

CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH.

C.P. No. 45 of 2004 (In O.A. No. 51/1997)

DATE OF DECISION: 17.05.2005

Sri Akhil Ch. Roy

APPLICANT(S)

Mr. M. Chanda, Mr. G.N. Chakraborty, Mr. S. Nath

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

Sri B.K. Sinha & Anrs.

RESPONDENT(S)

Mr. B.C. Pathak

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

THE HON'BLE MR. K. V. PRAHLADAN, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether the judgment is to be circulated to the other Benches?

Judgment delivered by Hon'ble Vice-Chairman.

G. Sivaranjan

6

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Contempt Petition No. 45/2004 (In O.A. No. 51/1997)

Date of Order : This the 17th day of May, 2005.

The Hon'ble Mr. Justice G. Sivarajan, Vice Chairman
The Hon'ble Mr. K.V. Prahladan, Administrative Member.

Shri Akhil Chandra Roy
Sr. Telecom Supervisor (Phones)
Fault Control
Office of the Sub-Divisional Engineer
Fault Control, Telecom Exchange,
Guwahati - 781 001.

... Petitioner

By Advocates Mr. M. Chanda, Mr. G.N. Chakraborty, Mr. S. Nath.

- VERSUS -

1. Sri B.K. Sinha
Chief General Manager, BSNL
Assam Circle,
Ulubari, Guwahati - 7.
2. Sri B.K. Mishra
General Manager, Telecom,
Bharat Sanchar Nigam Ltd.
Soni Bora Path
Ulubari, Guwahati - 781 007.

... Respondents/
Contemnors.

By Mr. B.C. Pathak, Advocate.

ORDER (ORAL)SIVARAJAN, J (V.C.)

This application has been filed alleging that there is willful disobedience of the direction issued by this Tribunal in O.A. No. 51/1997. The respondents have filed their affidavit-in-opposition and contended that there is no disobedience of the direction issued by this Tribunal. We have perused the order dated 18.8.1998 passed in O.A. No. 51/1997. We find that this Tribunal had set aside the order dated 08.02.1996 passed by the disciplinary authority and Annexure - 23 dated 27.12.1996 passed by the appellate authority. There is no positive direction by this Tribunal either in respect of monetary benefit or otherwise. It so happened, the respondents have challenged the decision of the Tribunal before the Gauhati High Court by filing writ petition No. 1571/2001 which was disposed of by Judgment dated 25.08.2003. The Hon'ble High Court did not interfere with the order of the Tribunal setting aside the penalty. However, liberty was given to the respondents with certain directions.

2. Mr. B.C. Pathak, learned counsel appearing for the respondents submits that though the copy of the inquiry report was furnished to the applicant as directed by the High Court and the applicant filed his reply, no final order is seen passed in the case. Counsel also submits that no reply has been received from the respondents as to why the monetary benefits due has not been paid to the applicant since the penalty order has been set aside by



this Tribunal and not interfered with by the High Court and since no fresh orders were passed subsequent to the High Court decision.

3. Mr. M. Chanda, learned counsel for the applicant submits that since the respondents have not yet paid monetary benefits that will tantamount to non compliance of the direction issued by this Tribunal. We are unable to appreciate the said contention. When penalty order was set aside by the Tribunal which was not interfered with by the High Court, the respondents are obliged to pay the monetary benefits due to the applicant. If the respondents have not so far paid, that will be an independent cause of action to the applicant. It cannot be characterized as amounting to willful disobedience of the direction issued by this Tribunal, for, as we have already noted there is no positive direction by the Tribunal.

4. In the circumstances, this contempt petition is dismissed. However, if no fresh penalty order has been passed after the decision of the High Court after considering the reply already filed by the applicant yet the respondents will pay all the monetary benefits to the applicant without further delay. This is without prejudice to the right of the applicant to file fresh O.A. for the said relief if he is so advised.

K. Prahla
(K. V. PRAHLADAN)
ADMINISTRATIVE MEMBER

G. Sivarajan
(G. SIVARAJAN)
VICE-CHAIRMAN