

(74)

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

C.P.No. 19/96 in
O.A.No. 1273/93

DATE OF DECISION: 12-9-96.

K.B.P.C.S.Rao,

PETITIONER (P)

Shri P.B.Vijay Kumar,

ADVOCATE FOR THE PETITIONER (P)

VERSUS

Sri Manesh Gupta, Divisional Engineer, RESPONDENT (S)
Senior Divisional Engineer has been redesignated as
Divisional Engineer), SE Rlys, Visakhapatnam & another
Shri C.V.Malla Reddy,

ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI : VICE-CHAIRMAN

THE HON'BLE SHRI H.RAJENDRA PRASAD : MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the judgement?
 2. To be referred to the Reporter or not ?
 3. Whether their Lordships wish to see the fair copy of the judgement ?
 4. Whether the Judgement is to be circulated to the other Benches ?
- } YES
NO

Judgement delivered by Hon'ble Justice Shri M.G.Chaudhari,
Vice-Chairman


(H.R.P.)
(A)


(H.M.G.C.J.)
VC

(73)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

CONTEMPT PETITION NO.19/96

IN
ORIGINAL APPLICATION NO.1273/93.

DATE OF ORDER : 12-9-96.

Between :-

K.B.P.C.S.Rao

... Applicant

And

1. Sri Manesh Gupta,
Divisional Engineer,
(Senior Divisional Engineer has
been redesignated as Divisional
Engineer) S.E.Rly., Visakhapatnam.
2. Sri Stanly Babu, Divisional Manager,
S.E.Railway, Visakhapatnam.

... Respondents

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Counsel for the Applicant : Shri P.B.Vijay Kumar

Counsel for the Respondents : Shri C.V.Malla Reddy, SC for Rlys

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CORAM:

THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI : VICE-CHAIRMAN

THE HON'BLE SHRI H.RAJENDRA PRASAD : MEMBER (A) *8/17/96*

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Oral (Orders per Hon'ble Justice Shri M.G.Chaudhari,
Vice-Chairman).

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Shri P.B.Vijay Kumar for the applicant. Standing counsel for the respondents, Shri C.V.Malla Reddy heard. Shri Vijay Kumar has been good enough to make us available the copy of the reply served upon him as original reply is not on record. The respondents contend that for the reasons stated in the reply the applicant is not entitled to the payment of the with-held amounts as per rules and the direction in the OA therefore cannot be complied with and there is no contempt involved.

2. The applicant had filed the O.A. seeking quashing of the charge sheet issued on 24-8-92 with a direction as a consequential relief to pay him the with-held amounts together with interest at the rate of 18% per annum. We have gone through the proceedings of the O.A. and we do not find that the respondents had filed a counter. The O.A. was disposed of by order dt.30-8-95 holding that the O.A. had become infructuous in view of the exoneration of the applicant from the charge by order dt.9-1-95. After holding that the OA had become infructuous however following portion was made part of the order reading as "it is needless to say that the respondents have to pay the with-held amounts with interest as per rules as he was exonerated". Thus although the O.A. had become infructuous, part of the relief was granted to the applicant as prayed without

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any adjudication on that point. Hence unless it is found that by reason of exoneration from the charge alone the applicant was entitled to the payment of with-held amounts or whether there were any other justifiable reasons to disentitle him to receive the same, the allegation of contempt cannot be dealt with. The reply of the respondents to the contempt petition states that the amount was not held up merely on the ground of issuance of charge sheet but the settlement dues had been with-held for want of "clearance certificate" which in turn was due to pending stock sheets with regard to the periodic stock verification done by the Accounts Department jointly with the Stock holder. It is alleged that the applicant had suppressed several material facts in this respect in the O.A. It is also contended that the responsibility of the applicant as custodian to follow the periodic stock verification exercise is totally distinct from the charges made in the charge sheet and the figure of shortages of stock of which the applicant was custodian was more than one lakh rupees. It is contended that under the rules in force, the amount of shortages is recoverable from the applicant. It has also been stated in the reply that the applicant has already been paid the provident fund amounts, insurance and last wages at his credit and he is being paid provisional pension from 1-9-92 together with relief thereon and that the balance amount available is less than the recovery to be made. The issue therefore of with-holding of the amount is disputed question and since the direction given was without

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adjudication on that point, we are not inclined to take the view that by not complying with that direction the respondents have dis-obeyed the original order in respect of that direction at this stage.

3. It is not clear from the reply as to whether the grounds stated in the reply for with-holding the amount ~~was~~ ^{were} intimated to the applicant and whether he was given any opportunity to show cause in that respect. With-holding the amount without such exercise on the ground that the amount of shortage is recoverable from the applicant, would not be correct for the respondents to do nor to sit silent over the direction made in the order on the O.A.

4. Hence having regard to the terms of the order in the O.A. and the situation discussed above, the respondents are directed to intimate the applicant the reasons for which it is not possible for them to comply with the direction made in the order on the O.A., and take a decision in the matter after giving opportunity to the applicant to offer his explanation. The decision taken thereafter be intimated to the applicant. The remedy of the applicant in the event of being aggrieved by that decision will be open to be adopted in accordance with the law. The respondents to take steps as indicated above within a period of two months from the date of receipt of this order. The above directions are given consistently with the direction contained in

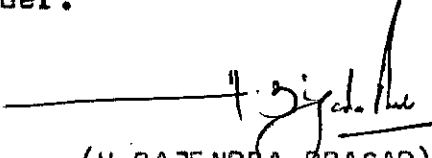
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the O.A. having regard to the reply of the respondents.

The contempt petition is disposed of in terms of the above order.

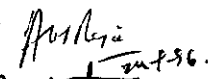

(H. RAJENDRA PRASAD)
Member (A)


(M.G. CHAUDHARI)
Vice-Chairman

Dated: 12th September, 1996.

Dictated in Open Court.

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Deputy Registrar (J) cc