

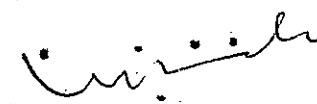
Dated: 24/6/94

Applicant by Sh. K.B. Talreja.

Respondents by Sh. J.G. Sawant.

At the request of Sh. Sawant
the matter is adjourned to
1/7/94.


(P.P. Srivastava)
MCA


(M.S. Deshpande)
V.C.

Date: 1-7-94 [Per M.S. Deshpande, V.C.]

Heard Mr. K.B. Talreja
for the applicant and Mr. J.G. Sawant
for the respondents.

~~Respondent~~ Reply not filed.

It is apparent that the
suspension which was ordered on 26-6-86
came to an end by virtue of the
applicant having suffered the
penalty which was imposed on him.

No appeal was preferred against
the order of imposing the penalty.

We, therefore, direct

(3)

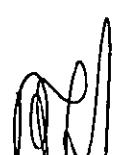
that the suspensions of the applicant
shall be deemed to have been
~~not~~ revoked from the date on
which the penalty was imposed.

The respondents shall work out the

applicant's entitlement for
pecuniary benefit which would
flow from the above position
within a period of two months
from the date of receipt of a copy
of this order and pay the amount
according to rules, within two months
thereafter.

The O.A. is disposed of

with these directions.


(P.P. Srivastava) (M.S. Deshpande)
M(A) V.C.

Order/Judgement despatched
to Appellant / Respondent (s)
on 22/7/94

See
A/S

(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

R.P. NO.: 55/95 IN O.A. No. 252/94.

Dated this Friday, the 15th day of November, 1996.

CORAM : HON'BLE SHRI B. S. HEGDE, MEMBER (J).
HON'BLE SHRI P. P. SRIVASTAVA, MEMBER (A).

1. Union Of India through General Manager, Central Railway, Bombay V.T.		... Applicant (Original respondents in O.A. No. 252/94).
2. The Divisional Railway Manager, Central Railway, Bombay V.T.		
3. The Senior Divisional Electrical Engineer (G), Central Railway, Bombay V.T. (By Advocate Shri V.G. Rege).		

VERSUS

1. Shri M. N. Nair, Ganesh Niwas, Bombay Pune Highway Road, Kolsewadi, Kalyan (East). (By Advocate Shri K.B. Talreja)		... Respondent (Original applicant in O.A. No. 252/94).

: ORDER :

Heard Shri V.G. Rege for the Review Petitioner
and Shri K. B. Talreja for the original applicant.

2. Shri Talreja for the original applicant submits
that the suspension order was issued by the original
respondents in view of the criminal prosecution pending against

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him and accordingly he was suspended on 26.06.1986.

The Tribunal after hearing both the parties, passed the following order on 01.07.1994 :

"We, therefore, direct that the suspension of the applicant shall be deemed to have been revoked from the date on which the penalty was imposed. The respondents shall work out the applicant's entitlement for pecuniary benefit which would flow from the above position within a period of two months from the date of receipt of a copy of this order and pay the amount according to rules, within two months thereafter."

Pursuant to this order, the original respondents revoked the suspension order vide dated 14.11.1994 and reinstated him in the same grade and capacity under SS(TL)/VT vide

The applicant superannuated from service on 31.12.1994. Its order dated 16.11.1994. The review petition is filed

on 30.03.1995 after a lapse of 8 months. As per rules, the review petition has to be filed within three months from the date of receipt of a copy of the order. However, that is not the case here. Since the original respondents (Review Petitioners) have already implemented the order, the question of entertaining the Review Petition at this stage does not arise. Accordingly, the Review Petition is disposed of.


(P.P. SRIVASTAVA)
MEMBER (A).


(B. S. HEGDE)
MEMBER (J).

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

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C.P.NO.24/95 in OA.NO. 252/94

Dated this the 20th day of October 1999.

CORAM : Hon'ble Shri D.S.Baweja, Member (A)

Hon'ble Shri S.L.Jain, Member (J)

M.N.Nair,
Foreman (Diesel),
Under D.R.M.(Electrical),
C.Rly., Bombay V.T.

...Applicant

By Advocate Shri K.B.Talreja

V/S.

Union of India through
The General Manager, C.Rly.,
Bombay V.T., Bombay (Shri A.K.Banerjee)

2. The Divisional Railway Manager,
Central Railway, Bombay V.T.
Bombay (Shri Arun Dubey)
3. The Sr.Divisional Electrical
Engineer (G), Central Railway,
Bombay V.T., Bombay (Shri U.S.Acharya) Respondents

By Advocate Shri V.D.Vadhavkar

O R D E R

{Per : Shri D.S.Baweja, Member (A)}

This Contempt application has been filed on 6.1.1995
alleging non compliance of the direction of the Tribunal in order
dated 1.7.1994 in OA.NO. 252/94.

