

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

C.P.NO.37/98 in OA.NO.1120/97

Dated this the 5<sup>th</sup> day of November 1999.

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

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

Dr.S.G.Rane

...Petitioner

By Advocate Shri P.A.Prabhakaran

V/S.

Dr.J.N.Bora,  
Director, C.P.B.F.,  
Arey Milk Colony,  
Goregaon (E),  
Mumbai-400 065.

...Contemner

By Advocate Shri V.S.Masurkar

O R D E R

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

This Contempt Application has been filed by the applicant for non-compliance of the interim stay order dated 24.12.1997 which was further extended upto 6.2.1998 as per the order dated 9.1.1998 in OA.NO.1120/97.

2. The applicant had filed OA.NO.1120/97 challenging the notice dated 1.12.1997 proposing termination of services of the applicant. On 24.12.1997, the operation of termination notice dated 1.12.1997 was stayed upto 9.1.1998. On 9.1.1998 this interim stay order was extended further upto 6.2.1998. The

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applicant alleges that respondent in Contempt Application, Dr.J.N.Bora, the then Director, Central Poultry Breeding Farm, Aarey Milk Colony, Mumbai disregarding the further extension of interim stay order upto 6.2.1998 as per order dated 9.1.1998 terminated the services of the applicant by an order dated 9.1.1998 which was served on the applicant at his residence at 21.05 hrs. The applicant has contended that it was for the counsel for the respondents to inform the Department of the order of Tribunal and there was no responsibility devolving on the applicant for the same. The applicant has further brought out that a representative of the respondents Dr. Bora was present in the Court on 9.1.1998 and the counsel for the respondents had informed him to wait and collect the order dated 9.1.1998. The applicant further alleges that Shri S.P.Karkhanis had informed Dr.Bora on phone about the extension of the interim stay order. In spite of this knowledge, the respondent in this Contempt Petition Dr. J.N.Bora reverted the applicant stating that there was no intimation received by him either from the Tribunal or from the counsel for the respondents. The applicant, therefore, contends that Dr.J.N.Bora deliberately and wilfully disregarded the order of the Tribunal not only to taunt the applicant but to slight to Tribunal and thus committed contempt of court for which he deserved to be punished.

3. The respondents have filed written statement through Dr.Majdood Ahmed who is the present incumbent of the post of Director of Central Poultry Breeding Farm in his official capacity. It is stated that though it is admitted that the representative of the respondents was present in the court but it is denied that he was asked by the counsel of the respondents to stay till the copy of the order was made available as he had other official work to do. The respondents also strongly contest the contention of the applicant that it was the responsibility of the counsel of respondents to inform the office as Dasti service of the order was allowed by furnishing the copy of the order to the applicant. It is further submitted that the respondent as soon as were made aware of the order of the Tribunal dated 9.1.1998, obeyed the order by endorsing the cancellation of the order on the order dated 9.1.1998. Further, the applicant was on duty on 9.1.1998 and 10.1.1998 and he has been paid for the same period. In the opinion of the respondent, no contempt of court has been committed.

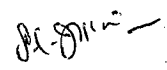
4. The applicant has filed the rejoinder reply controverting the submissions of the respondents and reiterating his contentions made in the Contempt Petition.

5. We have carefully considered the rival contentions. The respondent has submitted that action to terminate services was

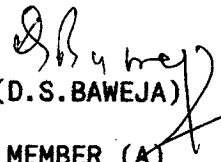
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taken since no advice for extension of the interim stay order had been received by either from the counsel of the respondents or the Tribunal. As per the order dated 9.1.1998, it was directed to furnish the copy of the order on the same day to both the counsels. It was therefore incumbent on the part of both the counsel to convey the order to the respondent but it appears to have not been done. Apart from this, the respondent has acted hastily. When he was aware of the listing of the case on 9.1.1998 with regard to the extension of the interim stay order, either he could have checked up the position with his counsel being a local office or waited atleast for a day before giving effect to termination order. Further the applicant has stated that representative of the respondent was present in the court on 9.1.1998 and this is denied by the respondents. Keeping in view these facts, we disapprove the conduct of the respondent in the contempt application. <sup>he</sup> ~~He~~ would have taken a serious note of the same for further proceedings as per the law. However, we restrain ourselves <sup>from</sup> ~~for~~ any further action in the contempt application keeping in view that the respondent retraced his steps as soon as he received the copy of the order dated 9.1.1998 from the applicant and cancelled the termination order without any break in service.

6. In view of the above deliberations, Contempt Application is dismissed with no order as to costs.

  
(S.L.JAIN)

MEMBER (J)

  
(D.S.BAWEJA)

MEMBER (A)