

**THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH**

**Civil Contempt Petition No.79/2007**

**In**

**Original Application No.400/2006**

**This the 23<sup>rd</sup> day of September 2010**

**Hon'ble Shri G. Shanthappa, Member (J)**

**Hon'ble Shri S.P. Singh, Member (A)**

1. Shailendu Mishra aged about 30 years S/o Avinash Chandra Misra and R/o 5-Manak Nagar Jiamau Lucknow (S.Mo.54 in the suitability list of qualified staff)
2. Himanshu Sinha aged about 28 years S/o S.P. Sinha C/o item No.1 above (S.No.46 in suitability list of qualified staff).
3. Avinash Saxena aged about 32 years R/o C.5/D L.D.A. Colony Krishana Nagar, Lucknow (S.No.49).
4. Nishendu Mishra aged about 37 years S/o A.C. Mishra C/o Smt. K.K. Mishra Lucknow (S.No.53) in the suitability list.
5. Dipanshu Sinha aged about 30 years. S/o S.P. Sinha C/o item No.4 (S.No.65 in the qualified list)
6. Anand Kishore aged about 30 years S/o S.C. Yadav C/o item No.1 above (S.No.67 in the qualified list).
7. Shailendra Sourabh aged about 37 years R/o 3 Viram Khand Gomti Nagar, S/o A.B. Srivastava (S.No.47 in the qualified list).

...Applicant.

**By Advocate: Shri A.C. Mishra.**

Versus.

1. Sri Chahatey Ram, the Divisional Railway Manager, Northern Railway, Lucknow.
2. Sri Shailendra Kumar, Sr. Divisional Personnel Officer, Northern Railway Divisional Office, Lucknow
3. Sri K.M. Tripathi, the Sr. Divisional Commercial Manager, Northern Railway, Divisional Office, Lucknow.

.... Respondents.



**By Advocate: Shri B.B. Tripahti holding brief for Shri M.K. Singh.**

**ORDER (Oral)**

**BY HON'BLE Shri G. Shanthappa, Member (J)**

We have heard the learned counsel for applicant and the learned counsel for the respondents.

2. Learned counsel for applicant submits that a Writ Petition No.1343/2009 is pending before the Hon'ble High Court in which the order of this Tribunal passed in C.C.P. has been challenged before the Hon'ble High Court by the respondents department. The learned counsel for applicant further submits that the O.A.No.400/2006 has been decided on 17.07.2007. The respondents department had filed Review Application No.21/2007. The respondents department had filed Writ Petition before the Hon'ble High Court of Allahabad Bench of Lucknow bench in Writ Petition No.1343/2009. The said writ petition is pending for consideration. It is further submitted by the learned counsel for the applicant that the petitioner in the above writ petition has moved for interim relief but that has not been granted. In the C.C.P the applicant is asking for implementation of the order dated 17.07.2007 passed in O.A.No.400/2006 and the order in Review Application No.21/2007.

3. The learned counsel for respondents submits that Hon'ble High Court has not granted the interim order against the order passed in O.A.No.400/2006 but the contempt proceedings has been stayed on 15.09.2009. The said order is reads as under:-



**"Hon'ble Uma Nath Singh, J**  
**Hon'ble S.C. Chaurasia, J**

Counter Affidavit to the writ petition has been served upon learned counsel for petitioner today.

Learned counsel for petitioner thus prays for and is granted two weeks time to file Rejoinder Affidavit. Learned counsel shall also keep ready the record of examination for perusal of this court, if so required.

List thereafter.

Contempt proceedings to remain stayed till the next date of hearing.

Sd/-Uma Nath Singh  
 Sd/- S.C. Chaurasia

15.09.2009  
 AKS/W.P.No.1343 (S/B) 2009"

.....

**"Hon'ble Uma Nath Singh, J**  
**Hon'ble D.K. Arora, J**

List in next cause list.

Sd/-Uma Nath Singh  
 Sd/- D.K. Arora

W.P.No.1343 (S/B) of 2009"  
 23.02.2010"

.....

**"Hon'ble Uma Nath Singh, J**  
**Hon'ble Dr. Satish Chandra, J**

List in the next cause list.

Sd/-Uma Nath Singh  
 Sd/- Dr. Satish Chandra

CMA No.36282/10 in re:  
 W.P.No.1343 (S/B) 2009"

The said order of stay was not extended on 23.02.2010. The respondents in their objection have stated in para-9:-

"That till the order dated 15.09.2009 is positively vacated by the Hon'ble High Court, it cannot be said to have been vacated even if due to some error, it could not be extended. Once an order has been passed with explicit words, it cannot be said to have lost weight or force simply because it has not been extended due to some clerical error."



4. Be that as it may, since the matter is sub-judice before the Hon'ble High Court, the interim order of stay was not extended, we are not inclined to proceed with contempt proceedings against the respondents. Accordingly, the C.C.P. for the time being is dropped. Notices discharged.



**(S.P. Singh)**  
**Member (A)**



**(G. Shanthappa)**  
**Member (J)**

Amit/-