

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH, ALLAHABAD

(This the 14TH Day of September 2018)

Hon'ble Mr. Rakesh Sagar Jain, Member (J)

Original Application No.1129 of 2009
(U/S 19, Administrative Tribunal Act, 1985)

1. Hameed Ahmad, son of Abdul Mazeed, aged about 37 years, Resident of Mohalla- Husainganj, Kasba- Maudaha, District Hameerpur.
2. Ravindra Ojha, son of Shiv Nath Ojha, aged about 38 years, resident of 388A, Railway Colony, Kanpur.
3. Suresh Chand, son of late Rameshwar Dayal, aged about 41 years, resident of Village Deorania, Post Jasmai, District Mainpuri.
4. Nagina Prasad, son of Late Suraj Prasad, aged about 36 years, resident of B-378, Raghurajpuri, District Mainpuri.

..... Applicants

By Advocate: Shri A.K. Srivastava/Shri M.K. Srivastava

Versus

1. Union of India through General Manager, Northern Central Railway, Subedar Ganj, Allahabad.
2. Divisional Railway Manager, Northern Central Railway, Allahabad Division, Allahabad.
3. Senior Divisional Commercial Manager, North Central Railway, Allahabad Division, Allahabad.

..... Respondents

By Advocate: Shri Raj Kamal Srivastava

ORDER

1. The applicants namely Hameed Ahmad, Ravindra Ojha, Suresh Chand and Nagina Prasad in this O.A. seek directions to the respondent to give effect to the applicants as Regular Parcel Porters from the date the O.A. No. 1227 of 1997 and 1357 of 1997 was decided by the Principal Bench, New Delhi on 16.12.1997. It may be mentioned that the applicants were

parties-applicant in the aforementioned O.A. Now in the year 2009, they seek implementation of the directions given in the aforementioned two O.As through the medium of this O.A.

2. Applicants rely upon O.A. No. 892 of 2004 titled Brij Narain Raj v/s Union of India decided on 23.12.2010 whereby the order of previous O.A. was implemented through the fresh O.A. Perusal of the order dated 23.12.2010 reveals that it was only because in the previous Order passed in the contempt application to the effect that applicants can file a fresh O.A. for implementation of the directions in the O.A, that the learned SB gave the direction for implementation of the directions in previous O.A. As such, this judgment is of no avail to the applicants. Applicants relied upon judgment titled K.C.Sharma v/s Union of India decided by Hon'ble Apex Court on 25.07.1997, copy of which has been placed on record is also of no avail to the applicants. In the said case, the tribunal refused to condone the period of limitation and give the relief as was given by the Full Bench of the Tribunal. In these circumstances, the Hon'ble Apex Court observed that applicants be given the similar relief. In the present case, applicants are seeking implementation of the orders passed in the previous O.A.s. In the case of S.I. Roop Lal v/s Lt. Governor decided on 14/12/1999 by the Hon'ble Apex Court, the fact were regarding the counting of the service of SI in BSF and Delhi police and observation was made regarding the role of the State. In Jawahar Lal v/s State of J&K decided on 27/02/2002 by the Hon'ble Apex Court was with regard to inter se status the government employees.
3. The applicants themselves in their written arguments are taking the view that "The aforesaid prayers merely means to direct the respondents to prove the same as was granted by the Hon'ble Principal Bench by means of compliance or implementation the order passed by the Hon'ble Principal Bench."

4. In an unreported Division Bench decision of the Allahabad High Court in Civil Misc. Writ Petition No. 19692 of 2003 (Ved Prakash Katiyar v. Member Secretary & anr.), wherein Hon'ble Dr. B. S. Chauhan, J. (as His Lordship then was), speaking for the Division Bench held as follows:

"As is evident from the facts of this case that the petitioner had already filed two successive writ petitions for the same relief and in second petition, certain direction was issued. Petitioners grievance is that the said direction has not been complied with. In the instant case, even if this Court issues the direction in exercise of its power under writ jurisdiction, what is the guarantee that the respondents would ensure the compliance of it and in that case, also, the petitioner would have no option but either to file another writ petition or to file a contempt petition. Thus, we are of the considered opinion that the writ petition cannot be the appropriate and effective remedy in this case. The Legislature, in its wisdom, has created a special forum for it and the petitioner ought to have resorted to it within limitation under the [provisions of the Contempt of Courts Act](#) and if it had expired under the [provisions of Article 215 of the Constitution of India](#) within reasonable period thereafter".

5. In the instant case, the applicants in fact are seeking execution of the order of the Principal Bench through this O.A. which is impermissible under law. They should have got the directions implemented by way of filing execution application in accordance with rules and within the period of limitation. They have adopted a novel procedure to get the

directions implemented through this O.A. which cannot be resorted to by the applicants.

6. In view of the facts of the case as discussed above, the O.A. being meritless is dismissed. No order as to costs.

(Rakesh Sagar Jain)

Member (J)

Manish/-