

Tribunal's Order:

Mr.R.R.Dalvi for the Contempt  
Petitioner and Mr.R.K.Shetty for the respondents.

2. C.P.58/92 is filed by the contempt petitioner to charge the respondents for contempt of court as per rule 15 of the (Contempt of Courts) C.A.T Rules.1986 and cause them to post the applicant to Pune as already decided.

3. Counter is filed to the CP opposing the same. Today we have heard Mr.R.R.Dalvi for the contempt petitioner and Mr.R.K.Shetty for the respondents to find out whether any contempt had been committed by the respondents in ~~not~~ not implementing the directions of this Tribunal in O.A. No.482/91. We have gone through the judgment in O.A. 482/91. The operative portion of the judgment reads as follows:

"However as the facts of the case indicate that there appears to be some substance in the plea which has been raised by the applicant and there appears to be no reason why the Department will not again consider the plea of the applicant for transferring to Nagpur or transferring him to Pune as was decided by the department earlier. Accordingly, with the observation that the applicant may approach the department and the department will consider the applicant's prayer for transferring him out of Nagpur and post him at Pune. Let this consideration be made within a period of two months. With these observations the application is disposed of finally. No order as to costs."

As could be seen we do not see any specific direction as ~~has~~ been given in the said judgment to transfer the applicant from Nagpur to Pune. The only direction is given, as is clear, to consider the applicant for transferring him from Nagpur to Pune. The respondents in their counter have maintained that ~~due regard to the~~ direction of the Tribunal dt. 10.2.92 the representation dtd. 17.2.1992 received from the applicant was examined without any bias and prejudice and the applicant has been intimated accordingly as per letter dt. 27.2.92 and that they have not violated any direction of this Tribunal! ~~They had considered the~~ representation of the applicant for transfer to Pune and the applicant's request for transfer to Pune has not been granted by the respondents. We are unable to understand how his non transfer from Nagpur to Pune will constitute a willful disobedience of the direction of this Tribunal, as already pointed out this Tribunal ~~has~~ not given any direction specifically to the respondents to transfer the contempt petitioner from Nagpur to Pune. There is no contempt, ~~This~~ petition is liable to be dismissed.

4. The respondents ~~have~~ maintained in their counter that the applicant has managed to submit non-existent note dt. 1.1.1991 before the Tribunal which has lead this Tribunal to believe that there is some substance in the plea of the applicant ~~and~~ Applicant's counsel's ~~claim~~ that respondent No.1 ~~managed to~~ had removed the note dt. 1.1.1991 is totally baseless and without any justification ~~and evidence~~

since note itself is non-existent in the file. It is the contention of the learned counsel for the contempt petitioner that such a plea has not been taken in the O.A. and that the respondents are estopped from saying that the applicant has managed to submit a non existing note dt. 1.1.91 at this stage i.e. after the judgment. We are not deciding here about the said note dt. 1.1.91. We are concerned only whether the respondents have wilfully disobeyed any direction of this Tribunal in its judgment in O.A. 482/91 as already pointed out. We do not find any wilfull disobedience <sup>on the part of</sup> ~~of~~ the respondents. C.P. is dismissed.

*T.C. Reddy*

(T.C.REDDY)  
Member(J)

MD