

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA**

No.CPC.6 of 2007
(O.A.1095/1996)

Date of order : 11.6.07

Present : Hon'ble Mr. P.K. Chatterji, Administrative Member

Hon'ble Dr. D.K. Sahu, Judicial Member

Swapan Kumar Sinha, son of late
A.K. Sinha, residing at Village Sultanpur,
P.O. Jagacha, Dist. Howrah and working
for gain as Box Carrier, TNI, Howrah,
South Eastern Railway

.....Applicant

Vs.

1. Shri V.K. Raina, General Manager,
South Eastern Railway, Garden Reach,
Kolkata – 43
2. Shri S. Bhattacharjee, Chief Personnel
Officer, South Eastern Railway, Garden
Reach, Kolkata – 700 043
3. Shri Ranjan Tewari, Divisional Railway
Manager, South Eastern Railway,
Kharagpur, Midnapore, West Bengal
4. Smt. Hansha Dass, Senior Divisional
Personnel Officer, South Eastern Railway,
Kharagpur, Midnapore, West Bengal
5. Shri Suklal Hansda, Divisional Personnel
Officer, South Eastern Railway, Kharagpur,
Midnapore, West Bengal

.....Respondents/Alleged Contemners

For the applicant : Mr. S.K. Dutt, counsel
For the respondents : Mr. K. Chakraborty, counsel

O R D E R

Per Dr. D.K. Sahu, J.M.

An order has been passed by this Tribunal in O.A.No.1095 of 1996 on 11.06.2003. The applicant has now filed this application stating that the order passed therein has not been complied with in willful disobedience of the same. Accordingly it is submitted to take action against the alleged contemners under Contempt of Courts Act. It

2. The Tribunal in the said order has also directed that the other affected persons have not been made party. Therefore, the Tribunal directed the respondents to look into that and pass appropriate speaking order. A speaking order has been passed vide CP-6. The applicant then filed a contempt application registered as CPC.97 of 2004 which was disposed of on 22.06.2006 with direction to the respondents to call the applicant as well as the persons to be affected and after hearing them pass appropriate order fixing their seniority.

2. Now the respondents/alleged contemners have filed a speaking order dated 24.08.2007 vide CR-I wherein they have taken into consideration the matter relating to all the persons to be affected and accordingly fixed the seniority. We find that previously also the applicant filed a contempt application for alleged disobedience of the order of the Tribunal which has been disposed of with the direction mentioned above. Thereafter the respondents in their detailed order at Annexure CR-I passed necessary orders regarding seniority.

3. The applicant submits that the said order is not proper and seniority has not been fixed properly.

4. Placement of the applicant in the seniority list vis-à-vis other affected persons may be wrong or may be right or may not be in conformity with the direction of the Tribunal. This can give rise to a fresh cause of action for judicial review. The applicant, if so advised, may seek redress in accordance with the rules, but it cannot be willful violation of the order of the Tribunal warranting action under Contempt of Courts Act.

[Referred to the decisions in case of State of Haryana v. M.P. Mohil(2007)1 SCC(L&S)-303 and State of Orissa v. Aswini Kumar Baliar Baliar Singh(2006)6 SCC-759].

5. After careful consideration, we do not find any willful disobedience on the part of the alleged contemners and the contempt application is not sustainable. Accordingly it is dropped. No order as to cost.



MEMBER(J)



MEMBER(A)