

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH
LUCKNOW.

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Contempt Petition No. 3/91

Bans Raj Yadav

Applicant

versus

V.M. Pandey and another

Respondents.

Hon. Mr. Justice K.Nath, V.C.

Hon. Mr. K. Obayya, A.M.

(Hon. Mr. Justice K. Nath, V.C.)

The above Contempt Petition has been filed under Central Administrative Tribunals Contempt of Court Rules, 1986, which arises out of the judgment dated 23.12.88 in T.A. 853/86 of the applicant, against Union of India, in which the Bench had given direction as set out in para 9 of the judgment to consider the applicant's case for promotion, for commutation of leave and to grant other reliefs as indicated in the judgment, if found eligible for promotion etc.

2. Union of India which is impleaded in T.A. through General Manager, North Eastern Railway, Gorakhpur was expected to pass appropriate orders in compliance of the judgment within three months from the date of receipt of the judgment. The matters were however dealt with and finally disposed of by letter dated 6.3.90, Annexure A-2, (Promotion) and letter dated 16.8.90, Annexure A-3 (Commutation of leave). The applicant's grievance in this petition is that both the orders are in wilful disobedience of the direction contained in the judgment dated 23.11.88. The parties

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in this case are arrayed V.M.Pandey G.M.(P), N.E. Railway, Lucknow and S.M.N.Islam, D.R.M.(P), N.E. Railway Lucknow. It is stated in para 8 of the counter that V.M.Pandey was not working as G.M.(P) and S.N.M. Islam was not working as D.R.M. It is not stated what post actually they were working during the period which led to the passing of the orders (Annexures A-2 and A-3). Shri Anil Srivastava for opposite parties points out that in the counter affidavit Shri S.N.M. Islam is described as Senior Divisional Personnel Officer. He says that V.M.Pandey is working as Chief Personnel Officer, N.E. Railway, Gorakhpur. It is not necessary for us at this stage to examine whether they were equally responsible for passing the orders contained in Annexures A-2 and A-3 and in what capacity. The important point is that the above orders have been passed after the Tribunal had required the Union of India to "consider the claims" of promotion and leave commutation etc. The upshot is that an order which may be erroneous should also have to be shown to be deliberately erroneously in order to constitute wilful disobedience of the orders of the Tribunal. Since the judgment of the Tribunal did not specifically spell out the particular relief regarding the promotion and leave commutation which the applicant should have been entitled to and it was left open to the Union of India to determine these points, the Union of India were competent to consider the questions and decide the same. In taking these decisions, the Union of India could either act correctly as urged by the learned

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counsel for respondents, or incorrectly as argued by the applicant himself; but in either case it has to be found that the erroneous order, if any is the result of wilful disregard of the directions of the Tribunal. That does not seem to be the situation in this case.

Indeed the applicant has filed O.A. No. 11/91(L) pending before this Tribunal to quash these very Annexures A-2 and A-3. That petition was admitted on 7.2.91 and the respondents were given adequate time to file counter when the case came up before D.R. for fixing a date for final hearing on 9.4.91. Shri Anil Srivastava says that the counter in this case is under preparation and is likely to be filed within 2 weeks.

3. On a consideration of all the matter, we are satisfied that it is not expedient to proceed with contempt proceedings any further. The Contempt Petition No. 3/91 is rejected and the notices are discharged; the respondents must file their counter in O.A. 11/91 within 2 weeks, to which the applicant may file Rejoinder within 10 days thereafter and the case may be listed for final hearing on 22.7.91.

A.M.

V.C.

Shakeel/

Lucknow Dt. 24.6.91.

Recd/bsg of order
R.K. Baner
and Dr. Anil Srivastava
28/6/91
A.M.