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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH,**

**CP NO. 383/2006 in
OA NO. 2893/2003**

New Delhi, this the 22nd day of May, 2007

**HON'BLE SH. L.K.JOSHI, VICE CHAIRMAN (A)
HON'BLE SH. MUKESH KUMAR GUPTA, MEMBER (J)**

1. Sh. Vishwanath
S/o Sh. Laxmi Prasad,
2. Sh. Manager Sahu,
S/o Sh. Ashrafi Sahu
3. Sh. Dharma Pal
S/o Sh. Ghazi Ram
- ✓ 4. Sh. Kiathubuddin
s/O Sh. Sudedar
5. Sh. Jagdish
S/o Sh. Rita
6. Sh. Hira Lal
S/o Sh. Sukhai
7. Sh. Mahadev
S/o Sh. Bhola
8. Sh. Rajinder Pal
S/o Sh. Gajadhar
- 9. Sh. Ram Lakhan
S.o Sh. Bhagelu Dass
10. Sh. Tirath,
S/o Sh. Beni
11. Sh. Dwarka Prasad,
S/o Sh. Chhota Lal
12. Sh. Prabhansh
S/o Sh. Murabi Prasad
13. Sh. Ram Lakhan
S/o Sh. Ram Deen
14. Sh. Dukhi
S/o Sh. Bhoondu
15. Sh. Ram Kirpal
S/o Sh. Ram Audit
16. Sh. Dhiraj
S/o Sh. Chinke
17. Sh. Moti Lal
S/o Sh. Mahesh Prasad

22/5/07

18. Sh. Ram Chander
S/o Sh. Muneshwar
19. Sh. Tilak Ram.
S/o Sh. Jog Raj
20. Sh. Raj Bahadur
S/o Sh. Ganeshdeen
21. Sh. Pyarelal
S/o Nanaku
22. Sh. Parmanand,
S/o Sh. Kanaya
23. Sh. Laxman
S/o Sh. Bechu
24. Sh. Hiralal
S/o Sh. Mahadev
25. Sh. Moti Lal
S/o Sh. Mahadev
26. Sh. Navrang
S/o Sh. Munalal
27. Sh. Ram Dularey
S/o Sh. Raghu Ram
28. Sh. Kandhiya Lal,
S/o Sh. Pusu
29. Sh. Nanak Chand
S/o Sh. Sohan Singh
30. Sh. Ram Kumar
S/o Sh. Palee Ram

All Gangmen working under
Section Engineer, P.Way,
Northern Railway, Delhi.

....Applicants

(By Advocate: Sh. Manjeet Singh Reen and Sh. Amit Anand)

Versus

Union of India through

1. Sh. V.N.Mathur
General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Sh. S.K. Mishra,
Divisional Supdtg. Engineer (C),
Northern Railway,
D.R.M.Office,
Chelmsford Road, New Delhi.

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3. Sh. Bhagwan Malick,
Assistant Divisional Engineer,
Northern Railway,
New Delhi.

4. Sh. B.L. Nim,
Section Engineer (P.Way)
Northern Railway,
New Delhi.

....Respondents

(By Advocate: Sh. Narain Bhatia)

ORDER

Hon'ble Sh. L.K.Joshi, Vice Chairman (A)

The facts in this Contempt Petition are as follows. The Petitioners claimed arrears for the work done by them as casual labour, claiming their engagement as casual labour in different years between 1969 to 1977 in O.A. No.2893/2003.

The following order was passed on 12.08.2004:

"7. Having regard to the facts/prayers as submitted by the applicants in this OA that the same are squarely covered under the decisions as submitted by the learned counsel for the applicants and as have been referred to hereinabove and also as the fact that the respondents have carried out the calculation on account of their emoluments as casual labourers and what they have received as a temporary status employees and also that their representation in the matter is still pending with the respondents, I am of the considered view that it would be appropriate to dispose of this OA at the admission stage without awaiting reply from the respondents with an observation that this case could be considered and disposed of in the light of the decisions as given by the Tribunal in the cases as cited by the applicants. Thus, keeping in view the said decisions of the Tribunal and also the other decisions as relied upon by the learned counsel for the applicants, the respondents shall ensure that action in the matter is taken within a period of three months from the date of receipt of a copy of this order."

2. The Non-Petitioners filed a Review Application No.304/2004 against this order, which was rejected by order dated 01.12.2004. The Petitioners made a representation on 07.10.2004 for implementation of the order dated 12.08.2003.

Thereafter a Contempt Petition No.364/2005 was filed by the Applicants in O.A.

