

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

M.A. No.193 of 2019
(Arising out of Contempt Petition (C) No.260/68/2006)

Date of Reserve:05.03.3019

Date of Order: 12.03.2019

CORAM:

HON'BLE MR.GOKUL CHANDRA PATI, MEMBER(A)
HON'BLE MR.SWARUP KUMAR MSIHRA, MEMBER(J)

1. Benu Baral, aged about 61 years,S/o. Late Bali Baral, At-Pidhapatna, PO-Hakapada, PS-Delanga, Dist-Puri.
2. Fakir Pradhan, aged about 62 years, S/o. Late Krushna Pradhan, Village-Panchupalla, PO-Gualipada, PS-Delanga, Dist-Puri.
3. Netra nanda Swain, aged about 62 years, S/o. Late Bhima Swain, At-Jokanadua, PO-Beraboi, PS-Delanga, Dist-Puri.
4. Adhikari Pradhan, aged about 62 years, S/o. Late Giridhari Pradhan, At-/Paikasahi, PO-Hakapada, PS-Delanga, Dist-Puri.
5. Bhramar Swain, aged about 61 years, S/o. Late Loka Swain, At/PO-Gualipada, Delanaga, Dist-Puri.

...Petitioners

By the Advocate(s)-Mr.D.P.Dhalasamant
-VERSUS-

1. Sri N.K.Goel, General Manager, East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Orissa.
2. Sri P.K.Srivastava, Divisional Railway Manager, East Coast Railway, Jatni, Dist-Khurda.
3. Sri B.Somulu, Sr.Divisional Personnel Officer, East Coast Railway, Jatni, Dist-Khurda.
4. Sri S.Ghose, Personal Way Inspector, East Coast Railway, Jatni, Dist-Khurda

...Alleged Contemnors

By the Advocate(s)-Mr.T.Rath

ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

Alleging non-compliance of the common order dated 17.02.2006

passed by this Tribunal in O.A.Nos.1416/2003, 509, 510, 511 and 512 of 2004, the petitioners had filed the above mentioned Contempt Petition. In response to notice, a preliminary show cause was filed by the respondent-alleged contemnor(s) stating that challenging the aforesaid order of this Tribunal, five Writ petitions had been filed before the Hon'ble High Court of Orissa. However, on the basis of submissions made by the learned counsels for both the sides, vide order dated 14.12.2011, this Tribunal recorded that the order for violation of which the above CP had been filed, had been stayed by the Hon'ble High Court of Orissa. While the matter stood thus, on 10.12.2012, this Tribunal passed the following orders:

"Today, the C.P. has been placed before us for orders.

2. At the outset, Sri D.P.Dhalasamant, Ld. Counsel for the petitioners submits that vide order dated 31.01.2012 this Contempt Petition has been adjourned sine die and the same position should continue. On the other hand, Sri T.Rath, Ld. Standing Counsel representing the Railways submits that in view of the stay of the order of this Tribunal passed by the Hon'ble High Court of Orissa in W.P.(C) No.15266/06, the Respondents would not be in a position to implement the order of this Tribunal. As there is no cause of action, the contempt against the Respondents should not lie.

3. Having heard the contentions of the Ld. Counsel for the parties and since the Writ Petition is pending adjudication by the Hon'ble High Court of Orissa and the stay on the order of this Tribunal is in operation, we are of the considered opinion that there is no contempt as on date. Therefore, the C.P. is ordered to be closed. Notices are discharged. However, we grant liberty to the petitioners to revive the C.P. as and when the Writ Petition is decided by the Hon'ble High Court of Orissa and if they feel that the concerned Respondents are not implementing the appropriate directions".
2. By filing M.A.No.193/2019, learned counsel for the petitioners has brought to the notice of this Tribunal that since the Writ Petitions filed against the common order dated 17.02.2006 in O.A.Nos.1416/2003, 509, 510, 511 and 512 of 2004 have been dismissed by the Hon'ble High Court vide judgment and order dated 04.02.2019, C.P.No.68/2006 should be revived/restored in view of the orders of this Tribunal dated 10.12.2012 granting liberty to the petitioners to revive the C.P. as and when the Writ Petition is decided by the Hon'ble High Court of Orissa and if they feel that the concerned Respondents are not implementing the appropriate directions.
3. We have heard the learned counsels for both the sides in extenso. Admittedly, the petitioners had filed C.P.No.68/2006 alleging non-compliance of common order dated 17.02.2006 passed by this Tribunal in the above mentioned Original Applications. There is nothing on record to show at what stage the implementation of the common order dated

17.02.2006 now stands after dismissal of Writ Petitions by the Hon'ble High Court on 04.02.2019. Considering the facts and circumstances of the case as well as the taking note of the order of this Tribunal dated 10.12.2012 as quoted above, C.P.No.68 of 2008 is restored to file. M.A.No.193/2019 is thus allowed.

4. Call on 18.03.2019 for taking a view under Rule-6 of the Central Administrative Tribunal (Contempt of Courts) Rules, 1992.
5. Free copy of this order be made over to learned counsel for both the sides.

(SWARUP KUMAR MISHRA)
MEMBER(J)

BKS

(GOKUL CHANDRA PATI)
MEMBER(A)

Pre-delivery order in M.A.No.193/2019 is placed below for kind perusal and concurrence.

MEMBER(J)

HON'BLE MEMBER(A)