

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

CONTEMPT PETITION NO. 65 of 1997.

ARISING OUT OF
ORIGINAL APPLICATION NO. 652/96.

SHRI B. J. RAWADKA

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APPLICANT

V/S

1. SHRI N.C. SINHA
GENERAL MANAGER,
CENTRAL RAILWAY
MUMBAI, CST.

2. SHRI R.C. TRIPATHI,
CHIEF PERSONNEL OFFICER,
CENTRAL RAILWAY,
MUMBAI, CST.

.....

RE CONTEMNERS.

MAY IT PLEASE YOUR HONOUR

The Applicant abovenamed submits that he had filed O.A.No.652/96, with this Hon'ble Tribunal, requesting therein that the Respondents in the O.A. be directed to expedite the Disciplinary Proceedings initiated by them against the Applicant as the same inordinately delayed by them from 28-8-1995.

2. The Applicant submits that after hearing both the Parties, this Honourable Tribunal had ordered vide their Order dated 14-2-97 as under :-

~~XxX~~ "In the circumstances, we hereby direct the Respondents to complete the Disciplinary Proceedings as early as possible, preferably within six months".

CP-1

Hereto annexed and marked CP-1 is the xerox copy of the Order of the Tribunal.

3. The Applicant submits that the 6 months period for completing the disciplinary proceedings, to comply with the Orders of this Honourable Tribunal expired on 13-8-97. However, the Applicant regrets to bring to the kind notice of this Honourable Tribunal that in scant respect, and disregard to the Orders of this Honourable Tribunal, the Respondents have disobeyed the orders, and

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did not complete the disciplinary proceedings, till date. In fact, the Respondents have vide their letter No.CON. 903.BJR.581 dt. 31-7-97, appointed Shri S.Vaidyanathan, Retd. DGMG, S.E.Railway as Inquiry Officer, and Smt. Chandrika Nair, V.O.(A/cs), as Presenting Officer.

CP-2 Hereto annexed are the xerox copies marked CP-2 collectively the said letters.

4. The Applicant submits that the Presenting Officer vide her letter No.95/G.130/VIG/DA/A-6/P/V/CON dt.19-8-97 has advised that the Inquiry Officer, has fixed preliminary enquiry on 29-8-97 at 11.30 hours in Vigilance

CP-3 Branch. Hereto annexed and marked CP-3 is the xerox copy of the said letter.

5. The Applicant submits that the Respondents have blatantly disregarded, disobeyed the orders of this Hon'ble Tribunal to complete the disciplinary proceedings within six months, as directed, from 14-2-97, i.e. before 14-8-97. The Applicant submits that even though they have commenced the proceedings on 31-7-97, they have not completed the same as directed by the Tribunal within the stipulated period. The Applicant submits that the Respondents have taken their own liberty in not carrying out the orders of Hon'ble Tribunal. They have also taken action by delayed appointments of the Inquiry Officer, and Presenting Officer, to dilute and or by-pass the orders of this Hon'ble Tribunal. The applicant submits that the Respondents have taken the orders of this Hon'ble Tribunal very lightly and not to be carried out, and initiated the above action in appointing the Inquiry Officer and the Presenting Officer, only to hoodwink the Hon'ble Tribunal. The Applicant submits that it cannot be considered that the Respondents were not aware of the implications of the Orders of this Hon'ble Tribunal, when this Hon'ble

[Signature]

Tribunal directed the Respondents to complete the disciplinary proceedings as early as possible, preferably within six months. The Respondents ought to have completed the proceedings at the earliest, in any case within six months, as directed by this Hon'ble Tribunal. The Applicant submits that thus, the Respondents have blatantly and willfully disobeyed this Hon'ble Tribunal's orders and thus committed Contempt of this Honourable Tribunal.

6. The Applicant submits that though the Respondents have made an attempt to show that they have started the proceedings, the Applicant submits that they have no respect or consideration or regard for any time schedule, or the orders of this Hon'ble Tribunal, as has been experienced above. It is very relevant to note that even though the Written Statement was submitted by the Applicant on 28-8-95 in reply to the Memorandum of charge, no action was taken to finalise or complete, or ~~x~~ even initiate any action to finalise the completion of the proceedings, till the Orders of this Honourable Tribunal were passed on 14-2-97. It is therefore, evident that the Respondents are not at all serious in finalising the proceedings, and accordingly willfully disregarded the Orders of this Hon'ble Tribunal. PA

7. With due respects the Applicant submits that the Apex Court in the case of DCP Shri Ramachandran V/s State of Maharashtra have held that "a departmental proceeding for a Govt. servant brings untold misery, and humiliation in the eyes of his colleagues, friends and relations". In addition, due to delay and inaction in finalising the case during the pendency of this proceedings right from issuance of Memorandum of charge i.e. 27-7-95, till date the Applicant is subjected to mental tension, agony, and resultant illhealth. The Applicant submits that the Respondents were aware that the Applicant

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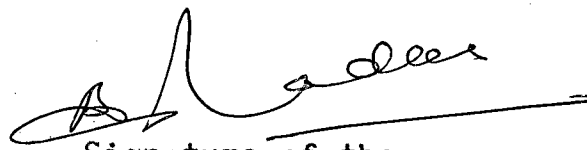
Applicant was to retire from railway service on 31-7-96. In spite of this fact, and in spite of sending reminders requesting the Respondents to finalise and complete the proceedings they have neglected to do so, even though practically one year after the Applicant has retired. Thus even though a total period of two years and 26 days have elapsed since the issue of the Memorandum of charge, and even though this Hon'ble Tribunal has ordered to complete finalisation within six months from 14-2-97, the Applicant submits that the case is no where near finalisation, since as stated in Para 5 even if the enquiry is now ~~xxx~~ started, it is not likely to be finalised within a reasonable period of time, with the result that the Applicant would continue to suffer mental anguish, agony, and resultant tension and illhealth. The Applicant submits that the Apex Court, and many High Courts have held that the right to speedy and expeditious trial is one of the most valuable and cherished rights guaranteed under the Constitution. They held that Fundamental rights were not a teasing illusion, which were meant to be enforced and make a reality. With due respects the Applicant submits that this very stipulations of the Apex Court and High Courts have been thrown to winds by the Respondants.

9. The Applicant submits that the Respondents have thus committed Contempt of this Hon'ble Tribunal making the very order and decree of this Hon'ble Tribunal ineffective, as though it is non-existent. The Applicant also submit that due to inordinately long delay in finalising and/or completing the proceedings within reasonable period, the Applicant has already been Penalised by way of mental torture, agony and humiliation,

as observed by the Apex Court, and mentioned in Para 7 above. In view of the fact that the Applicant having been subjected to the penalty as above and in view of the fact that there was willful delay in finalising/ and or completing the proceedings, to the extend of more than 2 years as on date, the Applicant submits that it may be decreed that the said Memorandum of charge be treated as having no effect and be set aside, for the reason of willful failure on the part of the Respondents.

10. In view of the foregoing submissions, the Applicant prays that :-

- 1) The Contemners (Respondents) be taken up as per Rules and suitable action as considered be taken and penalty for Contempt be imposed on the Contemners.
- 2) In view of the fact that the Contemners having committed Contempt, and the inordinate delay having been caused in finalising the proceedings, it may be decreed that the Memorandum of charge No. CON.903.BJR.581 dt. 27-7-95 is of no effect, and be set aside.
- 3) Pass any other or further orders, direction, as deem fit and proper to give relief to the Applicant.
- 4) Cost of this application.


Signature of the
APPLICANT

MUMBAI

Dated, 16-8-1997.

