

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

CONTEMPT PETITION NO.170/00136/2016

IN

ORIGINAL APPLICATION NO.170/01355/2015

DATED THIS THE 22ND DAY OF SEPTEMBER, 2017

HON'BLE SHRI JUSTICE HARUN-UL-RASHID, MEMBER (J)

HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)

G. Deenadayalan Ambedkar,
S/o (late) S.M. Gangadharan,
Aged about 59 years,
Working as Station Master-II,
Whitefield Railway Station,
SBC Division, South Western Railway,
Bangalore – 560 067.
Resident of No. 43 'A', Railway Quarters,
Opp. to Saibaba Ashram,
Kadugodi, Whitefield Railway Station,
Bangalore – 560 067

.....Petitioner

(By Advocate Shri B. Veerabhadra)

Vs.

1. Shri Ashok Kumar Gupta
General Manager
South Western Railway,
Club Road,
Hubli – 580 020.

2. Shri Sanjeev Agarwal
Divisional Railway Manager,
South Western Railway,
Bangalore Division,
Platform Road,
Bangalore – 560 023.

3. Shri Wasim Hafeez

CP.No.170/00136/2016/CAT/Bangalore Bench

Senior Divisional Personnel Officer,
South Western Railway,
Bangalore Division,
Platform Road,
Bangalore – 560 023.

4. Shri R. Gopinath,
Senior Divisional Operations Manager,
South Western Railway,
Bangalore Division,
Platform Road,
Bangalore – 560 023.

...Respondents

(By Shri J. Bhaskar Reddy, Senior Central Government Counsel)

O R D E R

(HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (ADMN))

This Contempt Petition has been filed by the petitioner alleging non-compliance of the direction passed by this Tribunal dated 13.04.2016 in OA No. 170/01355/2015 in letter and spirit. It appears from the records that OA No. 170/01355/2015 was filed by the applicant against his transfer vide order dated 24.04.2015. The Tribunal vide order dated 07.10.2015 stayed the transfer order as far as the applicant is concerned. Subsequently vide order dated 05.02.2016 the interim order was vacated. The final order dated 13.04.2016 stated that the applicant can be given a transfer back to the place where he would like to spend the sunset of his life in November, 2016. It is also stipulated that of the applicant's seniors are now insitu they should go. The respondents were directed to examine the matter afresh and pass appropriate orders after giving an opportunity of being heard to the applicant also.

2. The respondents submitted an affidavit that in terms of direction of this Tribunal the petitioner was supposed to work at transferred place upto November, 2016 and thereafter he should be given choice of place where

he has to spend remaining portion of his retirement. However the applicant remained on sick leave for ten months and thereafter remained unauthorizedly absent. A disciplinary proceeding has also been initiated against the applicant for his unauthorized absence. The petitioner was declared medically fit by the railway doctor on 01.07.2016 and he accepted the relieving memo on 02.07.2016 but thereafter he did not join the transferred place till date even though the post of Station Master is an essential category and in the absence of one Station Master the other Station Masters has to overwork. Since the petitioner did not join the office, the question of issuing fresh order after giving him an opportunity of being heard was not possible. Therefore there is no disobedience by the respondents and the Contempt Petition does not hold any merit.

3. We have heard the learned counsel for the petitioner and the counsel for the respondents. We also ascertained the facts from petitioner himself who was present in the Court. It transpired during the hearing that the applicant had remained on sick leave immediately after the issue of his transfer order and again immediately after the interim order was vacated. He also did not join immediately after the interim order was issued staying his transfer. Even after the final order was passed in April, 2016, he did not join and was on sick leave. On 01.07.2016, he was declared fit by the railway doctor and he took the relieving order on 02.07.2016. However he did not join the transferred place thereafter till date. The learned counsel for the applicant referred to his earlier OAs, issues of grade pay etc., which are not relevant to the present matter. He also referred to the charge memo saying that he was unauthorizedly absent for 205 days only, i.e., from

03.07.2016 to 11.01.2017. However we note that the charge memo was issued on 16.01.2017 and hence the absence till 11.01.2017 had been indicated in the charge memo and not the absence thereafter. When the petitioner himself was asked as to whether he had joined at the place of transfer, he indicated in negative. Thus it is evident that the petitioner has not joined the transferred place as yet. Therefore when the petitioner himself has not joined duties, the question of considering his representation and any further transfer back to the original place or any other place cannot arise as contended by the respondents.

4. On detailed consideration of the matter, we are of the view that there is no instance of any wilful disobedience of the order passed by this Tribunal by the respondents. Therefore we hold the Contempt Petition as devoid of any merit and dismiss the Contempt Petition. The notices issued stands discharged. No order as to costs.

(PRASANNA KUMAR PRADHAN)
MEMBER (A)

(JUSTICE HARUN UL RASHID)
MEMBER (J)

/ksk/

Annexures referred to by the petitioner in CP No.170/00136/2016

Annexure C1: Copy of the daily order dated 07.10.2015 in OA No. 170/01355/2015.

Annexure C2: Copy of the daily order dated 05.02.2016 in OA No. 170/01355/2015.

Annexure C3: Copy of MA dated 16.02.2016 filed in OA No. 170/01355/2015.

Annexure C4: Copy of the final order dated 13.04.2016 in OA No. 170/01355/2015.

Annexure C5: Copy of the daily order dated 06.03.2013 in OA No. 179/2013.

Annexure C6: Copy of the final order dated 09.06.2010 in OA No. 164/2008.

Annexure C7: Copy of memorandum No.B/P.535/I//SM/2009 dated 11.09.2015.

Annexure C8: Copy of letter dated 29.09.2015.

Annexure C9: Copy of representation dated 13.06.2016

Annexure C10: Copy of representation dated 08.07.2016

Annexure C11: Copy of fitness certificate of the applicant dated 01.07.2016

Annexure C12: Copy of legal notice dated 08.07.2016

Annexures with reply statement:

Annexure CR1: Copy of Corrigendum No.B/P.535/I//SM/2009 dated 23.12.2016

Annexure CR2: Copy of absentee statement of the applicant.

Annexure CR3: Copy of Office Order No. 362/04/2015/I//SMs dated 24.04.2015.