No.2893/2003. The following order was passed in this C.P. on 13.01.2006 :

"2. In this view of the matter, CP stands disposed of with directions to the respondents to pass a fresh order keeping in light the decided cases and calculation done by the respondents themselves at Annexure A-6 within a period of two months from the date of receipt of a copy of this order. Accordingly, CP stands disposed of. Notices are discharged."

L.K. Joshi

3. The Respondents in the O.A.2893/2003, after the order dated 13.01.2006 directed the Applicants as follows :

"It is also required by the applicants that they put forth their claim alongwith documents if any with an affidavit clearly stating their date, place and authority at the time of engagement and also the date on which they completed 120 days of continuous service. They are also required to further admit if they were engaged as open line casual labourer or as project casual labourer, in construction unit. The applicants are once again directed to submit the details by way of an affidavit regarding their claim within 15 days for the administration to examine their claim. They are also required to state whether they were engaged as O/L, CL or as project CL. In case, the same is not submitted, it will be presumed that they/applicants have no claim against the administration."

4. The Applicants, in compliance with this order, gave their affidavits to the Respondents enclosing a statement of the date of appointment as casual labour etc. A statement, purported to be statement of arrears, has been enclosed at Annex. C-6 in the CP, prepared by some Engineer of Northern Railway (seal illegible in Annex. C-6). The Respondents have passed a detailed order on 05.05.2005 in which the claims of the Petitioner have not been found to be tenable. Detailed reasons for this have been cited in the order.

5. The learned counsel for the Petitioners has vehemently contended that the amount of arrears to be paid to each Petitioner has also been authenticated by an officer of the Northern Railway and this should have facilitated payment of dues.

6. It has also been contended by the learned counsel for the Petitioners that there has not been proper consideration of the issues by the Non-petitioners and the order has been passed without considering all issues and facts. In this context the judgment of Calcutta Hon'ble High Court in **Aashim Kumar Sharma & others v. Arun Kumar Roy, Director of School Education** in W.P. 19242 (W)/99 has been cited. It has been held in this case that "It is expected and it is a real law that each and every Governmental order should be passed with the reasons and if there is no reason that will not be taken into account as an order passed in compliance with the order of the court." Further, "the consideration cannot be held to be a bare consideration. Such consideration has to be construed in the eye of law as a reasoned consideration....." The Hon'ble High Court has further held that "the words "considers is necessary" postulate

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that the authority concerned has thought over the matter deliberately and with care and it has been found necessary as a result of such thinking to pass the order.”

7. It has also been argued that many other persons belonging to the same category as the Petitioners have been paid their dues and the Petitioners were being discriminated against.

8. The learned counsel for the Non-petitioners, on the contrary, has argued that mere perusal of the order would reveal that it has been passed after careful consideration of all aspects of the case and it is well reasoned. It has further been contended that the argument on behalf of the Petitioners that the amounts of arrear have been authenticated by an officer of the Northern Railway, is not acceptable. It is pointed out that the concerned officer has not given any basis for calculations and how these numbers have been arrived at. It has further been argued that some of the similarly placed persons have been given their dues because they have been able to provide acceptable documents in support of their case, whereas the Petitioners have not been able to do so.

9. The Non-petitioners have also placed reliance on the judgment of the Apex Court in **Union of India and others v. Subedar Davassy PV**, (2006) 1 SCC 613. The scope of contempt proceedings has been pithily explained as follows: “While dealing with an application for contempt, the court cannot traverse beyond the order, non-compliance with which is alleged. In other words it cannot say what should not have been done or what should have been done. It cannot test the correctness or otherwise of the order or give additional direction or delete any direction. That would be exercising review jurisdiction, while dealing with an application for initiation of contempt proceedings. The same would be impermissible and indefensible.”

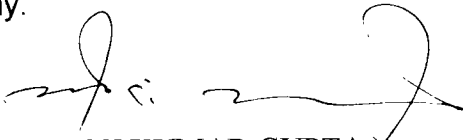
10. We have given our most careful thought to the arguments on both sides and the material on record. The order passed by the Non-petitioners in compliance of our order in O.A.2893/2003 is well reasoned and well thought out.

There is no wilful or deliberate defiance of order in O.A.2893/2003. It is based on the interpretation of rules and circumstances of the case and it is reasoned and

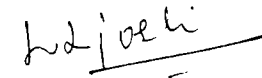
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cases of other similarly situated persons, who had come to the Tribunal in other OAs has been considered. We cannot go beyond this in contempt proceedings.

11. On the basis of above discussion, we find no merit in the CP, which is dismissed and notices are discharged. The Petitioners/Applicants will be at liberty to take appropriate steps under the law for redressal of their grievances, if any.



(MUKESH KUMAR GUPTA)
Member (J)



(L.K. JOSHI)
Vice Chairman (A)

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