

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH

C.C.P.A.No.46/2008

Dated the *16/12/2008*

CORAM:

HON'BLE MR.SHANKAR PRASAD, MEMBER(A)
HON'BLE MS. SADHNA SRIVASTAVA, MEMBER(J)

Kamaldeo Narain Sinha, son of Shri Jagarnath Lal,
resident of Road No.3A, Indrapuri,
P.O.-Keshari Nagar,
P.S.Patliputra, District-Patna.

... Applicant

By Advocate : Sri G.Saha

vs.

1. Shri Pankaj Jain, Divisional Railway Manager, East Central Railway, Danapur.
2. Shri Om Prakash, Sr.Divisional Commercial Manager, East Central Railway, Danapur.

By Advocate :

ORDER

HON'BLE SRI SHANKAR PRASAD, MEMBER(A):

Aggrieved by the non-implementation of order dt. 01.05.06 passed in O.A.No.176/06, the applicant has preferred the present Contempt Petition. The applicant had sought for the relief of regularisation as Coach Attendant or in any suitable job in view of his continuous service since 1995. He had also sought for the payment of wages for which he is legally entitled after verifying the records. It had been stated in para 4.2 of the O.A. that an authority slip was issued in favour of applicant, which was taken back at the end of journey. Some of the documents, which are available, are enclosed. The Tribunal disposed of the O.A. with directions given *4. The directions*

were, (a) regretting regularisation, (b) to consider him for engagement if work arose in future and, (c) to consider his claim for wages. The applicant submitted a copy of the judgment together with the O.A. along with his representation dt. 23.05.06.

2. The instant Contempt Petition was preferred on 27.03.08, i.e. after more than a year. The learned counsel for the applicant has contended that non-payment of his arrears is a continuing wrong and hence the C.P. is not time barred as per the decision in Firm Ganpat Ram Raj Kumar vs. Kalu Ram & Ors., AIR 1989 SC 2285. The Apex Court in para 7 had held:-

“7. Another point was taken about limitation of this application under S.20 of the Act. S.20 states that no court shall initiate any proceedings for contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed. In this case, the present application was filed on or about 3rd November, 1988 as appears from the affidavit in support of the application. The contempt consisted, inter alia, of the act of not giving the possession by force of the order of the learned Sr. Sub-Judge, Narnaul dated 3rd November, 1988. Therefore, the application was well within the period of one year. Failure to give possession, if it amounts to a contempt in a situation of this nature is a continuing wrong. There was no scope for application of S.20 of the Act.”

3. A 3 Judge Bench of the Apex Court in Pallav Sheth v. Custodian General, AIR 2001 SC 2763 has held:

“In other words, unless a Court was to take a suo motu action, the proceeding under the Contempt of Courts Act, 1971 would normally commence with the filing of an application drawing the attention of the Court to the contempt having been committed. When the judicial procedure requires an application being filed either before the Court or consent being sought by a person from

the Advocate General or a Law Officer it must logically follow that proceeding for contempt are initiated when the application are made."

4. The payment of arrears cannot amount to a continuous cause of action. In the instant case directions were given by the Tribunal in May 06. The matter was to be decided within two months of receipt of representation. It was to be decided by July 06. Thus the petition is moved beyond the one year period. The C.P. is time barred. It is dismissed.



(SADHNA SRIVASTAVA)
MEMBER(J)



Shankar Prasad
(SHANKAR PRASAD)
MEMBER(A)

/njj/