Dealing
Assistant

I N D E X - S H E E T

CA/88/as in OA/447/87

W. Rly. Emp Union, Blairsgrove

V.O.S. 2005.

[illegible]

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

Submitted :-

CAT/JUDICIAL SECTION

~~Confidential~~
Original Petition No :-

88/85

of

in OA/447/85

Miscellaneous Petition No :-

of

Shri Western Ry Employees Union Bhavnagar Petitioner(s)

Versus

UOI 2085

Respondent(s)

This application has been submitted to the Tribunal by Shri Kavir MM Adv Under Section 19 of the Administrative Tribunal Act, 1985. It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunal Act, 1985, and Central Administrative Tribunals (Procedure) Rules, 1985.

The application has been found in order and may be given to concerned for fixation of date.

The application has not been found in order for the reasons indicated in the check list. The applicant advocate may be asked to rectify the same within 14 days/draft letter is placed below for signature.

It is stated that the applicant's signed the petition is not shown in the cause file of the petition.

Dealing Assistant : CA 24/11/95

Section Officer (J) :

It should be brought to the notice of the Section Officer, Advocate on 20/11/95

Deputy Registrar (J) :

Sir, obj notified
27/11/95

Submitted

Endorsement made by Mr. Adv. below the

Affidavit may be seen.

If approved, the matter will be registered

CA

28/11/95

SOCT

30/11/95

DP(J)
30/11/95

CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD BENCH

Diary No. 87 1995

C P (Civil/Criminal) 1995 in OA/447/89

Between

Western Ry Employees Petitioner (s)
Union Bhonnagar

By

Xavier M. M.

(Name of the Counsel, if any)

And

UO/2003 Respondent (s)

By

(Name of the Counsel, if any)

Subject : (No.) Department : R145 (No.)

REPORT OF THE SCRUTINY OF CONTEMPT OF COURT PETITION (CIVIL/CRIMINAL)

1. Whether the name (including as far as possible, the name of father/mother/husband), age, occupation and address of the petitioner (s) and the respondent(s) are given ? yz

Note: Where respondent is an officer, his name, designation, and office address alone are enough. Magistrate

2. Whether the parties impleaded as petitioner(s) and respondent (s) are proper ? very low OA/447/89

Note : In case of Civil contempt for disobeying the order of the Tribunal, it is the party in whose favour the direction is issued that can be impleaded as petitioner and the party against whom the direction is issued can be impleaded as the respondent.

- (b) In case of criminal contempt, the party who is alleged to have committed contempt, that can be impleaded as respondent.

3. Nature of the Contempt(Civil or Criminal and the provisions of the Act invoked ? Civil

4. (a) Date of alleged Contempt ? *Oct 95*
- (b) Date of filing of the Contempt Petition ? *9-11-95*
- (c) Whether the petition is barred by limitation under Section 20 of the Contempt of Courts Act, 1971 ? *no*
5. (a) Whether the grounds and material facts constituting the alleged contempt are given ? *yes.*
- (b) Whether the grounds and facts alleged in the petition are divided into paragraphs and numbered ? *yes*
- (c) Whether the petition is accompanied by supporting documents or certified/ photostat(attested) copies of the originals thereof ? *yes*
- (d) If the petitioner relies upon any other document(s) in his possession, whether copy of such document(s) is/ are filed along with the petition ? *yes*
- (e) Whether the petition and its annexures have been filed in a paper-book from and duly indexed and paginated ? *yes*
- (f) Whether three complete sets of the Paper-books have been filed ? *yes*
- (g) Whether equal number of extra copies of paper-books have been filed in case there are more respondents than one ? *yes*
6. Whether the nature of the order sought from the Tribunal is stated ? *yes*
7. Whether the petition is supported by an affidavit sworn to by the petitioner verifying the facts relied upon ? *yes*
- Note: No affidavit is required if the Motion is by Attorney General/ Solicitor General/Additional Solicitor General.
8. Whether the petitioner or his Advocate have signed the petition indicating the place and dated ? *yes*
9. In case of Civil Contempt whether the petition is accompanied by a certified copy of the judgment/degree/order/writ/ undertaking alleged to have been disobeyed by the alleged contemner ? *yes*
10. (a) In case of criminal contempt, not covered by Section 14* of the Contempt of Courts Act, whether the petitioner has produced the consent obtained from the Attorney General/Solicitor General/ Additional Solicitor General ? *yes*
- (b) If not, whether the petition contains the reasons thereof ? *yes*

* Contempt committed in the presence of or hearing of the Member (s).

11. Whether the petitioner had previously made a Contempt Petition on the same facts ? If so, have the following been furnished :-

no

12. (a) Number of the petition ?

(b) Whether the petition is pending? and

1 ms

(c) If disposed of nature/result of the disposal with date ?

12. Whether the draft charges are enclosed in a separate sheet ?

yes.

FOR ATTENTION :

Orders on the administrative side have to be obtained from the Chairman/Vice Chairman or Member designated in case of action for criminal contempt, as required by Rule 7(ii) before placing for preliminary hearing.

Section Officer

27/11/95

Deputy Registrar

27/11/95

REGISTRAR

Section Officer

Deputy Registrar

CA 87-87/95
I

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD BENCH,
AT AHMEDABAD.

C.A.No. 88 /1995 in

O.A.No. 447 /1989.

WESTERN RAILWAY EMPLOYEE'S UNION

BHAVN AGAR.

Applicant.

V E R S U S

The Union of India, Western Railway
& others.

Respondents.

