

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 17.05.2000

CP No.24/98 (OA No.340/94)

Nemi Chand s/o Shri Hari Singh, R/o village and Post Office Baroli.
Ran, Distt. Bharatpur.

.. Petitioner

Versus

1. Shri B.B.Kapoor, Chief Postmaster General, Rajasthan Circle,
Jaipur.
2. Shri A.S.Tyagi, Superintendent of Post Offices, Bharatpur.

.. Respondents

Mr. K.L.Thawani, counsel for the Petitioner

Mr. Hemant Gupta, Proxy counsel to Mr. M.Rafiq, counsel for the
respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

Hon'ble Mr. N.P.Nawani, Administrative Member

O R D E R

Per Hon'ble Mr. N.P.Nawani, Administrative Member

This Contempt Petition has been filed complaining of the disobedience of the order of this Tribunal dated 20.2.1998 passed in OA No.340/1994. It will be appropriate to extract the operative portion of the said order, as under:

"We direct the respondents to reinstate the applicant on the post of Extra Departmental Branch Post Master. If the place at which the applicant was posted as EDBPM is vacant, the applicant shall be posted at the same station on the same post. If, however, the post has been filled up by appointing someone else, the applicant may be offered appointment as EDBPM at the nearest possible place on the same post. In so far as the conditions of appointment as originally laid down in Ann.R1 dated 14.7.1994 are concerned, they will of course have to be fulfilled by the applicant after his reinstatement."

2. It is alleged by the petitioner that the respondents have not complied with the orders of the Tribunal in letter and spirit of the order. It is alleged by the petitioner that instead of reinstating him in service as EDBPM, Baroli Ran, the respondents

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have given appointment afresh as EDBPM, Baroli Ran, vide Superintendent of Post Offices, Bharatpur letter dated 13.4.1998 wilfully depriving the humble petitioner from seniority, allowances etc. etc. from the date of arbitrary removal i.e. from 18.7.1994. the petitioner, therefore, prays that contempt proceedings be initiated against the respondents.

3. We have perused the reply of the respondents, rejoinder to the reply and additional reply to the rejoinder.

4. In their reply, the respondents have stated that the order dated 20.2.1998 of the Tribunal had enunciated three alternatives, the first one being that the applicant in the OA be posted at the same post. The respondents have, therefore, appointed the applicant on the same post at the same station viz. as EDBPM, Baroli Ran and have, therefore, implemented the directions of the Tribunal. It has also been stated that so far as the question of seniority and pay and allowances for the intervening period is concerned, the Tribunal has not passed any order in this respect. In view of this, it is urged that the Contempt Petition be dismissed.

5. We have heard the learned counsel for the parties and have carefully examined the material on record.

6. The respondents have, no doubt, appointed the petitioner as EDBPM, Baroli Ran. However, the grievance of the petitioner is that he has been given a fresh appointment whereas the Tribunal had, vide its order dated 20.2.1998, directed, inter alia, that "In so far as the conditions of appointment as originally laid down in Ann.R1 are concerned, they will of course have to be fulfilled by the applicant after his reinstatement." It is, therefore, argued by the learned counsel for the petitioner that the implementation of the order of the Tribunal is flawed since he should have been 'reinstated' on the post of EDBPM.


7. We have carefully considered the rival contentions. We are satisfied that there was no mention regarding payment of pay and allowances of any period in the order dated 20.2.1998 and in this regard, it is open to the petitioner to make a representation to the respondents, if he so wishes. We, however, feel that in service jurisprudence there is a difference between "fresh appointment" and "reinstatement". The dictionary meaning of reinstatement is "restoring back to its position". There is a reference to Ann.R1 in

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the order dated 20.2.1998. We have perused it. It states that the petitioner/applicant is selected on "सामयिक तौर पर" i.e. on provional basis as EDBPM, Baroli Ran. It also asks the Inspector to arrange for imparting necessary training to the petitioner and taking over of the charge and send necessary papers regarding the appointment. In the endorsement to the petitioner, it, inter alia, asks him to ^{furnish} the details of his father's land holding and his authority letter of his share within 15 days of the receipt of the said order. It is thus clear that Ann.Rl in OA was a conditional letter of appointment and the effect of the "reinstatement" would have also meant restoration of the said order to the 'stage' discussed above. The essential portion of the directions was that the "applicant shall be posted at the same station at the same post...." and the respondents having posted the petitioner at the same post at the same station and have implemented the order of the Tribunal. The last portion of the order only talks about conditions of appointment as originally laid down and, therefore, in the facts and circumstances of this case, the action of the respondents in not specifically using the word "reinstatement" does not mean any wilful and deliberate disobedience of the order of this Tribunal dated 20.2.1998.

8. We are, therefore, of the considered opinion that no case of contempt is made out against the respondents and this Contempt Petition is accordingly dismissed. Notices issued to the respondents are hereby discharged.

9. As already discussed above, the petitioner is free to make a representation to the authorities about his pay and allowances for the period between 16.7.1994 to 19.7.1994 and 12.10.1994 to 12.2.1996 and the seniority etc. he seeks to claim.


(N.P.NAWANI)

Adm. Member


(S.K.AGARWAL)

Judl.Member