

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

Contempt Petition No.46/2006

In

Original Application No.256/2005

This the 21st of September 2006

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

HON'BLE MR. P.K. CHATTERJI, MEMBER (A).

Sati Nath Khan aged about 57 years, S/o late B.N. Khan, R/o C-3344, Rajajipuram, Lucknow.

...Applicant.

By Advocate: Shri. Prayas Srivastava.

Versus.

1. Sri V.N. Mathur aged about major S/o not known, presently serving as General Manger, Northern Railway, N. Railway, Head Quarters, Baroda House, New Delhi.
2. Sri R.K. Gupta aged major S/o not known, presently serving as Divisional Railway Manger, Northern Railway, Hazratganj, Lucknow.
3. Sri Alok Sharma aged major S/o not known, presently serving as Senior Divisional Commercial Manager, Northern Railway, Hazratganj, Lucknow.
4. Sri Amit Kumar Jain aged about 29 years S/o Sri Vinod Prasad Jain presently serving as Divisional Commercial Manager, Northern Railway, Hazratganj, Lucknow.

...Respondents.

By Advocate: Shri Praveen Kumar for Shri Anil Srivastava.

ORDER

BY HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

The applicant has filed this application under Section 17 of the Administrative Tribunal Act, 1985 to summon the respondents in person and punish them for their deliberate and intentional action of contempt flouting the judgment and order of this Tribunal dated 13.09.2005 in O.A.No.256/2005.

2. Respondents filed their Counter-Affidavit opposing the claim of the applicant, stating that the Hon'ble High Court has granted stay of operation of order dated 13.9.2005 in W.P.No.06 of 2006 on 04.01.2006 and in respect of other direction for payment of retiral benefits to the applicant, they have complied some of such benefits to the applicant.

3. Heard both sides.

4. Admittedly, the case of the applicant, challenging the order of Respondent dated 28.10.2004, imposing upon a major penalty of compulsory retirement, which has been affirmed by the Appellate authority, has been allowed by this Tribunal on 13th September, 2005 and the operative portion which reads as under:-

"That the order imposing the compulsory retirement as affirmed in appeal is set-aside. The respondents are directed to forthwith reinstate the applicant in service."

5. Against the said order and Judgment the respondents have preferred appeal and obtained stay order on 4.1.2006 ^{which} ~~with~~ reads as follows:-

(3)

"Sri Prayas Srivastava, who has filed short Counter-Affidavit on behalf of opposite party No.1 directed to file Counter-Affidavit within three weeks. The petitioner may file rejoinder affidavit within two weeks thereafter.

List/put up this case on 07.03.2006, on which date the petitioner's counsel shall produce the record relating to the disciplinary enquiry.

Till then the impugned judgment and order dated 13.9.2005 passed by the Central Administrative Tribunal, Lucknow shall remain in abeyance. The petitioner shall pay all the retiral benefits, which are payable to an employee against whom compulsory retirement order has been passed and the opposite party No.1 shall complete the necessary formalities at the earliest."

6. Subsequently, the said appeal has been adjourned from time to time without any further progress.

7. The main argument of the learned counsel for the applicant that the order of the Hon'ble High Court while granting stay stated "Till then" means that the stay order was up to the date mentioned in the docket and thereafter there was no extension sought by the applicant and as such the respondents have to implement the order of the Tribunal and reinstate the applicant in service.

8. The respondents counsel submits that the order of stay granted by the Hon'ble High Court is not a time bound order and had it been so, the Hon'ble High Court would not have directed the respondents to release payment of the applicant treating him to have retired from service.

9. From the reading of docket^{order} of the Hon'ble High Court dated 4.1.2006 covered under Ex.A-6 while granting stay₂ the case was posted to 7.3.2006 on which date the petitioner counsel shall produce the relevant record relating to the disciplinary enquiry and till then impugned judgment and order dated 13.09.2005 passed by the Central

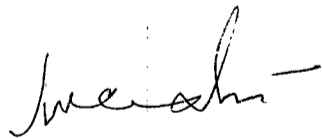
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Administrative Tribunal, Lucknow Bench shall ^{remain in} abeyance. It is also directed that the petitioner shall pay all the retiral benefits, which are payable to an employee against whom compulsory retirement order has been passed and the opposite party No.1 shall complete the necessary formalities at the earliest.

10. From the said directions the Hon'ble High Court asked the respondents department to pay the retiral benefits to the applicant herein after completing necessary formalities by him and when such direction are given and in pursuance of such order the respondents department also paid sum of the retiral benefits to the applicant and in such circumstances it would not mean that the order staying the operation of the order of this Tribunal date 13.9.2005 should be till 07.03.2006 only.

11. In view of the above circumstances, it is not a fit case to attribute that the respondents have violated any of the order of this Tribunal or the direction of the Hon'ble High Court, to punish them as requested by the applicant. Thus, there is no merit in the petition and as such, it deserves for dismissal.

12. In the result the C.C.P. is dismissed. Notices are discharged.



(P.K. CHATTERJI)
MEMBER (A)



(M. KANTHAIAH)
MEMBER (J)

21-9-06

Ak/.