I N D E X

Sr. No.	Details of document.	No. of Pages.
1.	Contempt application.	01 to 03
2.	Draft Charge	04 to 05
3.	Xeroxed copy of oral order dated 15-3-1995 in O.A. No.447/1989.	06 to 09

Presented
9.11.95
Kallan

BHAVN AGAR,
DATE: 9 -11-1995.

Kallan
Signature of the advocate
for the applicant.

श्री.....
Filed by Mr. Chandrasekhar
प्रतिवादी के लिए दाखिल किया गया
learned advocate for petitioner
वकील
with some
प्रमाणित किया गया है कि यह
Spaid
दस्तावेज
Other
दि. 1 / 11 / 95

Dt. 9/11/95 Dy. Registrar C.A.T.
A'bad Bench.

(1)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
AHMEDABAD BENCH, AHMEDABAD

Contempt. Appli. No: 88 / 1995 IN

O.A. No: 447 / 1989

Western Railway Employees' Union,
BHAVNAGAR .

APPLICANT.

VERSUS

The Union of India, Western Railway
and others.

RESPONDENTS
CONTEMNORS.

1. S/Shri D.V. Anand ... Divl. Rail. Manager - Bhavnagar Para.
2. " G.L. Meena ... Sr. Divl. Pers. Officer -do-

The applicant above named had filed an application challenging the action of the respondents absorbing 12 persons, juniors to the applicants overlooking seniors numbering 20, mentioned in (Annexure A/1). The O.A. was heard on 15-03-1995 whereby the respondents were directed to scrutinised the cases of the applicants shown in (Annexure A/1) and to re-engage them by placing them on supplementary live register.

The respondents were directed to scrutinised the case within the period of 3 months from the date of receipt of the last proforma and communicate the decision within the period of 15 days.

It is submitted that the respondents have deliberately taken no action and flagrantly disobeyed the order of the Tribunal. They have further engaged 84 casual labourers vide order dated 04-09-1995 who are junior to the applicant. Thus the action of the contemnors is calculative with the aim and intention to frustrate to the claim of the applicants. The advocate for the applicants has already issued notice dated 16-08-95, the respondents however have dis-regarded the same.

The respondents have thus committed contempt and have made themselves liable for contempt proceedings.

In view of the facts stated above, it is prayed as under:-

(2)

:: 2 ::

- a) Your honour be pleased to hold that the ^{defendants} committed contempt and have made themselves liable for contempt proceedings and may award penalty as may be considered just and proper.
- b) Your lordships be pleased to direct the respondents that no vacancies of casual labourers be filled until the decision is taken as per the direction of the Hon'ble Tribunal.

1. செனில் டிஸ் மிஸ்
2. சிங் சிங்
3. செனில் டிஸ் மிஸ்
4. சிங் சிங்
5. Dhandkara Ramchandra
ma fathal

THRO
XAVIER M. Mascarenhas
D-74 Kalyanesh
Bhavanagar

(3)

:: 3 ::

AFFIDAVIT

I Vinod Mohanbhai Son of Shri
Mohanbhai Manjibhai M Aged 36 years for myself and
behalf of others do hereby solemnly affirm on oath and state
that what is stated herein is true and correct and that no
material facts have been suppressed.

[Signature]

Signature of applicant.

Vinod Mohanbhai

Drafted and
identified before

Xaver M.
7.11.95

Solemnly affirmed before me
by Vinod Mohanbhai
who is identified by Shree
..... Advocate
who is Personally known to me

Xaver M.

XAVIR M. MAGGARENHAS
B.A., LL.B., Advocate

who is Personally known to me
Advocate
who is identified by Shree
by
Solemnly affirmed before me

Contents of the affidavit were truly
and audibly read over and translated
in to Gujarati language known to the
deponent and he seem to have
understood the same.

Xaver M.

XAVIR M. MAGGARENHAS
B.A., LL.B., Advocate

The Western Railway Employees Union's
office is at Bhaenagar. The word in the title
'Bhaenagar' in the original OA was misspelled

Which is an error.

Xaver M.
Advocate
27/11/95

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD BENCH
AHMEDABAD

Contempt Appli.No: 88/1995.

IN O.A. No: 447/1989

Western Railway Employees Union,
BHAVNAGAR -

Applicant.

VERSUS

The Union of India,
Western Railway & Others.

RESPONDENTS
CONTEMNORS.

:: DRAFT CHARGES ::

The applicant herein is a Recognised Trade Union. The said O.A. was filed challenging the action of the respondents in recruiting fresh casual labourers over looking the rights of the casual labourers mentioned in Annexure A/1.

The Hon'ble Tribunal after hearing both the parties decided the O.A. on 15-03-1995. The respondents were accordingly directed to scrutinise the applications and decide their eligibility within a period of 3 months with further direction that decision be communicated to the casual labourers within a period of 15 days thereafter. The applicants have already submitted their applications in the prescribed proforma but the respondents have taken no decision. The respondents have now issued orders dated 04-09-1995 giving appointment to 84 casual labourers who are junior to the applicants and although the stipulated period is over, no actions have been taken. The advocate for the applicant have already issued a notice dated 16.8.95 to which no reply has been received until this date. The applicants have therefore no efficacious remedy except filing this contempt application and the application.

BHAVNAGAR :

DATE: 7 - 11 - 1995

① For the Union of India

...

(2) x

2145 21751

(3) x

0425 0415 3012 0415

(6) x

0116 2407

Identification
and

Accession
Advocate
5-11-95

(5)

x

Chandhukia Rameshchandra
Mafatal