

In The Central Administrative Tribunal, Lucknow, Bench
Lucknow.
Ram Bux Singh Gonda vs. Sri Vinod Kumar Yadav 238...

Annexure No. A-1

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH,
LUCKNOW**

Civil Contempt petition No.17/2012

In

Original Application No.577/1992

This the 10th day of May 2012

Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

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

1. Ram Bux Singh, son of Sri Shyam Behari Singh, resident of Village-Dutta Nagar, Post-Bargon, District-Gonda.
2. Ishwar Deen, son of Sri Ram Das, resident of Village-Dutta Nagar, Post-Bargon, District-Gonda.
3. Raj Bahadur Singh, son of Sri Badlu Singh resident of Village-Dohrijeet, Post-Semri Kalan, District-Gonda.
4. Ram Anuj, son of Sri Bindeshwari, resident of Village-Dhirja Purwa, Post-Cityganj, District-Gonda.
5. Deena Nath Singh, son of Sri Gaya Prasad Singh, resident of Village and Post-Rudrapur, Bishen, District-Gonda.

...Applicants.

By Advocate: Sri G.K. Dwivedi.

Versus.

1. Sri Vinod Kumar Yadav, Divisional Railway Manager, N.E. Railway, Ashok Marg, Lucknow.

.... Respondent.

By Advocate: None.

21/05/12

ORDER (Oral)

By Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

Heard the learned counsel for the petitioners for about 25 minutes. The order in question is dated 14.09.1998 of this Tribunal passed in O.A.No.577/1992. It was in favour of the petitioners directing the respondents to engage the applications in future vacancy in order of their seniority etc.

2. A Writ Petition No.317/1999 was filed against this order after about a year and there was no stay order. But no contempt petition was filed.

3. The period of limitation for contempt is one year which expired on 13.09.1999 itself.

4. It is told that during the pendency of the petition in the year 2005 however all the five petitioners have been engaged by the respondents. Be that as it may.

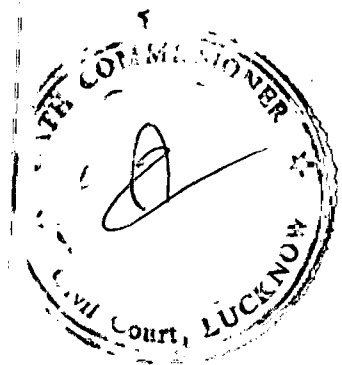
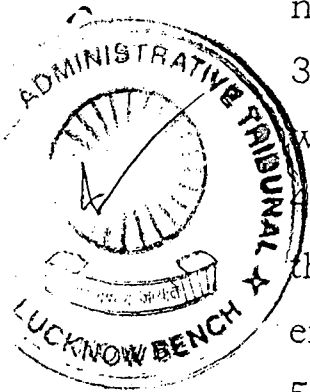
5. Ultimately, the above writ petition was dismissed in default and for non-prosecution on 29.03.2012 (Annexure-4).

6. In view of the above this C.C.P. which has been filed on 7.5.12 appears to be highly time barred.

7. The learned counsel for the applicants however submits that up to 2007 the law as laid down in the case of ***State of J & K Vs. Mohd. Yaqoob Khan (1992) 4 SCC-167*** which has followed in the case of ***Modern Food Industries (India) Ltd. And Another's Vs. Sachidanand Dass and Another reported in 1995 Supp (4) SCC-465*** was prevailing. Therefore, till 2007 he did not file any contempt petition.

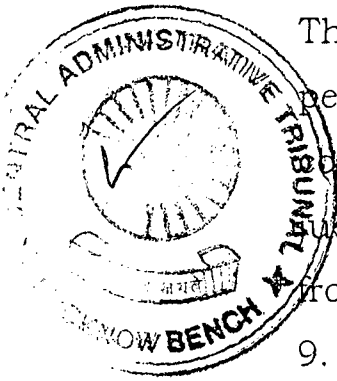
8. We have gone through the case of Modern Food Industries (Supra). Firstly, this case law was on a different point. In this case, it was observed that it was

A.



