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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

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Date of order: 22-11-1996

CP No. 28/96 (OA No. 148/90)

Kishan Lal Sain,  
Son of Shri Ram Kishore Sain,  
Resident of Kishore Hair Dresser,  
Opposite Poonam Talkies, Dausa Tehsil,  
District Dausa.

.. Petitioner

Versus

1. Shri B.B.Dave,  
Senior Superintendent of Post Offices,  
Jaipur City Division,  
Jaipur.
2. Shri Subhash Harsh,  
Senior Medical Officer (Post and Telegraph),  
Dispensary No.2,  
B-55, Ash Path, Tilak Nagar,  
Jaipur.

.. Respondents

Mr. S.K.Jain, counsel for the petitioner  
Mr. U.D.Sharma, counsel for the respondents

CORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman  
Hon'ble Mr. S.C.Vaish, Administrative Member

O R D E R

Per Hon'ble Mr. S.C.Vaish, Administrative Member

Shri Kishan Lal Sain, contempt petitioner, has come to the Tribunal seeking compliance with the order of this Tribunal dated 12-9-1994 in OA No. 148/90. Notices were issued to the answering respondents who have filed a reply and contested the contempt petition.

2. We have heard Shri S.K.Jain, counsel for the petitioner and Shri U.D.Sharma, counsel for the respondents and examined the records in detail. The Tribunal in paragraphs 3 and 4 of its order dated 12-9-1994 had ruled as below:

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"3. It is borne out from the record that the applicant has been working as a Nursing Ardali from 28.9.'83 with breaks and he has been re-engaged from time to time.

4. In the circumstances we direct the respondents to engage the applicant in service as a Nursing Ardali if the applicant has been disengaged from service, as and when there is a vacancy in the said post. In case the applicant claims any wages due from the respondents, he may make an application before the concerned Labour Court in terms of the provisions contained in Sec. 33 C(2) of the Industrial Disputes Act, 1947. The OA is decided accordingly with no order as to costs."

3. The learned counsel for the petitioner has urged that despite this order the respondents are continuing the petitioner as a Nursing Ardali with breaks after 89 days and this was never the intention of this judgment. On the other hand, the learned counsel for the answering respondents in their reply have stated that the Tribunal did not order the continuous employment of the petitioner without a break and that the answering respondents have power to employ a person only for 89 days at a stretch and they are continuing to do so in pursuance of the above order of the Tribunal. They have further urged that the contempt petitioner chose to be absent from 1st to 17th February, 1996 and despite that when he came back, he was engaged.

4. The above facts show that there has been no violation or non-compliance of the order of this Tribunal dated 12-9-1994. Moreover, an earlier contempt petition No. 134/95 was decided by this Tribunal on 11-1-1996 and rejected because the

petitioner has been re-engaged. (2)

4. In these circumstances, if the petitioner wishes to agitate his claim that he should be given continuous employment without break, his remedy does not lie in the second contempt petition but he should move this Tribunal in an original application for adjudication.

5. The second contempt petition is rejected with the above observation. Notices issued are discharged.

*M. S. C. Vaish*  
(S.C. Vaish)  
Administrative Member

*G. Krishna*  
(Gopal Krishna)  
Vice Chairman