

**Central Administrative Tribunal
Lucknow Bench Lucknow**

Civil Contempt Petition No.23/2008

In

Original Application No.491/2007

This, the 10th day of February 2009

HON'BLE MR. M. KANTHAIAH, MEMBER (J)

HON'BLE DR. A.K. MISHRA, MEMBER (A)

Tulsi Ram Yadav, age about 36 years, son of Sri Devi Prasad, resident of Village Mahmood Nagar, Post Office Gugauli, District Balrampur [presently workings Gramin Dak Sewak Mail Deliverer, Branch Post Office Gugauli (via Tulsipur) District Balrampur].

Applicant.

By Advocate:- Shri R.C. Singh.

Versus.

1. Sri Kishan Kumar Maurya, Superintendent of Post Office, Gonda Division, Gonda.
2. Sri Hari Shanker Lal, Assistant Superintendent of Post Offices, Balrampur.
3. Sri Vijay Shanker Lal Srivastava, Post Master, Head Post Office, Balrampur.

... Respondents.

By Advocate:- Shri S.P. Singh.

ORDER

BY HON'BLE MR. M. KANTHAIAH, MEMBER (J)

The applicant has filed the petition under section 17 of Administrative Tribunal Act, 1985 read with Section 12 of Contempt of Court Act, 1971 to punish the respondents on the ground that they

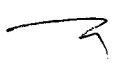
have willfully and deliberately did not comply the order of this tribunal granted by way of interim order dt. 20.12.2007. The applicant filed the present application on 15.5.2008.

2. The respondents have filed counter affidavit, stating that the application is liable for dismissal on the ground that the main case has been decided on 22.5.2008 and the impugned order dt. 31.7.2008 was set aside with a direction to place the applicant pursuant to the order dt. 24.7.2007 within a period of 2 months. After receiving the order, the same was placed before the higher authorities and after receiving the instructions, it has been implemented vide order dt. 1.9.2008 (Ann.CA-1) by Respondent No-1 and as such, there is no disobedience on the par of the respondents

3. Heard both side.

4. The point for consideration is whether the applicant is entitled for the relief as prayed for.

5. The admitted fact of the case are that the applicant filed OA on 23.11.2007 with a prayer to set-aside the impugned order dt. 31.7.2007 (Ann-A-1) passed by Respondent No-2 through which the earlier order of allotment of unit and posting of the applicant on the post of regular post man (GOD) dt. 24.7.2007 has been cancelled and further to allow the applicant to join on the post of postman in pursuance of the order dt. 24.7.2007 (Ann-A-7) and perform his duties



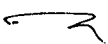
without hindrance and pay him salary for the post of regular postman regularly.

6. By way of interim relief, he sought stay of operation of impugned order dt. 31.7.2007 (Ann-A-1) and issue direction to the respondents to allow the applicant to join and perform his duties as postman in pursuance of order dt. 24.7.2007. On 20.12.2007 this tribunal has passed interim relief, staying the impugned order covered under Ann-A-1 till next date and the same has been continued till disposal of OA.

7. After completion of pleading and after hearing OA was disposed of on 22.5.2008 under which the impugned order dt. 31.7.2007 (Ann-A-1) was set-aside with a direction to Respondent No-2 to place the applicant in the same post on which he was pursuant to order dt. 24.7.2007 before passing of impugned order dt. 31.7.2007 within a period of two months from the day a certified copy of this order was produced before him.

8. But on 15.5.2008 the applicant has filed the present CCP on the ground that the respondents have willfully not complied with the order of the tribunal dt. 20.12.2007 passed by way of interim relief.

9. By way of interim relief dt. 20.12.2007, this tribunal has stayed the impugned order Ann-A-1 dt. 31.7.2007 passed by Respondent No.2 under which he cancelled the earlier order dt. 24.7.2007 through which, the order of posting and allotment of unit of the applicant was made. While granting the stay of impugned order 31.7.2007 (Ann-A-1)



this tribunal has not given any direction to the respondents permitting the applicant to join on the post as ordered vide order dt. 24.7.2007 (Ann-A-7) which is only order of allotment of the applicant and posting at Balrampur head Post Office after completion of training successfully.

10. It is not the case of the applicant that during stay of impugned order dt. 31.7.2007 (Ann.-A-1), Respondent No.2 violated or disobeyed the orders of the tribunal and implemented the said impugned order. Without any disobedience or non implementation of the direction of the tribunal dt. 20.12.2007 passed by this tribunal, it is not open to the applicant to complain against the Respondent No.2 and as such, there are no valid and justified grounds to say that the Respondent No.-2 committed any contempt of court order willfully and deliberately and as such, there are no merits in the claim of the applicant for initiating any action against the respondents under contempt of court act, 1971 or under Section 17 of Administrative Tribunal Act, 1985.

In the result, CCP is dismissed. Notices are discharged.

A. K. Mishra 10/2/09
(DR. A.K. MISHRA)

MEMBER (A)

(M. KANTHAIAH)

MEMBER (J)

10.02.2009