2. The applicant had filed OA.NO. 252/94 challenging his suspension and non payment of subsistence allowance. The OA. was allowed on 1.7.1994 with the following direction :-

" We, therefore, direct that the suspension of the applicant shall be deemed to have been revoked from the date on which the penalty was imposed. The respondents shall work out the applicant's entitlement for pecuniary benefit which would flow from the above position within a period of two months from the date of receipt of a copy of this order and pay the amount, according to rules, within two months thereafter."

3. The applicant alleges that the above order of the Tribunal has not been implemented even after giving the copy of the order to the concerned authority on 20.10.1994 and making personal reminders thereafter. The applicant has therefore filed this contempt petition with a prayer to take suitable action against the respondents for non-implementation of the order dated 1.7.1994 and direct respondents to comply with this order.

4. The respondents have filed reply through Shri V.S.Acharya, Senior Divisional Electrical Engineer, C.Rly. Mumbai. The respondents have contended that ^{the} order dated 1.7.1994 was passed without the reply being filed by the respondents. The applicant had not disclosed the correct facts in the OA. as the

suspension of the applicant was not on account of disciplinary proceedings against which the penalty was imposed. The respondents therefore had filed a Review Application No.55/95.

5. The applicant has filed rejoinder reply wherein it is stated that revocation of the suspension has been done as per order dated 14.11.1994 with effect from 18.9.1987. The respondents have also issued posting orders as per order dated 16/17.11.1994. With this action, the only allegation of the applicant with regard to implementation of the order dated 1.7.1994 remains in respect of consequential benefits, i.e. fixing of correct basic pay after drawing yearly increments and arrears thereof etc.

6. The Review Application No.55/95 has been disposed of as per order dated 15.11.1996 with the following observations :-

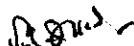
"...As per the rules, the review petition has to be filed within three months from the date of receipt of the order. However, this is not the case here. Since the original respondents (Review Petitioners) have already implemented the order, the question of entertaining the Review Petition at this stage does not arise. Accordingly, Review Petition is disposed of."

7. From the material on record, it is admitted fact that suspension of the applicant has been revoked from 18.9.1987 as per order dated 14.11.1994. Consequent upon revocation of the suspension, the applicant has been also posted as per order dated 16/17.11.1994. Thus the order dated 1.7.1994 to the extent of the revocation of the suspension has been complied with. The only issue that remains is with regard to entitlement of the

precuniary benefits which the applicant has brought out in the rejoinder reply. In the rejoinder reply, the applicant in reply to the written statement of the respondents has controverted the submissions about the payment for the suspension period. Respondents have brought out that the applicant has given false certificates about his unemployment during the suspension period as found after investigation ^{and} for the same applicant has been already issued chargesheet. From the rival contentions, it is clear that the issue with regard to consequential benefits on revoking suspension is in dispute. Order dated 1.7.1994 provides that the consequential benefits will be allowed as per the rules. In view of this stipulation in the order, if the respondents do not pay the benefits as claimed by the applicant on the plea that the same are not admissible as per rules and the applicant seriously contests the same, then the issue cannot be resolved by going into the rival contentions and ^{record} ~~second~~ findings on the same in a contempt petition. In a contempt petition, it is to be seen whether there is substantial compliance of the order. The order issued in compliance of the Tribunal's order by the respondents may not be to the liking of the applicant and the applicant may feel aggrieved by the same. In such an event, it gives a fresh cause of action to agitate the matter for seeking legal remedy if so desired. In this connection, we refer to the law laid down by the Hon'ble Supreme Court in the judgements in the case of J.S.Parihar vs. Ganpat Duggar & Ors., 1996 SCC (L&S) 1422 and V.Kanakarajan vs. G.M.S.E.Rly., JT 1996 (7) SC 517.

8. In the present case, we find that ^{the} respondents have substantially complied with the order by revoking suspension and for the consequential benefits the applicant has been advised of the position as per the extant rules. Further, in the order dated 15.11.1996, in the Review Application, also the Bench has observed that respondents have already implemented the order. In this view of the matter, we do not find that there is any case of contempt of court made out by the applicant.

9. In the result of the above, the Contempt petition is without merits and the same is dismissed accordingly. The contempt of court notices issued to the respondents are discharged accordingly. No order as to costs.


(S.L.JAIN)

MEMBER (J)


(D.S.BAWEJA)

MEMBER (A)

mrj.