

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

CPC 35 of 1996
(O.A.1276 of 1994)

Present : Hon'ble Mr. Justice A.K. Chatterjee, Vice-Chairman
Hon'ble Mr. M.S. Mukherjee, Administrative Member

CHANDRA BHAN

-vs-

A.P. MURUGESAN & OTHERS

For petitioner : Mr. R.K. Sinha, counsel
Mr. P.C. Das, counsel

For respondents/
contemnors : Mr. C. Samaddar, counsel

Heard on : 1.7.1997 - Order on : 16.7.1997

O R D E R

A.K. Chatterjee, VC

The present petitioner had filed O.A. 1276 of 1994,
which was disposed of on 20.4.95 with the following order :-

" That the petitioner may make within three months detailed representation to Railway respondent No.4, the Sr.DPO, Sealdah Division, seeking further detailed enquiry into the matter specially with reference to Provident Fund account records of the office of Loco Foreman, Chitpur, Sealdah Division of period prior to 1971 and the latter within three months thereafter, shall complete the enquiry and dispose of his settlement dues appropriately. If as a result of such enquiry no settlement dues are payable to the petitioner, the respondent No.4 has to give a speaking reply. It is also desirable that while making the representation, the petitioner shall also annex a copy of this order. "

2. The petitioner contends that the settlement dues were not paid to him and that the respondent No.4 did not even give any speaking order and as such he has violated the order of the court for which contempt proceeding should be initiated against him.

3. The alleged contemner has filed an affidavit stating that on enquiry undertaken pursuant to the order of the Tribunal, it was found that no settlement dues were payable to the petitioner and a speaking order was also passed within the period specified in the order of the Tribunal.

4. We have heard the Ld.Counsel for the parties and perused the records before us as well as a copy of the speaking order passed by the Sr.Divisional Personnel Officer, Sealdah dt.8.9.95, which was produced by the Ld.Counsel for the alleged contemner.

5. The Tribunal gave an order that in case upon enquiry it was found that the petitioner was not entitled to get settlement dues, a speaking order was to be passed within three months from the date of receipt of representation by the petitioner. It appears from the materials before us that the petitioner himself made no representation but his counsel sent a letter dt.15.6.95 which was received in the office of the alleged contemner on 19.6.95. Strictly this cannot be regarded as a representation by the petitioner himself which the Tribunal had ordered and therefore, no question of enquiry as ordered by the Tribunal could arise. However, an enquiry was, in fact, held and a speaking order was passed on 8.9.95, which is well within three months from the date of the letter of the petitioner's counsel.

6. The Ld.Counsel for the petitioner has stated that the supposed speaking order was not communicated to the petitioner, although it was specifically stated in the order of the Tribunal that the respondent No.4 was to give a speaking reply. The copy of the speaking order, which has been produced before us this day contains an endorsement that copy should be communicated to the petitioner. The petitioner in his application did not specifically state that no communication was made to him, nor any rejoinder has been filed by the petitioner despite specific averment made in the

affidavit of the alleged contemner that the petitioner was given a speaking order under letter dt.8.9.95. Even though a copy of the speaking order was produced only at the time of the hearing and no copy of it was annexed to the affidavit, still it does not give rise to ^{any} kind of suspicion whatsoever because the substance of the speaking order finds place in the affidavit in opposition.

7. The d.Counsel for the petitioner has also questioned the soundness of the speaking order. Suffice it to say that soundness of the speaking order does not come within the purview of the present proceeding and no contempt rule can be issued even if there is some fallacy in the reasoning which may, if at all constitute the subject-matter of a fresh O.A.

8. On the above premises, we do not see any ground to issue any contempt rule and the C.P.C. is rejected. No costs.

A. Mukherjee
(M.S. Mukherjee)
Member (A)

A.K. Chatterjee
(A.K. Chatterjee)
Vice-Chairman