

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Contempt Petition No. 11 of 2005 &
Misc. Petition No. 23 of 2006
In
Original Application No.89 of 1998

Date of Order: This, the 28th day of February 2006.

THE HON'BLE SRI K.V. SACHIDANANDAN, VICE-CHAIRMAN.

THE HON'BLE MRS.CHITRA CHOPRA, ADMINISTRATIVE MEMBER.

Sri Nalini Prasad Sarmah Baruah
Resident of Vill:-Pati Darrang
P.O: Deomornoi, Dist: Darrang.

... Petitioner

By Advocates Mr.S.Sarma, Mr.H.K.Das & Ms.B.Devi.

Versus -

1. Sri S.K.Das
The Chief Post Master General
Assam Circle, Meghdoot Bhawan
Guwahati-781 001.
2. Sri Jagabandhu Biswas
The Superintendent of Post Offices
Darrang Division, Tezpur.

... Contemnors.

Mr.G.Baishya, Sr.C.G.S.C.

ORDER (ORAL)

K.V. SACHIDANANDAN (V.C.)

This Contempt Petition has been filed by the petitioner for
non-compliance of the orders of this Tribunal passed in O.A. 89/1998 on

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8.12.2000. The paragraph 3 of the said order is reproduced herein below:-

"3. In the facts and circumstances of the case the removal of the applicant was unjustified. The grounds relied for removal of the applicant therefore cannot be legally sustained. For the reasons mentioned above the order of removal of the applicant issued under letter No.B-2/Staff/Gen/98 dated 22.4.98 is liable to be set aside accordingly the order of removal of the applicant from service dated 20.2.98 (Annexure-6) is set aside. The applicant shall now be reinstated in service forthwith with full back wages."

Alleging non-compliance of the said order Contempt Petition No.13/2001 was filed before this Tribunal. In the meantime, the matter was taken before the Hon'ble Gauhati High Court in W.P.(C) No.4456/2001 and in view of the pendency of the aforesaid W.P.(C) the C.P. No.13/2001 was dropped by this Tribunal. However, the aforesaid W.P.(C) was later on withdrawn by the writ petitioners/contemners. Since the order was not complied with the present Contempt Petition has been filed. Notices were issued on 23.03.2005.

2. Show Cause reply by the both contemners were filed in the month of June, 2005. One Additional Affidavit was also filed annexing Annexure-A order dated 04.09.2006. By the said order the petitioner was accommodated in Group 'D' post in Nagaon Postal Division against the existing vacancy of Group 'D' cadre in ex-serviceman quota for the year 2003.

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3. Mr.S.Sarma, learned counsel for the petitioner submitted that though the petitioner was accommodated vide order dated 4.9.2006 he was not paid the back wages. Mr.G.Baishya, learned Sr.C.G.S.C., on the other hand, submitted that in the absence of any Group 'D' vacancy the petitioner could not be accommodated in Group 'D' post but during that time he was working in GDS post. It is an admitted fact that after withdrawal of the aforementioned W.P.(C) the petitioner was issued an order for GDS post since there was no vacancy of Group 'D' in the Division.

4. From the pleadings advanced by the Contemners it is apparent that there is no willful disobedience on the part of the alleged Contemners and they have put their bonafide attempt to accommodate the petitioner but due to non-availability of Group 'D' vacancy he was given GDS post during that period. The GDS wages were also being paid to the petitioner. Mr.G.Baishya has taken our attention to a decision rendered by the Hon'ble Supreme Court in the case of **J.S.Parihar vs. Ganpat Duggar and Others** reported in (1996) 6 SCC 291. The relevant portion of the said judgment and order is reproduced below:-

"It is seen that once there is an order passed by the Government on the basis of the directions issued by the court, there arises a fresh cause of action to seek redressal in an appropriate forum. The preparation of the seniority list may be wrong or may be right or may or may not be in conformity with the directions. But that would be a fresh cause

of action for the aggrieved party to avail of the opportunity of judicial review. But that cannot be considered to be willful violation of the order."

It is submitted that for contempt proceeding there should be willful disobedience on the part of the Contemners in not complying with the orders of this Tribunal. Counsel for the Respondents submitted that order of the Tribunal has been complied with.

5. Considering all the aspects and upon hearing counsel for the parties we are of the view that there is no willful disobedience on the part of the Contemners. The petitioner has already been accommodated in Group 'D' post. What is left out is only difference of back wages for which the petitioner is at liberty to approach appropriate forum.

6. In the circumstances, the C.P. is closed. Notices issued are discharged. Accordingly the M.P. is also closed.

Chitra Chopra
(CHITRA CHOPRA)
ADMINISTRATIVE MEMBER


(K.V.SACHIDANANDAN)
VICE CHAIRMAN

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