

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH: JAIPUR

Date of order : 22.1.1996

CP No. 109/95
in
OA No. 350/94

Madhuri Joshi ... Petitioner.

versus

Mr. Gautam Gupta & Anr. ... Respondents.

Mr. K.L. Thawani, Counsel for the petitioner.

Mr. U.D. Sharma, Counsel for the respondents.

CORAM :

Hon'ble Mr. N.K. Verma, Member (A)

Hon'ble Mr. Ratan Prakash, Member (J)

...

PER HON'BLE MR. N.K. VERMA:

In this C.P., the petitioner has alleged that the respondent Nos. 1 and 2 have not carried out the orders of the Tribunal dated 19.9.94 by which the respondents were directed not to revert the ~~from the post~~ applicant ~~which he(she)~~ is presently occupying till the next date. Shri Thawani brought to our notice that the applicant had reported for duty on 21.9.94 but she was not permitted to resume duties. Learned counsel for the petitioner stated that inspite of clear orders of the Tribunal, the respondents have acted in the manner which can be said to be wilful disobedience and contempt of the Tribunal orders.

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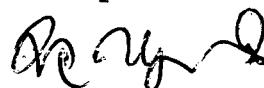
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2. Shri U.D. Sharma, learned counsel for the respondents on the other hand brought to our notice that the applicant was on medical leave from 15.9.94 and the respondents had vide their order dated 16.9.94 already made arrangements for a substitute to take over the charge of Sub Postmaster P.I.P. Post Office, Kota, and therefore, the interim order issued by the Tribunal not to revert the applicant from the post which she was occupying did not permit her taking over as Sub Postmaster P.I.P. Post Office. The order dated 16.9.1994 has clearly stipulated that on resumption of duties she will be posted as Sub Postmaster, Gumanpura and not to the P.I.P. Post Office. Therefore, the stay order become infructuous and could not be complied with. Shri U.D. Sharma also brought to our notice that the applicant remained on medical leave till 2.10.94 and thereafter again proceeded on leave on various spells on medical ground. Resumption of duty after production of the medical fitness certificate is not an automatic act, but it requires proper sanction of the controlling authority regarding posting of the official who was under medical treatment.

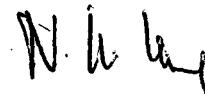
3. We have given our anxious considerations to the averments, pleadings and arguments of both the parties. The question of the applicant obtaining an interim order on 19.9.94 itself seems to be under certain dubious circumstances. The applicant had not come with clean hands/information that at

the relevant time she was not on duty at the P.I.P. Post Office on medical grounds and, therefore, the Tribunal had issued an order staying the reversion of the petitioner. Had the Tribunal been informed of the correct position, the Tribunal would not have issued such an order which renders its compliance infructuous. We are sorry to observe that such type of mis-statement which mislead the Tribunal in issuing interim orders must be stopped. Normally, we could have awarded costs against the applicant as prayed for by the learned counsel for the respondents, Shri U.D. Sharma. However, considering the fact that the applicant was under medical treatment for a long time as also under tensions, we are not doing so.

4. As discussed above, we find no contempt on the part of the respondents and the C.P. is accordingly dismissed. Notices issued to the respondents are hereby discharged.



(Ratan Prakash)
Member (J)



(N.K. Verma)
Member (A)

cvr.