

(Reserved on 03.01.18)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD

This the 09th day of January, 2018

Present:

HON'BLE DR. MURTAZA ALI, MEMBER-J.

HON'BLE MR. GOKUL CHANDRA PATI, MEMBER-A.

C.C.P NO. 330/00100/2014

IN

O.A NO. 330/472/2005

Smt. Bechani Devi, wife of Late Ram Jiyawan, r/o Village Mirajpur, P.O Bihasara, District - Mirzapur.

.....Applicant.

VERSUS

1. Shri Pradeep Kumar, General Manager, North Central Railway, H.Q, Subedarganj, Allahabad – 211013.
2. Shri V.K. Tripathi, Divisional Railway Manager, North Central Railway, Allahabad.

3. Shri P.K. Rai, Sr. DSTE, North Central Railway, DRM's Office, Allahabad.

..... Opposite Parties

Present for the Applicant : Shri S. Ram

Present for Opposite Parties: Shri Anil Kumar

## ORDER

(Delivered by Hon'ble Mr. Gokul Chandra Pati)

In the present contempt petition it is alleged by the applicant that the order dated 15.05.2014 passed by this Tribunal in O.A No. 472/2005 (Annexure No. 1 to the CP) has not been implemented. In the said order, the Tribunal has passed the following order: -

".....

11. Accordingly, the O.A is allowed. For the reasons given in the preceding paragraphs, the order dated 08.03.1996 passed by the Disciplinary Authority is hereby quashed and set aside. Consequently, the subsequent orders dated 19.04.2004 and 16.03.2005 are also set aside. The respondents are directed to treat the original applicant Late Ram Jiyawan in service from the date when the order of removal from service was passed and give all consequential benefit to the present applicant Smt. Bechani Devi within a period of three months from the date of receipt of certified copy of the order. No costs."

2. In the Counter Affidavit, the respondents took the stand that they have filed a writ petition no. 50155/14 challenging the order dated 15.05.2014 of this Tribunal alongwith a stay application. It is stated that before Hon'ble High Court the respondents (petitioners in the W.P) agreed to provide family pension to the applicant without releasing any other consequential benefits as ordered by this Tribunal. Since no stay was granted by the Hon'ble High Court, vide order dated 11.04.2016 in this contempt petition, the respondents were directed to file a better compliance affidavit after releasing retiral benefits to the applicant such as gratuity, provident fund and leave encashment etc. In the meantime,

the applicant filed a Suppl. Rejoinder Affidavit claiming salary for the period from 08.03.1996 (the date of removal of the applicant's husband from service) to 01.06.2012 ( the date of his death), treating the said period as duty. In the Suppl. Rejoinder Affidavit, the applicant has admitted that all other dues except the salary for the above period have been paid by the respondents.

3. Vide order dated 09.01.2017, this Tribunal ordered the respondents to file Suppl. Affidavit in respect of the claim made by the applicant in Suppl. Rejoinder Affidavit claiming salary for the period 08.01.1996 to 01.06.2012.

4. In response, the respondents filed the Suppl. Affidavit dated 30.08.2017 (in short SA) in which it was stated that the competent authority has considered the claim of the applicant for payment of salary for the above period vide order dated 01.08.2017 (Annexure SC-1 to SA in which it was held that "no salary is payable to the applicant as per the principle of 'no work no pay'.". It is also mentioned that the writ petition filed by the respondents is pending in the Hon'ble High Court. It is also explained in the Suppl. Affidavit dated 30.08.2017 that vide order dated 11.04.2016 in the Contempt Petition, this Tribunal had permitted the respondents to take a view to the extent how to calculate the period of removal from service till the date of reinstatement. Since there was no specific direction of this Tribunal for payment of the salary for the period which is now being claimed by the applicant, the respondents are required to take a decision. It is stated that such a decision has already been taken by the respondents vide order dated 01.08.2017 to treat this period as 'no work no pay'. It is submitted by the respondents that the order of this Tribunal has been fully complied with by the respondents.

5. The learned counsel for the applicant submitted that the decision of the respondents not to pay salary for the period from 08.01.1996 to 01.06.2012 is incorrect and illegal in view of the order dated 15.05.2014 of this Tribunal by which the applicant's husband was to be treated as if he was in service. The learned counsel also filed a copy of judgment of Hon'ble Supreme court reported in 1993 SCC (L&S) 387 – Union of India & Ors Vs. K.V. Jankiraman & ors in support of his argument that when an employee is exonerated and chargesheet is quashed, the salary for the period after the order of dismissal will be payable.

6. We have considered the submissions made by the learned counsel for the applicant regarding payment of

salary for the period from 08.01.1996 to 01.06.2012 to the applicant. We are of the view that this issue cannot be decided in the contempt jurisdiction since there was no specific direction in the order dated 15.05.2014 in O.A No. 472/2005 for payment of salary for the period claimed. As per the order dated 15.05.2014, the husband of the applicant was to be treated as if he was in service from the date of

removal from service and give all consequential benefits to the applicant. There is no specific direction in the order dated 15.05.2014 to treat the said period as duty. Further, it is seen from the order dated 11.04.2016 passed in this CCP, the following observation was made: -

“.....Which inter alia means that the respondents are agreed to the Order of this Tribunal that as the O.A succeeded, the applicant is entitled for all the benefits treating the husband of the applicant in service. The respondents can only take a plea to the extent how to calculate the period from removal of service till the reinstatement.”

7. Having regard to the above, the relief sought by the applicant claiming salary cannot be ordered by this Tribunal while adjudicating the present Contempt Petition. However, if the applicant is not satisfied with the decision as communicated vide order dated 01.08.2017 of the respondents (Annexure SC-1 to SA), appropriate remedy as per the provisions of law may be sought for by the applicant.

8. In view of the above, the respondents have substantially complied with the order dated 15.05.2014. Accordingly, the contempt petition is dismissed and the notice issued to the respondents are discharged.

9. No costs. .

Member-A

Member-J

Anand...