

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

CPC 117 OF 1998 (OA 820 OF 1997)

Present : Hon'ble Mr. Justice S.N.Mallick, Vice-Chairman

Hon'ble Mr. B.P.Singh, Administrative Member

Ashoke Karmakar  
S/o Late Ranjit Karmakar  
Gate Keeper under PWI/Nabadwipdham  
P.O. Nabadwip, Tegharipara  
Dist. Nadia

Vs

Sri Goutam Banerjee,  
PWI, Eastern Railway,  
Nabadwipdham  
P.O. Nabadwip, Dist. nadia

For the petitioners : Mr. A.K.Bairagi, Counsel

For the respondents : Mr. P.K.Arora, Counsel

Heard on : 7.5.99 : Order on : 7.5.99

O R D E R  
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S.N.Mallick, V.C. :  
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In this contempt petition, the petitioner has prayed for issuing a contempt rule against the alleged contemner/respondent for violation of the Tribunal's order dt. 18.8.97 passed in OA 820 of 1997. The reply and rejoinder are on record.

2. In the OA, the petitioner made out a case for correction of his date of birth to the respondent authorities by filing several representations. The OA was not decided on merits and the Tribunal passed the following orders :

"Hearing the ld. counsel for the parties on perusal of the application and annexures, we dispose of the application at this stage with a direction upon the respondents, particularly, the respondent No. 6 herein, to dispose of the representations made by this applicant at annexures "E" and "G" at pages 16 and 18 of this application within two months from the date of

communication of this order and in case it is turned down, to pass a speaking order which will be communicated to the petitioner immediately."

3. The speaking order dt. 14.1.99 passed by the alleged contemner has been annexed to the supplementary affidavit. Palpably there was delay in the matter of passing the speaking order. The delay has been explained by the alleged contemner in his reply. It is stated that the alleged contemner was not the proper authority to dispose of the representation of the petitioner regarding correction of date of birth as directed by the Tribunal. So, necessary permission was sought for from the higher authority. It has been stated in paragraph 16 of the reply that the said permission was obtained as per letter No. Wg/CC/DEN-3/HWH/AK dt. 17.12.98. On getting such permission, the speaking order was passed on 14.1.99.

4. Mr. A.K.Bairagi, the ld. counsel appearing for the petitioner submits that the speaking order is a motivated one by falsification of the service records of the petitioner. This aspect of the matter cannot and should not be decided in a contempt petition. Here it is only to be seen whether there was any wilful disobedience on the part of the respondents in the matter of compliance of the Tribunal's order.

5. No doubt there was some delay in the matter of compliance of the Tribunal's order, but the delay has been satisfactorily explained. Hence, we are of the opinion that there is no reason to issue any contempt rule against the respondent as there was no deliberate or wilful violation of the Tribunal's order on the part of the respondent. If, however, the petitioner is aggrieved by the speaking order, he may file a fresh OA, if he is so advised.

6. The contempt proceeding is dropped. The contempt petition stands disposed of accordingly without any order as to costs.

  
MEMBER(A)

  
VICE-CHAIRMAN