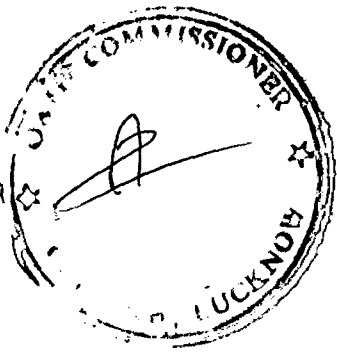
23/07/12

not justified to keep the prayer for stay standby and to insist upon proceeding with the complaint for contempt because it would cause prejudice. In that case the order in question was passed by learned Single Judge and the matter pertained to the Contempt of Court Act, 1971. In the present case this Tribunal has passed the above judgment way back in the year 1998 and it is not ascertainable as to whether any stay application was moved and was pending or it was rejected after consideration. Moreover, for CAT there are separate rules for contempt i.e. CAT (Contempt of Court) Rules, 1992. Therefore, this case law does not give any benefit to the petitioners. Secondly, as fairly conceded by the learned counsel that this law is no more in force and there is no justification as to why no contempt petition could be filed from September, 98 till date.



9. The learned counsel for the applicants placed reliance on the following case law:-

- (i). ***Ranchhor Tikam Dutt Singh Vs. U.P. Public Services Tribunal and Others reported in 2004 (22) LCD 977.*** The relevant Para-6 of this order is reproduced as under_-



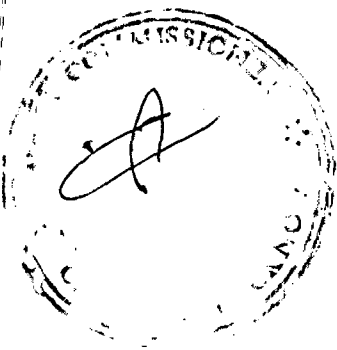
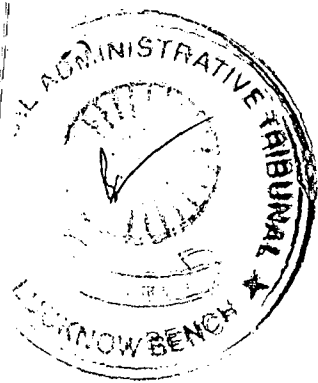
"A peculiar situation has arisen in the case in which despite relief being granted by the High Court in exercise of writ jurisdiction, the petitioner has been deprived of the fruits of the order on mere technical ground raised by the Tribunal viz. that the order which is sought to be executed is that order of the High Court upsetting the order passed by the Tribunal and not an order passed by the Tribunal. Technically speaking the writ proceedings cannot be taken as continuance of original proceedings but in view of the fact that the same very termination was under challenge before the Tribunal which was in question before the High Court and that the matter has arisen from the proceedings before the Tribunal the order passed by the High Court, would attain finality subject any order being passed by the Supreme Court. On finality being attained on orders being passed by the

25/9/2004

Supreme Court or that by the High Court, the Tribunal would be under a legal duty to implement the order or to get it execution done. The view expressed by the Tribunal that because the Tribunal has dismissed the claim petition and the High Court has quashed the said order, therefore, no certificate under Section 5(7) of the Public Service (Tribunal) Act could be issued, is palpably erroneous."

The facts of the above case law are also different from the present case. In the above case law a peculiar situation has arisen that despite relief being granted by the Hon'ble High Court the petitioners was being deprived of the fruits of the order on mere technical ground raised by the Tribunal that the order which is sought to be executed is the order of the Hon'ble High Court upsetting the order passed by the Tribunal and not the order passed by the Tribunal. Firstly, it was a matter pertaining to execution of the order and not contempt as it is in the present case. Secondly, there is no such peculiar situation here. Therefore, this case law does not apply in the present case.

10. In view of the above this C.C.P. being highly time barred, is liable to be dismissed and accordingly it is dismissed.



Sel -
Member (A)

Certified Copy

Sel -
Member (J)

Section Officer (Judicial)
Central Administrative Tribunal
Lucknow Bench, Lucknow

Amit/-
10-5-2012
(i) Date of Order
(ii) Date of Preparation
(iii) Date of Receipt
14-5-2012

21/5/12