

9
O.A.NO. 198 OF 2007

Dillip Kumar Ray & Dey	Applicant
Vrs.		
Union of India and others	Respondents

Order dated 31st August 2007

This Original Application was filed on 6.6.2007 and came up before this Bench on 8.6.2007 for considering the question of admission. By order dated 8.6.2007 the notices were directed to be issued to the Respondents by Speed Post and the O.A. was posted to 25.6.2007. Accordingly, the notices were issued by Speed Post by the Registry on 11.6.2007. On 25.6.2007 Shri G.Singh, the learned Panel Counsel (Railway) appeared for Respondent No.1 by filing Vakalatnama and no counter was filed on behalf of the said Respondent. The other Respondents 2 to 4 did not enter appearance by 25.6.2007 or until this date. On 25.6.2007 adjournment was sought for by the learned counsel appearing for Respondent No.1 to file counter and the matter was adjourned to 02.07.2007 and then to 19.7.2007. On 19.7.2007 also, on the prayer made by the learned counsel appearing for Respondent No.1, the matter was adjourned to 26.7.2007 for the purpose of filing counter.

2. On 26.7.2007 neither the learned counsel for the applicant nor the learned counsel for Respondent No. 1 appeared before the Bench on account of Advocates' strike on Court work before this Bench on the basis of purported resolutions passed by the CAT Bar Association. In this connection, I would like to refer to the decision of the Hon'ble Supreme Court in the case of Ramon Services Pvt.Ltd. v. Subhash Kapoor and others, JT 2000 (Suppl.2) SC 546,



wherein Their Lordships, in paragraphs 24, 27 and 28 of the judgment, have held that no advocate can take it for granted that he will appear in the court according to his whims and fancies or conveniences. It would be against professional ethics for a lawyer to abstain from the court when the cause of his client is called for hearing or further proceedings. In appropriate cases the court itself can pass effective orders for dispensation of justice with the object of inspiring confidence of the common man in the effectiveness of judicial system. Inaction will surely contribute to the erosion of ethics and values in the legal profession and the defaulting Courts may also be contributory to the contempt of the Hon'ble Apex Court. Keeping in view the case law laid down by the Hon'ble Supreme Court, the materials available on record were perused and order was reserved.

3. Applicant Dillip Kumar Ray @ Dey, who claims to have been working as a Senior Chowkidar under Section Engineer (Works), office of the IOW, East Coast Railway, Mancheswar (Respondent No.4), has filed this O.A. for a direction to the Respondents to allow him to discharge his duties as Senior Chowkidar and to pay his salary for the month of April and May 2007. The applicant's grievance is that without any rhyme or reason the Section Engineer (Works), I.O.W.Office, East Coast Railway, P.O-Mancheswar Railway Colony, Mancheswar, Dist. Khurda (Respondent No.4), has not been allowing him to discharge his duties and has also not been making payment of his salary from the month of April 2007. Ventilating his grievances, the applicant appears to have made representations to the Respondent-authorities, but to no effect.



4. As noted earlier, despite issuance of notices, all the Respondents, except Respondent No.1, did not appear. Though Respondent No.1 appeared through counsel, yet no counter was filed by him in spite of repeated opportunities being granted to him. Further, none appeared on 26.7.2007 for the applicant and Respondents too. In the circumstances, the Tribunal is unable to pass appropriate orders. As the applicant has made an allegation that he has not been paid his salary since April 2007 and that his representations (Annexures 6 series) yet remain pending with the Respondent-authorities without a prompt decision being taken, I feel that the ends of justice would be met if the Respondents are directed to consider those representations pending before them and pass a speaking order and communicate the same to the applicant within a period of 15 (fifteen) days from the date of receipt of copy of this order. It is ordered accordingly. The Registry is directed to communicate copies of this order to Respondent Nos. 2 to 4, for which the applicant shall file the postal requisites within seven days *from the date of receipt of copy of this order.*

5. With the above observation and direction, the Original Application is disposed of accordingly, at the stage of admission itself. No costs.


(N.D.RAGHAVAN)
VICE-CHAIRMAN