

(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.35/99

Date of order: 30/6/2000

1. S.K.Sharma, S/o Shri Hanuman Pd. Sharma, working as JTO, O/o CGMT, Jaipur.
2. Rajesh Sharma, S/o late Shri L.L.Sharma, working as JTO, O/o CGMT, Jaipur.
3. R.S.Palsania, S/o Shri Jagdish Prasad, working as JTO, O/o CGMT, Jaipur.
4. J.K.Bansal, S/o Shri K.L.Bansal, working as JTO, O/o CGMT, Jaipur.
5. M.S.Rawat, S/o Shri Lilaram Rawat, working as JTO, O/o CGMT, Jaipur.
6. S.K.Sharma, S/o late Shri K.N.Sharma, working as JTO, O/o CGMT, Jaipur.

...Applicants.

Vs.

Shri N.Narasimhan, Chief General Manager, Telecom, Rajasthan Telecom Circle, Jaipur.

...Respondent.

Mr.K.S.Sharma - Counsel for applicant

Mr.M.Rafiq) - Counsel for respondents.

Hemant Gupta)

CORAM:

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

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

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

This Contempt Petition has arisen out of the order passed by this Tribunal on 7.4.99 in M.A No.75/99 (O.A No.423/98).

2. The order passed in MA No.75/99 (OA No.423/98) is reproduced below:

"Since the applicant has completed the requisite period of 3 years on 9.2.99, he may be considered for promotion to TES Group 'B' as per his turn subject to his eligibility in accordance with the rules keeping in view the communications dated 12.9.95 and 13.1.99, taken on record of this M.A. If the applicant is promoted to TES Group 'B', his promotion shall be subject to the findings on this O.A and this fact shall be specifically mentioned in his order of promotion. The MA stands disposed of accordingly."

3. It is stated by the learned counsel for the petitioners that the opposite party has wilfully and deliberately disobeyed the orders of this Tribunal dated 7.4.99 thereby committed contempt. He, therefore, prayed to initiate contempt proceedings against the opposite party for punishing him for committing contempt of court



for deliberate and wilful disobedience of the order passed by the Tribunal in M.A No.75/99 (423/98).

4. Show cause was filed. In the reply, it has been made clear that the order referred by the applicants by which the officiating promotions were made was cancelled for administrative reasons and at present there is no promotion order with respect to the erstwhile ASTTs. It is stated that the opposite party did not at all flouted the orders of this Tribunal issued on 7.4.99 as opposite party has highest regard for the majesty of law and the order passed by this Tribunal. Therefore, in the reply it is stated that the petitioner failed to establish any contempt against the opposite party and the same is liable to be dismissed.

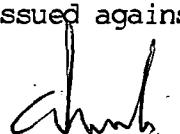
5. Heard the learned counsel for the parties and also perused the whole record.

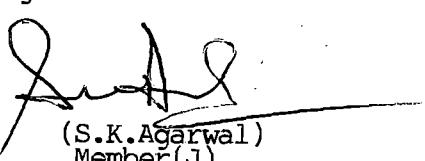
6. An additional affidavit was also filed on behalf of the opposite party. In this additional affidavit, it has been mentioned that the nonpetitioner came to understand about his mistake by which violation of the order of the Tribunal was taken place, therefore withdrawn the promotion order Annx.C/2 vide Annx.R-Cl. It is also stated that again the non-petitioner has issued the order for promotion on 17.12.99 and 31.12.99 vide Annxs.C-6 and C-7 promoting the ASTTs who have completed 3 years as JTO as it was directed by the Tribunal vide order dated 7.4.99. Therefore, it is stated that the nonpetitioner has not disobeyed the order of this Tribunal dated 7.4.99 intentionally and deliberately.

7. Disobedience of the orders of the Tribunal amounts to contempt only when it is deliberate and wilful. In order to prove civil contempt there must be wilful disobedience. If there is no proof of flouting the orders of the Court/Tribunal deliberately, there would not be a case of contempt. Mere misrepresentation of executive instructions will not be a sufficient ground to hold guilty for civil contempt as it has been held by Hon'ble Supreme Court in Indian Airport Employees Union Vs. Rajan Chatterji, SLR 1999(1) SC 612.

8. In view of the facts and circumstances of this case and the settled legal position, we are of the considered view that the petitioner failed to establish any case of contempt against the non-petitioner, therefore, this contempt petition fails.

9. We, therefore, dismiss this contempt petition and notice issued against the nonpetitioner hereby discharged.


(N.P. Nawani)
Member (A).


(S.K. Agarwal)
Member (J).