

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

M.A. 600 of 98
C.P.C. 6 of 99
(O.A. 235 of 97)

Present : Hon'ble Mr. D. Purkayastha, Judicial Member.

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

EMPLOYEES' STATE INSURANCE CORPORATION
5/1, GRANT LANE, CALCUTTA - 700 012.

- v e r s u s -

BIMAL CHANDRA GHOSH

For the applicants : Mr. T.K. Chatterjee, counsel. (for respdts. in O.A.)
Mr. B.G. Bhattacharya, counsel. (for Original applicant
in C.P.C.)
For respondents : Mr. T.K. Mukherjee, counsel (for applicant in O.A.)

Heard on 22.7.99

Order on 22.7.99

O R D E R

D. Purkayastha, JM

The application bearing No. M.A. 600/98 has been filed by the official respondents on 21.12.98 seeking extension of time for completion of the departmental enquiry in view of the direction contained in the judgment dated 9.7.98 in O.A 235/97 (Annexure-A to the application) and the C.P.C. No. 6/99 has been filed by the original applicant against the alleged contemners for non-compliance of the direction contained in the judgment dated 9.7.98. Both the applications are taken up together. It is found that M.A. 600/98 had been filed prior to the filing of contempt application bearing No. 6/99.

2. Ld. counsel Mr. Chatterjee, appearing on behalf of the official respondents submits that there was a direction upon the respondents to conclude the enquiry within three months from the date of passing of the judgment dated 9.7.98. But Inquiry Officer could not complete the enquiry due to reasons stated in the application in paras 2, 3 & 4 of the Misc. application. It is stated in the said application that Inquiry Officer, Shri R.K. Shukla was transferred to HQrs. at Delhi and another officer Mr. R.N. Manna was appointed in his place for completion of the enquiry. But inspite

of best efforts taken by the Inquiry Authority, the proceedings could not be completed within the scheduled time as directed by the Hon'ble Tribunal by some reasons or other. Therefore, the prayer for extension of time for completing the disciplinary proceedings should be allowed.

3. Ld. Counsel Mr. Bhattacharya appearing on behalf of the delinquent official (original applicant) submits that the official respondents did not file application for extension of time before expiry of the period prescribed by the Hon'ble Tribunal for completion of the disciplinary proceedings. It is specifically mentioned in the order dated 9.7.98 that the respondents were directed to conclude the disciplinary proceedings within three months from the date of communication of the order dated 9.7.98. In the instant case, the said period has already expired on 21.10.98. We find that the order dated 9.7.98 passed by this Tribunal ^{had been} ~~was~~ given to the respondents, ^{cc} by the Department on 16.7.98 and the official respondents communicated the same to the Inquiry Authority on 21.7.98. In view of the aforesaid circumstances, we find that official respondents did not file the application for extension of time before expiry of the period of three months ^{from the} ~~even~~ date of receipt of the order of the Tribunal. Admittedly, the official respondents filed the application on 21.12.98 just after two months from the expiry of the time limit prescribed by the Hon'ble Tribunal.

We find that the Tribunal after considering the material facts at the time of passing of the judgment dated 9.7.98 specifically prescribed the time limit for completion of the enquiry by the Inquiry Officer. But they did not act on the basis of the direction given by the Tribunal in the said judgment. ^{As} a result, the said period has ~~been~~ expired. We find that the respondents also did not seek any extension of time before expiry of the time as prescribed by the Tribunal. It is basic principle of law long settled that if the manner of doing of a particular act is prescribed in any statute the act must be done in that manner or not at all. The origin of rule is traceable to the decision ^{Taylor} ~~Taylor~~ versus ^{Taylor} ~~Taylor~~ (1875) (1) C.h.D 426

which was followed by the Lord Roch in Nazir Ahmed's case reported in AIR 1936 SC 253. In the instant case, respondents ought to have applied for extension of time before expiry of the period. But they did not apply for extension of time even after the date of receipt of the order from the Tribunal. In view of the aforesaid circumstances, we find that the respondents did not act in accordance with the manner prescribed in the order and thereby the prayer for extension of time is hereby rejected. Since the extension of time is refused thereby the contempt application will be considered by the Tribunal after filing reply by the alleged contemner. On a perusal of C.P.C. application we find that the names of the alleged contemners have been mentioned in it and the same has been filed on 18.1.99. Under such circumstances the original applicant is directed to file fresh copy of the C.P.C. to the other side i.e. alleged contemners within two weeks from today. Liberty is given to official respondents to file fresh reply to the aforesaid application after receipt the copy of the same. M.A. bearing No.600/98 is disposed of. C.P.C bearing No.6/99 stands adjourned to 2.9.99.

4. No order is passed as to costs.

B.P. Singh
(B.P. Singh)

Member (A)

D. Purkayastha
(D. Purkayastha)
Member (J)

22.7.99