

**Central Administrative Tribunal
Principal Bench**

CP No. 939/2011 IN
OA No. 306/2003

New Delhi this the 7th day of February, 2012

**Hon'ble Mr.G.Goearge Paracken, Member(J)
Hon'ble Dr.Veena Chhotray, Member(A)**

Ravinder Singh
S/o Lt. Sh. Kabul Singh
Fitter II, T.N. 978,
Diesel Shed, Northern Railway
Tuglakabad, New Delhi.
R/o V&PO Bassikalan,
Distt. Hoshiarpur,
Pin-146102 (Punjab).

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Applicant

(Present: None)

Versus

1. Shri S.K.Budhalakoti,
General Manager
Northern Railway,
Baroda House, New Delhi.
2. Shri Ashwani Lohani
Divisional Railway Manager
Northern Railway,
State Entry Road, New Delhi.
3. Shri Ravi Meena
Divisional Mech. Engineer
Northern Railway,
Diesel Shed,
Tuglakabad, New Delhi.

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Respondents

(By Advocate: Sh. Shailendra Tiwari)

O R D E R (ORAL)

Hon'ble Shri George Paracken:

This Contempt Petition has been filed for the alleged non-implementation of order of this Tribunal dated 5.10.2010 in OA-306/2003. The operative part of the order reads as under:

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“16. Resultantly, the OA is allowed to the extent the impugned orders are set aside. As a result of this, respondents are directed to forthwith reinstate the applicant. However, they are not precluded, if so advised, to resume the proceedings from the stage of inquiry. In such an event, law shall take its own course. The interregnum shall be decided as per the outcome of the inquiry in accordance with rules, instructions and law on the subject. No costs.”

2. Respondents have filed a compliance affidavit in this Contempt Petition placing on record an order of the respondents dated 4.7.2011 reinstating the applicant in service from the date of removal from service, i.e., 8.8.2011 and placing him under deemed suspension from the very same date under Rule 5 (4) of the Railway Servants (Disciplinary & Appeal) Rules, 1968. According to the petitioner, in terms of the judgment of the Apex Court in **Managing Director, ECIL vs. B.Karunakar & others**, 1993 SCC (L&S) 1184 deciding the penalty in the show cause notice and reiterating it mechanically vitiates the enquiry as well as the consequent orders.

3. Respondents have filed a reply stating that the aforesaid order reinstating the applicant is strictly in accordance with the directions of this Tribunal and he has also submitted that applicant was placed under deemed suspension under Rule 5 (4) of Railway Servants (Disciplinary & Appeal) Rules, 1968.

“(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a railway servant is set aside or declared or rendered void in consequence of or by a decision of a court of law and the disciplinary authority on consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the railway servant shall be deemed to have been placed under suspension by the competent authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders. Provided no such further inquiry shall be ordered unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case.”

4. This case was called twice earlier. Neither the applicant nor his counsel is present. We have, therefore, perused the documents on record and heard the learned counsel for the respondents. In our considered view, the respondents have substantially complied with order of this Tribunal. However, it is seen that the applicant has been placed under deemed suspension from the very same date under Rule 5 (4) of the Railway Servants (Disciplinary & Appeal) Rules, 1968 pending enquiry. It is a different matter whether such a cause of action on the part of the respondents is correct or not but the same cannot be decided in a CP. The applicant is, therefore, at liberty to challenge the aforesaid order through appropriate proceedings, if so advised. This Contempt Petition is closed. Notices are discharged.

Chhotray
(Veena Chhotray)
Member (A)

George Paracken
(George Paracken)
Member (J)

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