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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.
C.P.No.49/99 Date of order: 12.5.2000

Bharti, S/o Shri Munian, Gangman under Section Engineer,
Western Railway (IOW)(C), Jaipur.

...Petitioner.

Vs.

1. Shri Jitendra Kumar Jain (IOW), Section Engineer
(Works), Construction-I, W.Rly, Jaipur.

...Respondent.

Mr.Nandkishore - Counsel for the petitioner.

Mr.T.P.Sharma - Counsel for respondents.

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 an order passed on 27.10.99 in O.A No.131/99 and the following directions were issued by the Tribunal:

"Therefore, this O.A is allowed in part and respondent No.2 is directed to take the applicant on duty within 15 days from the date of receipt of a copy of this order. On filing a representation/application by the applicant, the respondents shall regularise the period of absence of the applicant by sanctioning any kind of leave due to him including leave without pay. The applicant will not be entitled to any salary for the period of his absence on the principle of no work no pay."

2. It is stated by the applicant that the opposite party has wilfully and deliberately disobeyed the orders of the Tribunal and not taken the applicant on duty and not regularised his absence in any way. Therefore, he prayed for initiation of contempt proceedings against the opposite party.

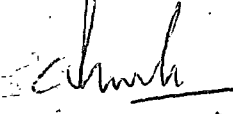
3. Reply was filed, which is on record. The learned counsel for the opposite party submits that the applicant has taken on duty w.e.f. 8.4.2000 and the period of absence could not be regularised because of non submission of representation/application.

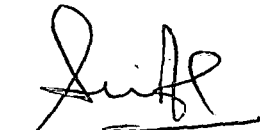
4. The applicant was required to file representation/application before the opposite party for regularising the period of absence of the applicant. He may do so now and if his representation/application is not accepted by the opposite party, he may send the same by registered post and

the opposite party is expected to dispose of the representation/application filed by the applicant expeditiously as possible.

5. Disobedience of Court/Tribunal's order constitute contempt only when it is wilful or deliberate. It is the duty of the applicant to prove that the action of the alleged contemnors to disobey the order of this Tribunal was intentional and deliberate. If this is not proved, then it can be said that applicant failed to establish the contempt against the alleged contemnors. Mere delay in compliance of the directions/order of the Tribunal does not constitute contempt unless it is wilful. In the same way the bonafide other interpretation of the order also does not amount to contempt.

6. In view of the above legal position and facts and circumstances of the case, we are of the view that the applicant could not establish a case of contempt against the opposite party. We, therefore, dismiss the contempt petition and notice issued against the opposite party is hereby discharged.


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


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