

**CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH, CHENNAI**

**Review Application No.3/2018
in
Original Application No. 310/00353 of 2017**

Dated the Monday, 16th day of April Two Thousand And Eighteen

CORAM: HON'BLE SHRI R. RAMANUJAM.... MEMBER (A)

1. Union of India Rep. by
The General Manager,
Southern Railway,
Park Town,
Chennai-3;
2. The Chief Personnel Officer,
Head Quarters Office,
Southern Railway,
Chennai-3;
3. The Chief Mechanical Engineer,
Head Quarters Office,
NGO Annex,
Southern Railway,
Chennai-3,
4. The Chief Workshop Manager,
Carriage and Wagon Works,
Ayanavaram,
Chennai- 600 023.

.....Applicants/Respondents No.1 to 4 in the O.A.

[By Advocate: Dr. D. Simon]

Vs

1. J. Ashok,
S/o. Late C. Jayaraman,
Ex.CB 4133 Sr. Technician/CB/CW,
No. 117, K. Block, 7th Street Boopathi Nagar,
Kodambakkam,
Chennai- 600024.

.....Respondent/Applicant in O.A.

2. J. Julie,
W/o. Late C. Jayaraman;
3. J. Divyasundari,
D/o. Late C. Jayaraman,
4. J. Sowmini,
D/o. Late C Jayaraman,
5. J. Arun Prasad,
S/o. Late C. Jayaraman

....Respondents/Respondents Nos. 5 to 8 in the O.A.

[by Advocate: M/s. D. Panchatsaram, Res.1]

ORDER

Per: R. Ramanujam, M(A):-

This Review Application has been filed by the respondents in O.A. 353/2017 against the order of this Tribunal dated 3.1.2018 dismissing the O.A. as withdrawn with liberty to the applicant therein to adopt an appropriate legal remedy for compliance of the order of this Tribunal in O.A. 1544/2014.

2. It is submitted that the R.A. applicants/ O.A. respondents had opposed the aforesaid O.A. on merits along with supporting material by way of a counter statement. However, this Tribunal without considering their reply statement made an observation to the effect that the impugned order therein was a clear case of contempt, it is alleged. It is contended that such a statement 'affects the integrity of the department' which had always been the first to obey the order of the Tribunal.

3. I have perused the order passed by in the O.A. 353/2017 dated 3.1.2018. It is seen that what was recorded by this Tribunal in para 2 thereof was a statement made by the learned counsel for the applicant therein who submitted that the applicant was wrongly advised to file another O.A. since the impugned order had been passed in pursuance of the order of the Tribunal in O.A. 1544/2014, whereas, it was a clear case of contempt. Learned counsel would, accordingly, seek to withdraw the O.A. with liberty to file a contempt petition. It is also

seen from the endorsement made by the learned counsel for the applicant in the record on the said date that he had sought to withdraw the O.A. as not pressed with liberty to file contempt petition against previous O.A. However, he scored out the words 'with liberty to file contempt petition against previous OA' subsequently perhaps after the order had already been pronounced.

4. There is nothing in the order dated 3.1.2018 to suggest even remotely, that the Tribunal had come to the conclusion that the impugned order therein was a case of contempt. It was the learned counsel for the applicant who agreed that since he had alleged violation of the order of this Tribunal in O.A. 1544/2014, he should logically file a contempt petition rather than file another OA seeking the same relief as granted in the said O.A. It was in such circumstances that the O.A. was dismissed as withdrawn with liberty to adopt an appropriate legal remedy for compliance of the order of this Tribunal in O.A. 1544/2014.

5. As the Tribunal had only recorded what the learned counsel for the applicant had alleged without holding that the statement was true, it does not appear necessary to expunge the statement. Such statements are routinely made by parties who are not satisfied with an order passed by an executive authority. No prejudice is caused to the authority by a mere recording of such a statement by an aggrieved

person especially in a case where the OA itself is sought to be and dismissed as withdrawn. The statement was recorded in the order only because it was given as the reason why the applicant wished to withdraw the OA. If at all the applicant chooses to file a contempt application in pursuance of the liberty granted to him, the onus of proof would be on him. The Tribunal will only take a view after granting due opportunity of hearing to the respondents. The apprehension of the R.A. applicant that 'it affects the integrity of the department' is baseless.

6. The R.A. is misconceived, premature and based on a misreading of the order of this Tribunal. It is, accordingly, dismissed.

[R. Ramanujam]
Member(A)

asvs

16.04.2018