

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4970 of 2018

- Bhaskar Guha S/o Late A.B. Guha, Aged About 39 Years Presently Working As Cla/secr/bsp, R/o Near Bony Agency Devri Khurd Bilaspur, Chhattisgarh. 495004 Mobile No. 9752440523.

---- Petitioner

Versus

1. Ranjanesh Sahai Secretary, Ministry Of Railways, Rail Bhawan New Delhi - 110001
2. S.S. Soin General Manager, South East Central Railway Bilaspur, Chhattisgarh. 495004
3. P C Nayak Chief Personnel Officer, South East Central Railway, Bilaspur, Chhattisgarh. 495004
4. Ashok Sharma, Senior Personnel Officer (GAZ), South East Central Railway, Bilaspur, Chhattisgarh. 495004

---- Respondents

For Petitioner : Shri A.V. Shridhar, Advocate

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice

Hon'ble Shri Prashant Kumar Mishra, Judge

Order on Board

Per, Ajay Kumar Tripathi, Chief Justice

03.08.2018

1. Heard counsel for the Petitioner and perused the order dated 12.07.2018 passed in Civil Contempt Petition No. 203/00033/2018 by the Central Administrative Tribunal, Jabalpur Bench, Circuit Sitting at Bilaspur; hereinafter referred to as 'the Tribunal'.
2. The Petitioner is aggrieved because the Tribunal refused to initiate a contempt proceeding against the Respondents because they were of the opinion that there is neither a willful nor intentional disobedience of the previous order or direction of the Tribunal. The Tribunal has this to observe in the said order in paragraphs 4 & 5.

“4. It is pertinent to mention that as per order dated 24.08.2017 this Tribunal has declared that the action of the respondents to the extent of providing reservation in respect of one vacancy under the impugned Annexure A-1 notification dated 9.9.2015 is declared illegal and unsustainable in view of the law as laid down by the Hon'ble Apex Court. It is also clearly held that the respondents are at liberty to proceed with the Annexure A-1 notification dated 9.9.2015 without the element of rule of reservation or by issuing a fresh notification, in accordance with law. Meaning thereby liberty has been granted to the respondents to proceed as per notification or to issue a fresh notification. As per order dated 24.05.2018, the respondent-department has simply postponed the process for examination. So it is clear that the respondent-department has not taken any action contrary to our order dated 24.08.2017. Moreover, liberty has been granted to the respondents in case of two instances i.e. to proceed in accordance with notification dated 09.09.2015 (Annexure A-1) without the element of rule of reservation in respect of one vacancy or by issuing a fresh notification.

5. We are of the considered view that there is no willful or intentional disobedience of our order. Thus, Contempt Petition is dismissed being devoid of any merit.”

3. Taking note of the said opinion or the reason for coming to the conclusion that no case for contempt is made out cannot be said to be erroneous, however strong emotionally the Petitioner may feel about the non-compliance of the previous direction and order.
4. Writ application has no merit. It is dismissed.
5. Before parting, the stand of the counsel for Petitioner is that as per the mother Circular dated 13.08.1985 issued by the Department of Personnel and Training, where time is not been provided for compliance of an order by a Tribunal, it should be done within 6 months.

6. In our opinion, such mother Circular do not have statutory status and are more directory in nature which lays down the broad framework in matters of implementation, where a Tribunal's order is silent as to the time for compliance. Such argument is neither here nor there.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Prashant Kumar Mishra)
Judge