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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Contempt Petition No.11 of 1995 (In O.A.136/94)

Date of interim Order : This the 27th Day of November '95

Central Govt. Telecom. Pensioners Association
Guwahati. . . . Petitioner

- Versus -

Shri K.Sridhara
Chief General Manager,
Assam Telecom. Circle,
Ulubari, Guwahati-7. . . . Respondent

For the petitioners : Mr M.Chanda, Advocate.

For the Respondent : Mr S.Ali, Sr.C.G.S.C &
Mr H.Sinha, AD(HRD), office of the
CGMT, Assam Circle, Guwahati.

C O R A M :

THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI, VICE CHAIRMAN.

THE HON'BLE SHRI G.L.SANGLYINE, MEMBER(ADMINISTRATIVE)

INTERIM ORDER

Mr Sinha produces a copy of the letter of Assistant Director General (TE), Department of Telecom, Govt. of India dated 25.11.95 addressed to the CGMT, Assam Circle. The letter indicates that the Government has now decided to file an SLP against the order in O.A.136/94 and that preparation of the SLP to be filed may take four weeks further and therefore stay of operation of the order may be obtained from the Tribunal. We are distressed to notice that the respondents are treating the orders of this Tribunal very casually and appear to believe that the Tribunal can be dictated to act as they desire. In the first place the original order was passed as far back on 1.8.94. As that order was not complied with for payment of SDA the applicants were compelled to file this Contempt Petition. Then by Misc.Petition No.76/95 the respondents

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applied for extension of time to implement the original order. By order dated 29.8.95 on the M.P. since it was being stated that an SLP was intended to be filed we had reluctantly directed the present respondents to deposit the SDA amount due to the applicants in the State Bank of India within a period of one month and specifically directed them to inform us whether SLP was filed till then and if so what was its stage and whether any order of stay was obtained. The M.P. had been filed during the pendency of the instant C.P. A show cause reply has been filed by the CGMT, Assam Circle on 9.8.95 in answer to the contempt petition in which in para 2 it is categorically stated that in the instant case the Union of India has already filed SLP but it was not still admitted and the orders were awaited. That statement stands belied by the letter dated 25.11.95 produced today which shows that the SLP is yet to be filed. The earlier statement had led us to make the order dated 29.8.95 on the M.P. which we may have made differently had we known at that time that no SLP was at all filed. After so much water having flown the respondents yet want to take their own time to file the SLP and expect the Tribunal to stay the operation of its own order even though it has not been complied for more than a year just for mere asking. We would not therefore have hesitated to take action in contempt but for the fact that consistently with the view now expressed by the Hon'ble Supreme Court in SDA matters possibly if an SLP is filed the Supreme Court might be pleased to interfere in the original order. The respondents however, were expected to show some earnestness in the matter and it is difficult to imagine as to why so much

time was not sufficient for them just to file the SLP and obtain orders. Had the respondents complied with the original order in good grace and even if thereafter the original order were to be set aside by the Supreme Court it would have been open to the applicants to pray to the Supreme Court to save them from the recovery of the amount already paid which course the Hon'ble Supreme Court has been pleased to adopt in other similar cases. Merely depositing the amount in the Bank is of no avail to the applicants. In fact the direction to deposit the amount was a step taken by us to impress upon the respondents that they cannot ignore the orders of the Tribunal and if they still want to pursue the remedy before the Hon'ble Supreme Court they must move within reasonable time. The respondents seem to assume that as they have deposited the amount in the Bank their duty is over. We are sorry, we cannot share such an attitude.

2. The situation is however such as creates a dilemma. On the one hand with the knowledge of the view taken by the Supreme Court on the question of SDA and the likelihood of an order being passed by the Supreme Court on the SLP when filed which may make the execution of the original order unnecessary, propriety demands that we may not take a stern action and on the other hand on the assumption that such an eventuality might arise at some future date we are required to ignore the fact that the Tribunal's orders are not being obeyed and implemented on time and have to acquiesce in that situation. In between the applicants are the persons to suffer. In the circumstances the only way we can conceive of at this stage in order to introduce some semblance of justice is to make following directions :

Order :

1. (i). The respondents are directed to pay an amount

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equivalent to 10% of the amount payable to each of the applicants towards SDA under the original order which amount has been deposited in the State Bank of India with interest.

(ii) The applicants shall give an undertaking to this Tribunal within a period of 1(one) week that the amount so paid to them shall be refunded when so directed by the Tribunal. The respondents however shall not insist for any undertaking to be given to them and shall pay the amount as directed above without any undertaking.

(iii) The payment shall be dealt with in the final order on the instant C.P.

(iv) In default of compliance with this direction that will be construed as an independent act of contempt.

(v) It will be open to the applicants to pray to the Hon'ble Supreme Court in the SLP to consider if so pleased whether this amount may not be recovered.

(vi) The respondents to pay the amount directed above to the applicants within a period of two weeks from the date of filing of the undertaking in this Tribunal.

(vii) The applicants shall inform the CGMT, Assam Circle about the filing of the undertaking in this Tribunal together with a copy thereof. The period of two weeks for payment shall commence from the date of communication of that undertaking.

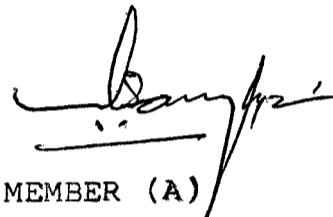
2. As it appears that the respondents might perhaps file the SLP within a period four weeks as indicated in the letter produced today, the C.P. is adjourned to 9.1.96 for further orders.

3. It is made clear that if the respondents will not be able to inform the Tribunal on the next date about the particulars of the SLP and the interim orders, if any

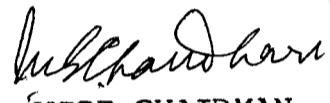


obtained thereon, it will be presumed that no such SLP is filed and no further time will be given for supplying that information and orders on merits may be passed. It is hoped that the respondents will look upon this direction seriously.

4. Copy of this order be supplied to Mr Chanda for applicant, Mr Sinha on behalf of CGMT, Assam Circle and Mr Ali for the respondents. Copy also be sent to CGMT, Assam Circle, directly and immediately.



MEMBER (A)



VICE-CHAIRMAN