# 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 & ers.	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?

1/0

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.
- S/Shri G.L.Meena,
   Sr.Divl.Pers.Officer.

Respondents

Advocate

1

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 sis 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 Respon--dents 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 appli--cants 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, a ay be adolped / C.A. stands disposed of accordingly.

2. We would have ordered payment of costs 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 cogent plea of Mr.Vin not to award costs 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 costs in such cases.

( V.Radhakrishman ) Member (A) (N.B.Patel) Vice Chairman

# CENTRAL ADMINISTRATIVE TRIBUNAL AHMEDABAD BENCH

Application No. CA   68   95 in OA   447   89
Transfer Application No.
CEPT TETC ATE

### CERTIFICATI

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 :

Signature of the Dealing Assistant

Section Officer.

# CENTRAL ADMINISTRATIVE TRIBUNAL AHMEDA BAD BENCH AHMEDA BAD

# INDEX - SHEET

CAUSE TITLE	CAISSPES MOALULA 189
NAME OF THE	PARTIES W. RIJ. Emp Union, Blavarager

VERSUS

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DK.NU.	DESCRIPTION OF DECUMENTS	PAGE
1	CCP	9
· 2.	Order 18-13/3/96	1
3	Repla	10 to 16
4		17 to 43
5		Chy to ha
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	* 2. 3. h	DESCRIPTION OF DOCUMENTS  1 - CCP 2. Object St. 13/3/96.  3 Reply 4 Additional Ground for C.P.

### CENTRAL ADMINISTRATIVE TRIBUNAL AHMEDABAD BENCH AHMEDABAD

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FORM No. 3 (See Rule 11 )

CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD BENCH

	Dia	ry No. <u><b>8</b></u> 7 1995
	C P	(Civil Criminal) 1995 in OA/447/89
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		(Name of the Counsel, if any )
	And	
		10/203 Respondent (s)
		Respondent (s)
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		(Name of the Counsel, if any )
		Subject: (No, ) Department: (No. )
	REPOR	Subject: (No.)  Line highly  T OF THE SCRUTINY OF CONTEMPT OF COURT PETITION (CIVID CRIMAL)
L.	Whetl	her the name (including as far as
	-9-1	ible, the name of father/mother/husband), occupation and address of the petitioner and the respondent(s) are given ?
		in a service of the s
	1,000	his name, designation, and office
		address alone are enough.
	Wheth	cioner(s) and respondent (s)
	are p	proper ?
	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
	50 10 10	respondent.
	(b)	the party who is alleged to have
		committed contempt, that can be impleaded as respondent.

Crol.

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

1.

2.

- 4.(a)Date of alleged Contempt ? Quego
  - Date of filing of the Contempt 9-1195 (b) Petition ?
  - (c) Whether the petition is barred by limiation under Section 20 of the Contempt of Courts Act, 1971 ?
- 5. (a) Whether the grounds and material facts Jes. constituting the alleged contempt are given ?
  - Whether the grounds and facts alleged (b) in the petition are divided into paragraphs and numbered ?
  - Whether the petition is accompanied (c) by supporting documents or certified/ photostat(attested) copies of the originals thereof?
  - (d) If the petitioner relies upon any other document(s) in his possession, NA whether copy of such document(s) is/ are filed alog with the petition ?
  - Whether the petition and its annexures have (e)been filed in a paper-book from and dulg indexed and paginated ?
  - Whether three complete sets of the (f)Paper-books have been filed ?
  - Whether equal number of extra copies (gg of paper-books have been filed in case there are more respondents than one ?
- Whether the nature of the order sogght from the Tribunal is stated?
- Whether the petition is supported by an affidavit sworn to by the petitioner verifying the facts relief upon ?

Note: No affidavit is required if the Motion is by Attorney General/ Solicitor General/Additional Solicitor General.

- Whether the petitioner or his Advocate have signed the petition indicating the place and dated?
- In case of Civil Contempt whether the 9. petition is accompanised by a certified copy of the judgment/degree/order/writ/ undertaking alleged to have been disobeyed by the alleged contemner ?

In case of criminal contempt, not covered 10. (a) 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 ?

.(B) If not, whether the petition contains the reasons thereof ?

\* Contempst 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:
- .2. (a) Number of the petition ?
  - (b) Whether the petition is pending?
  - (E) If disposed of nature/result of the disposal with date ?
- 12. Whether the craft charges are enclosed in a separate sheet ?

exs.

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 Canaling

Deputy Registrar (%)

REGISTRAR

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

C.A.No. 88 /1995 in

O.A.No. 447 /1989.

WESTERN RAILWAY EMPLOYEE'S UNION

BHAVN AGAR .

Applicant.

### VERSUS

The Union of India, Western Railway & others.

Respondents.

### INDEX

Details of document. No. of Pages. No. 1. Contempt application. 01 to 08 2, Draft Charge 04 to 05 Xeroxed copy of oral order dated 15-3-1995 in 0.A. 3. No.447/1989. 06 to 09

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BHAVN AGAR,

DATE: ... -11-1995. Filed by M. Engh Xanes

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Dt. 90 198 1. Dy. Registrar C.A.T. S. -2, A'bad Bench.

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Signature of the advocate for the applicant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

## AHMEDABAD BENCH, AHMEDABAD

Contempt. Appli.No: 88 /1995 IN

O.A.No: 44) /1999

Western Railway Employees' Union, BHAVNAGAR .

APPLICANT.

**VERSUS** 

The Union of India, Western Railway and others.

RESPONDENTS CONTEMPORS.

- 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 supplimentary 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 delibrately taken no action and flagrantely 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 frustred to the claim of the applicants The advocate for the applicants has already issued notice dated 16-08-95, the responts 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:-

- Your honour be pleased to hold that the lefterless 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.

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:: 3 :: AFFIDAVIT

I Vined Mohanbhai Son of Shri
Mohanbhai Mavjishai MunAged 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 supressed.

Signature of applicant.

Vinod motionada

Deather and identifications Caleson 7.11-1995

by Whod Mohandhai who is identified by Shree who is Personally known to me

XAVIR M. MASCARENHAS
B.A; LLB., Advocate

who is identified by Shree

Who is Personally known to me

Solemnly affirmed before me

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

XAVIR M. MASSITENHAS

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD BENCH

AHMEDABAD

Contempt Appli.No: 88 /1995.

IN O.A. No: 447/198

Western Railway Employees Union, BHAWNAGAR -

Applicant.

VERSUS

The Union of India, Western Railway & Others.

RESPONDENTS CONTEMNORS.

### :: DRAFT CHARGES

The applicant herein is a Recognised Trade Union. said 0.A. was filed challenging the action of the respondents in recruting 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 0.A.on 15-03-1995. The respondents were accordingly directed to scrutinised 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. applicants have already submitted their applications in the prescribed proforma but the respondents have taken no The respondents have now issued orders dated decision. 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 afficatious remedy except filing this contempt application and the application.

BHAVNAGAR:

DATE: - 1 -1995

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