

Central Administrative Tribunal, Lucknow Bench, Lucknow

CCP No. 332/00030/2014 in O.A. No. 15/2009

Reserved on 08.03.2016

Pronounced on 14-03-2016

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

1. Bachhe Lal aged about 44 years son of Sri Matru resident of village – Katar (Chawani) Post – Khanjaha, District- Azamgarh.
2. Kanchanwati aged about 43 years son of Sri Hem Raj resident of village Ramdeo Ka Purwa, Post- Jamtha, District- Gonda.
3. Ram Kumar aged about 45 years son of Sri Ram Swaroop resident of village Jahangirpur, Post Gosaiganj, District- Lucknow.

Petitioner

By Advocate: Sri Praveen Kumar

Versus

1. Sri V.K. Gupta, General Manager, Northern Railway, Baroda House, New Delhi.
2. Sri Anand Mathur, General Manager (Personnel) Northern Railway, Baroda House, New Delhi.
3. Shri Jagdeep Rai, Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.
4. Sri Janardan Singh, Divisional Railway Manager (P), Northern Railway, Hazratganj, Lucknow.
5. Sri A.K. Puthia, General Manager, Northern Railway, Baroda House, New Delhi.

Respondents

By Advocate: Sri Rajendra Singh

ORDER

By Sri Navneet Kumar, Member (J)

The present contempt petition is preferred by the applicant for non-compliance of the Tribunal's order dated 31st January, 2014 passed in O.A. No. 15/2009 through which the Tribunal directed as under:-

“4. In view of the above, without entering into the merit of the case, the both O.As are disposed of with a direction to the respondents to take a decision on the reference made vide letter dated 19.8.2013 in accordance with law as well as rules and regulations on the subject within a period of three months and from the date of receipt of a copy of this order by passing a reasoned and speaking order. No costs.”



2. The learned counsel for respondents filed their compliance affidavit and through which it is indicated that vide order dated 8.7.2014, the respondents considered the claim of the applicant and passed the orders in which it is indicated:-


“So far as the last reference made by this office on 19.08.2013 is concerned, it is stated that the same was made with regard to the case of Sri Arun Kumar s/o Sh. Deen Dayal, ex- Casual Labour. The GM (P)/NR after re-examining the case, has rejected the case of Sh. Arun Kumar vide letter No. 220-E/190/CI/LKO/Pt.II/E-IV dated 23.09.2013 and as such the reference dated 19.08.2013 is irrelevant so far as your case is concerned. Your case is decided accordingly in compliance of orders of Hon’ble Tribunal.”

3. The respondents were also directed to produce copy of the order dated 23.9.2013 which is filed by the respondents through their Supplementary Affidavit.

4. The bare perusal of the entire proceedings available on record including the order so passed by the Tribunal shows that the respondents were directed to take a decision on the reference made vide letter dated 19.8.2013 in accordance with law as well as rules and regulations on the subject within a period of three months and the respondents passed the orders on 8.7.2014 and taken a decision.

5. In terms of the decision rendered by the Hon’ble Apex Court in the case of **J.S. Parihar Vs. Ganpat Duggar and others** AIR 1997 Supreme Court 113, the Apex Court has held as under:-

“The question then is whether the Division Bench was right in setting aside the direction issued by the learned Single Judge to redraw the seniority list. It is contended by Mr S.K. Jain, the learned counsel appearing for the appellant, that unless the learned Judge goes into the correctness of the decision taken by the Government in preparation of the




seniority list in the light of the law laid down by three Benches, the learned Judge cannot come to a conclusion whether or not the respondent had wilfully or deliberately disobeyed the orders of the Court as defined under Section 2(b) of the Act. Therefore, the learned Single Judge of the High Court necessarily has to go into the merits of that question. We do not find that the contention is well founded. It is seen that, admittedly, the respondents had prepared the seniority list on 2-7-1991. Subsequently promotions came to be made. The question is whether seniority list is open to review in the contempt proceedings to find out whether it is in conformity with the directions issued by the earlier Benches. It is seen that once there is an order passed by the Government on the basis of the directions issued by the court, there arises a fresh cause of action to seek redressal in an appropriate forum. The preparation of the seniority list may be wrong or may be right or may or may not be in conformity with the directions. But that would be a fresh cause of action for the aggrieved party to avail of the opportunity of judicial review. But that cannot be considered to be the wilful violation of the order. After re-exercising the judicial review in contempt proceedings, a fresh direction by the learned Single Judge cannot be given to redraw the seniority list. In other words, the learned Judge was exercising the jurisdiction to consider the matter on merits in the contempt proceedings. It would not be permissible under Section 12 of the Act."

6. In the case of **Lalit Mathur Vs. L. Maheswara Rao** (2000) 10 SCC 285, the Hon'ble Supreme Court held as under:-

"The High Court in the writ petition had issued a direction for the consideration of the respondent's representation by the State Government. This direction was carried out by the State Government which had considered and thereafter rejected the representation on merits. Instead of challenging that order in a fresh writ petition under Article 226, the respondent took recourse to contempt proceedings which did not lie as the order had already been complied with by the State Government which had considered the representation and rejected it on merits."

7. In the case of **Shail Raj Kishore , Secretary, Education basic, U.P. Lucknow and others** 2004 (3) AWC 2444 the Hon'ble court has held as under:-

"If the applicants feel that the order passed by the opposite party is not in accordance to the intent or desire of the Court or otherwise illegal and arbitrary, the same can only be challenged before




the appropriate forum. In various cases, Apex Court has held that the Contempt Court cannot go into the merit of the order. Various grounds raised by the learned for the applicant to submit that the order is bad in law required consideration and adjudication, which can only be done by the appropriate Court and not by this Court."

8. Apart from this, the learned counsel for the respondents relied upon on the decision rendered by the Hon'ble Apex Court in the case of **Chhotu Ram Vs. Urvashi Gulati and anothers reported in AIR 2001 SC 3468**. The Hon'ble Apex 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 event, 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."

9. Considering the observations made by the Hon'ble Apex Court and after perusal of records, we are satisfied that the order passed by the Tribunal has been fully complied with and the respondents passed an order on 8.7.2014, as such nothing survive to be adjudicated in the present contempt petition. Accordingly, the contempt petition is dismissed. The notices issued to the respondents stand discharged. No order as to costs.


(JAYATI CHANDRA)
MEMBER (A)


(NAVNEET KUMAR)
MEMBER (J)

HLS/-