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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
LUCKNOW CIRCUIT BENCH  
Civil Contempt Petition No.24 of 1990

In

Registration O.A.No.198 of 1990

N.K.Mukerji                      ....                      Applicant

Versus

Shri S.M.Vaish, General Manager,  
Northern Railway, Baroda House,  
New Delhi & Another. ....                      Respondents

Hon.Mr.Justice U.C.Srivastava,V.C.

Hon.Mr. A.B.Gorthi, Member (A)

(By Hon.Mr.A.B.Gorthi, A.M.)

Civil Contempt Application under Section  
17 of the Administrative Tribunals Act, 1985 is  
directed against Shri S.M.Vaish, General Manager  
and Shri R.N.Agha, Chief Personnel Officer, both  
of Northern Railway (respondents 1 & 2 respectively)  
~~for their~~ <sup>for their 2</sup> ~~farther~~ alleged non compliance with the judgement  
dated 25.6.1990 of this Tribunal.

2.            The operative portion of the aforesaid  
judgement of this Tribunal reads as under :-

" The petition is disposed of with a  
direction to respondents No.1 & 2 to consider  
and decide the petitioner's representations  
dated 25.4.89 (Annexure-A.14) and those  
concerning his pay scale as mentioned in  
Annexures A.19 and A-20 with due regard to the  
remarks contained in Annexure-A.16 and fix  
the petitioner's seniority in the impugned  
seniority list (Annexure-A.1) and also  
to accord such consequential benefits to the  
petitioner in the matter of his pay etc. as  
found to be entitled to. The respondents

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No.1 and 2 shall comply with these directions within a period of three months from the date of receipt of copy of this judgement unless they have already disposed of the representations referred to above<sup>n</sup>.

3. The contention of the respondents is that directions contained in our aforesaid judgement have been complied with. In support thereof a copy of letter No.754E/148-III/E1ia dated 15.1.91 has been produced as Annexure-C.3. It is apparent from this letter that in compliance with the order contained in the judgement in O.A. No.198/90 dated 25.6.90, the representation of Shri N.K. Mukherji togetherwith Annexures (A-19 and A-20) referred to in the judgement were examined by the Competent Authorities who then decided that Shri Mukherji was eligible for seniority benefit with effect from 12.10.76 i.e. from the date of entry in the grade of Rs. 700-900(RS) / Rs.2000-3200 (RPS) and not from 1.8.72 as claimed by him as he was not within the zone of consideration. This communication addressed to Shri N.K.Mukherji (the applicant) sufficiently establishes that there was due compliance with our judgement dated 25.6.90.

4. From the reply of the respondents, <sup>at 1</sup> which is obvious that they took the view that the applicant was junior to all those 18 persons who were given the benefit of the upgraded posts of Asstt. Shop Supdt. vide General Manager (P) Northern Railway letter No.754E/148-III(E1ia) dated 10.5.83 (Annexure-C.1). The

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applicant has not been able to show if any of the said 18 persons were junior to him and if so how? His main <sup>plan</sup> ~~plan~~ is that ~~since~~ he was given the upgraded post vide Office Order No.34 dated 13.5.73, with effect from 1.8.72 and hence his seniority should have been determined from that date. This was never accepted by the Railway Authority who maintained that the applicant was not eligible to be adjusted against the upgraded post. It seems that the Railway Administration initially decided to fill up the upgraded posts through selection, but the applicant together with some of his colleagues approached the High Court of Allahabad, Lucknow Bench, which decided that holding a selection for filling up the upgraded posts was not called for and that "as far as 18 persons including the petitioners were concerned no selection was to be held and the proposed selection to the posts of Foreman grade 'B' was without authority of law as the decision of the Railway Board carries the force of law". The said judgement cannot, in our view, be interpreted to <sup>I mean</sup> ~~be~~ that any direction was given to the effect that the petitioners were to be retained in their upgraded post even if they were found to be junior to some other deserving employees. The decision of the Railway Authorities to give the upgraded post to 18 persons (including 4 of the petitioners in the Writ Petition) was in accordance with the judgement of the High Court of Allahabad, Lucknow Bench.

5. So far as the judgement in O.A. No.198/90 is concerned, the directions of this Tribunal contained

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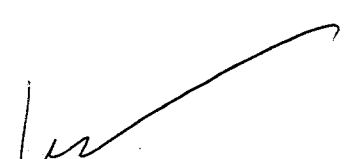
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in the judgement dated 25.6.90 read with the further directions issued on 5.3.91 ~~seems to~~ have been substantially complied with as can be seen from Annexures-C2 and C3. The main question of the seniority of the applicant, undoubtedly contentious, has been <sup>re-</sup> ~~dis~~solved by the respondents against the applicant. We are not to judge the merits or demerits of the decision taken by the Railway Administration, while examining this Contempt Petition. We are satisfied that the respondents have applied their mind to the issues raised by the applicant and gave a detailed order which has since been communicated to the applicant. Although there has been some delay on the part of the respondents to comply with our orders, we are satisfied that they are not guilty of contempt of this Tribunal.

6. We therefore reject the Contempt Petition. Notices issued to the respondents are hereby discharged.

  
Member (A)

  
Vice Chairman

Dated the 10 May, 1991.

RKM