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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

CP No. 41/96 (OA No. 541/1996)

Date of order: 7-2-97.

Om Prakash working as Divisional Engineer in the office of  
Telecom District Manager, Ajmer

.. Petitioner

Versus

Shri V.K. Ahuja, Telecom District Manager, Ajmer

.. Respondent

Mr. U.D.Sharma, counsel for the petitioner

Mr. M.Rafiq, counsel for the respondent

CORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman

Hon'ble Mr. O.P.Sharma, Administrative Member

O R D E R

Per Hon'ble Mr. O.P.Sharma, Administrative Member

In this Contempt Petition under Section 17 of the Administrative Tribunals Act, 1985, Shri Om Prakash has prayed that the respondent Shri V.K.Ahuja, Telecom District Manager, Ajmer may be summoned to appear in person before the Tribunal and be punished suitably for having committed contempt of court.

2. By order dated 25-9-1996, the petitioner had been reverted from the post of Divisional Engineer (Planning) to that of Sub-Divisional Engineer (Cable Planning). After the petitioner filed OA No. 541/1996, Om Prakash Vs. Union of India and Others, the Tribunal issued an interim direction on 10-10-96 to the effect that the applicant shall not be reverted to the lower post till the next date if he had not already been relieved. In the Contempt Petition, the petitioner has stated that infact he was not relieved from the post held by him as on 25-9-1996 and no charge has been taken

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from him from the post till the date of filing the Contempt Petition. However, the respondent has disregarded the order dated 10-10-96 passed by the Tribunal. The petitioner has been harassed by the respondent after passing of the aforesaid order by the Tribunal. The petitioner had continued to function in the post held by him on and prior to 25-9-96 but the respondent locked his room and directed him to work only as a Sub Divisional Engineer, the lower post to which the petitioner had been reverted.

3. The respondent in his reply has denied the petitioner's averments and has added that the petitioner stood relieved on 25-9-1996 when he was served with the order of his new posting. The petitioner deliberately avoided submitting the charge relinquishing report despite being required to do so, when he was served with the order of reversion and his posting as Sub Divisional Engineer. Therefore, the petitioner could not assume that he was continuing as Divisional Engineering (Planning) even after 25-9-1996.

4. During the arguments the learned counsel for the petitioner stated that the petitioner had not been relieved by any officer from the charge of Divisional Engineer (Planning) on 25-9-96, the date on which the respondent has alleged that the petitioner was relieved of his charge. There could not be a unilateral order relieving the petitioner without somebody taking over charge from him. He added that the petitioner had continued to perform his duties as Divisional Engineer (Planning) up to 10.10.96 as seen from the records and the higher authorities had not objected to his performing his duties and putting up files to them even after 25-9-1996. This showed that the respondents were aware that the petitioner had performed his duties even after 25-9-1996 in the post of Divisional Engineer (Planning) and therefore he continued to

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hold the said post even after 25-9-96. In the circumstances, treating the petitioner as relieved from the post of Divisional Engineer (Planning) w.e.f. 25-9-96 was in fact disobedience of the Tribunal's order dated 10.10.96 by which direction was issued that the petitioner should not be relieved from the post held by him if he had not already been relieved.

5. The learned counsel for the respondents produced before us the record relating to reversion/transfer of the petitioner and the document said to be the charge report by which the petitioner's charge was assumed by another officer and added that in view of the factual position emerging from the records, the petitioner stood relieved from the post of Divisional Engineer (Planning) on 25-9-1996. He further stated that the reversion order dated 25-9-1996 had been served on the petitioner on that very date and there was no dispute about it. Therefore, service of this order on the petitioner on that date also showed that the petitioner stood relieved from the post of Divisional Engineer (Planning) w.e.f. 25.9.1996. This order dated 25-9-1996 was to have immediate effect. Therefore, there is no merit in the contention of the petitioner that the petitioner had not been relieved from the post of Divisional Engineer (Planning) w.e.f. 25-9-1996.

6. We have heard the learned counsel for the parties and have perused the records produced before us.

7. The charge was not handed over by the petitioner to any officer on 25-9-1996. However, there is a report dated 25.9.1996 in the file according to which Shri Radhey Lal, DE (Administration) had assumed the charge held by the petitioner in pursuance of the order of the same date by which the petitioner stood reverted from the post of Divisional Engineer (Planning). This charge assuming report is contained in a

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separate file from which the order of reversion of the petitioner has been passed. This would create an impression that the petitioner was not relieved of his charge on 25.9.1996 particularly when no officer had taken over charge from him. However, fact remains that the petitioner was reverted to the lower post by an order dated 25-9-1996 of which a copy was received by the petitioner admittedly on 25.9.1996 itself. Once the petitioner had been served with the order of reversion, it does not make much sense for him to urge that he still continued to function on the post of Divisional Engineer (Planning). It sounds even more illogical and rather incredible that the petitioner should have continued to function on that post and further should have put up files to the higher authorities on the assumption that he still held the post of Divisional Engineer (Planning). Even if the petitioner did some work as Divisional Engineer (Planning) after 25-9-1996 and submitted any files to the higher authorities in this regard, that cannot be treated as evidence that the petitioner had continued to hold charge of Divisional Engineer (Planning) even after 25-9-96. On a balance of considerations, we are of the view that after the petitioner had received the reversion order dated 25-9-1996 on that very date, his being relieved from the said post was only a formality and therefore, no case of contempt for violating the order of the Tribunal dated 10-10-96 would lie against the respondent. In these circumstances, the Contempt Petition is dismissed. Notices issued are discharged.

  
(O.P. Sharma)

Administrative Member

  
(Gopal Krishna)

Vice Chairman