

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

R.A. 24 of 2009 with MA 388 of 2009
(OA 371 OF 2001 & CPC 78/2009)

Present : Hon'ble Mr. K.V.Sachidanandan, Vice-Chairman
Hon'ble Mr. Champak Chatterji, Member (A)

NRIPEN DAS

VS

UNION OF INDIA & ORS(E.Rly)

For the applicant : Mr. B.Mukherjee, Counsel

For the respondents: Mr. P.K.Arora, Counsel
(present during hearing of OA)

Disposed of by circulation

Date of order : 20 .01.2010


ORDER

K.V.Sachidanandan, VC :

R.A. 22 of 2009 has been filed by the applicant of OA 371 of 2001 seeking review and modification of the order dt. 31.7.09 passed in connected CPC 78 of 2009. MA 388 of 2009 is an application for condonation of delay in filing the RA. Considering the circumstances, the MA is allowed and the RA is taken up on merit.

2. In the OA, the applicant, who was working as Chowkidar, had claimed over time allowance, and the Tribunal by order dt. 20.5.98 directed the respondents to make payment of OT allowance from July 1992 onwards provided the applicant was employed to perform duty for more than 9 hours a day in a 5-day week. The applicant subsequently filed a contempt petition being CPC 20/05 for non-implementation of the order. However, the contempt petition was dropped by order dt. 5.8.05 as payments had already been made.

3. Subsequently, the applicant filed another contempt petition being CPC 78 of 2009 alleging once again non-compliance. This Tribunal by order dt. 31.7.09 observed that a second contempt petition is not permissible and accordingly the same was dropped.



4. Against this order, the applicant has filed this RA contending mainly that the Tribunal while dropping the contempt petition did not take into account the written notes filed by the applicant. In the order dt. 31.7.09 it was inter alia noted in para 5 as under :-

“ We are also of the same view and when we asked the applicant to city any rule/procedure and/or citations to establish his case that a further contempt will lie, was not acceded to.....”

5. In the review petition it is contended that in his written note of argument, the applicant has cited some decision as also the contempt rules which the Tribunal did not take into account and therefore there was error apparent on the face of the order and on that ground the order should be recalled.

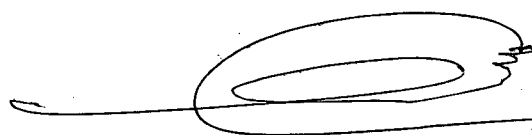
6. In the written note of argument, a decision in the case of Sri Vidya Sagar -vs- IIIrd Addl. Dist. Judge, Derhadoor, 1991 Crl. L.J. 2286 has been cited to contend that even violation of undertaking given before the court also amounts to civil contempt.

In para 8 of the note the applicant has stated that “there is no such Rule tgat tge 2nd contempt cannot be filed, when continuous breach of undertaking is being committed by the respondents in violation of Sec. 2(b) of the Contempt of Court's Act, 1971”

7. This does not answer the specific query whether 2nd contempt would lie or not. We find that in the earlier contempt petition the respondents have categorically stated that an amount of Rs. 22089.00 was charged through salary bill and paid. There is no mention of any undertaking in our previous order. Therefore, the written note of arguments relied on by the applicant does not help him.

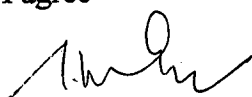
8. In view of the above, we do not find any reason to recall our order and accordingly the RA is rejected by circulation. under the rules being devoid of any merit.

No costs.



VICE CHAIRMAN

I agree



(Champak Chatterji)
MEMBER(A)