

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

CCP No. 06 of 2010

In re.

Original Application No. 425 of 2002

This the 2nd day of February, 2015.

Hon'ble Mr. Navneet Kumar, Member-J
Hon'ble Ms. Jayati Chandra, Member-A

Ram Swaroop, aged about 56 years, S/o Sri Chhedi Lal, R/o 2075
Hathipur Khurana, District Lakhimpur Kheri.

.....Applicant

By Advocate : Sri D. Awasthi

Versus.

1. Sri Omveer Singh, CGMT, Lucknow.
2. Sri Mahender Pati, General Manager, Telecom.,
Lakhimpur Kheri

.....Respondents.

By Advocate : Sri A.K. Chaturvedi & Sri G.S. Sikarwar.

ORDER

By Navneet Kumar, Member(J)

The present Contempt petition has been preferred by the applicant for non-compliance of the order dated 3.2.2008 passed in Original Application No. 425 of 2002 through which the Tribunal directed as under:-

"Therefore, we hold that this O.A. has merit and direct the respondent no.2 to consider the case of the applicant for grant of temporary status within a period of two months from the date of receipt of a certified copy of this order. Further, as has been done in respect of Chhotey Lai, the case of the applicant should be considered, thereafter, for regularisation as per the scheme of the department."

2. Subsequently the Review Application was preferred by the O.A.-respondents and the said Review Application also stands dismissed as barred by time. Thereafter, a copy of the order was duly communicated upon the respondents and when the respondents failed to comply with the order of the Tribunal, the applicant filed the present Contempt petition.

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3. Sri A.K. Chaturvedi, learned counsel appearing on behalf of respondents filed compliance report dated 30.1.2015 sworn by Sri Hari Ram Shukla, Chief General Manager, Telecom, Bharat Sanchar Nigam Limited, U.P. (East), Telecom Circle, Lucknow though which it is indicated by the respondents that though Writ petition No. 1764 (S/B) of 2009 has been filed before Hon'ble High Court against the order of the Tribunal dated 3.12.2008, but during the pendency of said Writ petition, the respondents have passed the order dated 29.1.2015 through which the respondents have categorically indicated the status of Sri Chhotey Lai as indicated in the Tribunal's order dated 3.12.2008 and subsequently it is also indicated by the respondents that the request of the applicant for grant of temporary status as directed by this Tribunal through order dated 3.12.2008 is not permissible and the case of the applicant was accordingly rejected.

4. Sri D. Awasthi, learned counsel appearing on behalf of the applicant has categorically stated that while passing the order dated 29.1.2015, the respondents have not placed the correct facts before the Tribunal and in para 2 of the judgment it was admitted by the respondents that the applicant was working with the respondents since long.

5. We have heard the learned counsel for the parties and also gone through the records as well as the compliance report filed by the respondents. As observed by the Hon'ble Supreme Court in the case of **J.S. Parihar Vs. Ganpat Duggar reported in 1996 Legal Eagle (SC) 1385** and also in the case of **Prithavi Nath Ram Vs. State of Jharkhand reported in AIR 2004 SC 4277** the Hon'ble Supreme Court has held that Court dealing with application for contempt of court cannot traverse beyond the order. It cannot test correctness or otherwise of the order or give additional direction or delete any direction. That would be exercising review jurisdiction with an application for initiation of contempt proceedings. The same would be impermissible and indefensible.

6. Apart from this, the learned counsel for the respondents also relied upon the decision rendered by the Hon'ble Supreme Court in the case of **Chhote Ram Vs. Urvarshi Gulati & Another**

reported in AIR 2001 SC 3468. The Hon'ble Supreme Court has observed as under:-

"Court directed for considering the case of the applicant for promotion. The case of the petitioner was duly considered, but his claim for promotion was rejected and in that even since the case of the applicant was considered as such, the contempt proceedings cannot be proceeded as there is no violation of any direction issued by the Court."

7. In view of the pronouncements of Hon'ble Supreme Court cited above, we find that the respondents/contemnors have not acted in a manner which can be deemed to be a willful disobedience of the order of this Tribunal's order dated 3.12.2008 passed in Original Application No. 425 of 2002

8. In view of what has been stated hereinabove, the CCP fails and is accordingly dismissed. Notices issued to the respondents are hereby discharged.

J. Chandra
(Ms. Jayati Chandra)
Member (A)

Navneet Kumar
(Navneet Kumar)
Member (J)

Girish/-

ok
Copy of order
Decided 2-2-15
Prasanna
03-2-15