

A

S. SARKAR & ORS.

v.

R.D. KRISTON, CHAIRMAN RLY. BOARD, RAIL BHAWAN, NEW
DELHI AND ORS.

B

[R.M. SAHAI AND N. VENKATACHALA, JJ.]

MAY 14, 1993

C

Contempt Petition—Exercise of option by direct recruit Assistant Station Masters—Directions issued by Court on 30th April 1990—Held, contempt petition concerned with implementation of Court order, not whether the order passed by it was correct or not.

D

The dispute was about whether the exercise of option by Assistant Station Masters, directly recruited, was a matter of choice or was compulsory. The order of this court of 30 April 1990 *inter alia* protected the interests of the applicants by holding that the 204/206 employees who had opted before 1983 must be entitled to the benefit which would have been available to them on their options.

E

The order was not implemented. It was argued for the contemner that the order of this court would disturb seniority and may result in extending it to many others.

F

Disposing of the contempt petition, this court,

HELD : 1. The order dt. 30.4.90 left no ambiguity that these employees shall be treated separately and would be granted the benefit that would have been available to them. (758-D)

G

2. The Court in contempt applications is concerned with the implementation of an order passed by it, and not whether such order is correct or not.

H

3. Neither the submission regarding seniority, nor that it may extend to others was raised earlier, and if raised, they should be deemed to have been rejected. Even earlier it had been made clear that no one promoted shall be disturbed. (758-F)

4. Within 2 months, alternative II to be applied to 204/206 employees for their placement and promotion. Future promotions may be governed by the present alternative. Promotions and all benefits shall be given retrospectively. (758-H) A

Cost to the applicants of Rs. 5,000

CIVIL APPELLATE JURISDICTION : Contempt Petition Nos. 130 & 195 of 1991. B

IN

Civil Appeal No. 2054 of 1990 C

From the Judgment and Order dated 23.1.87 of the Central Administrative Tribunal, Calcutta in T.A. No. 1263/86.

G.S. Chatterjee and Avijit Bhattacharjee for the Appellants. D

Dr. Anand Prakash, P. Narasimhan for B.K. Prasad, for the Respondents.

The Judgment of the Court was delivered by

R.M. SAHAI, J. Why the appellants should have been forced to file these contempt applications for enforcement of the order passed by this Court as far back as on 30th April 1990 in Civil Appeal No.2054 of 1990, is not without reason. E

Grievance of the applicants is that despite clear findings recorded by this Court, opposite parties are going back on it and persisting in the implementation of the order in a manner which frustrates the entire purpose for which the applicants approached this Court and is a clear violation of directions of this Court issued on 30th April 1990. F

Entire dispute centered round the practice of exercising option by Assistant Station Masters who were recruited directly. Were they left any choice in the matter or was it compulsory. It was held by this Court, that various letters issued made it clear that the option had to be exercised at the time of appointment and where no option was exercised it was deemed to have been exercised. This Court found that the applicants were those persons who had to exercise option at the time of appointment and their options were irrevocable. Effect of this was that they had G H

- A** to wait till 1983 when restructuring was done. The Court further found that the cadre of Assistant Station Master/Station Master in South Eastern Railway was separate and not combined. But the Chief Personnel Officer applied alternative-I, which under restructuring was to be applied to a zone where combined cadre was in vogue, as it was acceptable to leaders of the Union and was beneficial to large number of employees. The Court therefore did not interfere with implementation of the alternative-I, but protected the interest of the applicants by holding thus :

- C** “But both the employees unions have accepted the implementation of the letter of Chief Personal Officer as it is beneficial to a majority of the employees. Therefore, it may not be disturbed. At the same time all those 204 employees who had opted before 1983 must be entitled to the benefit which would have been available to them on their options.”

- D** What remained thereafter, which could not be clear to opposite parties, cannot be appreciated. The order left no ambiguity that these employees shall be treated separately and would be granted benefit which would have been available to them. That was possible and obvious if alternative- II was applied to them. It was for this reason that the Court directed to create even additional posts.

- E** Attempt was made by the learned senior counsel to urge that it shall disturb seniority and may result in extending it to many others. We are afraid that this Court in these applications is concerned with the implementation of the order passed by it and not whether the order passed by it was correct or not. Neither of these submissions were raised earlier and if had been raised, they should be deemed to have been rejected. Even earlier it had been made clear that no one promoted shall be disturbed.

- G** We, therefore, direct opposite parties to implement the order of this Court in respect of 204/206 employees by applying alternative-II to them for purposes of determining their placement and promotion. After their placements and promotions are so determined under alternative- II then they may be governed by the present alternative for future promotions. Six months’ time was granted in 1990. The opposite parties have delayed it by nearly two and half years. We direct the opposite parties to finalise it within two months from today. The promotions and all benefits shall be given retrospectively. No application for further extension by opposite parties shall be entertained. Failure to comply with the directions shall not be treated lightly in future.
- H**

We are not taking any action in the circumstances for the present. The contempt applications are disposed of accordingly. But the respondents shall pay a sum of Rs. 5,000 as costs to the applicants. A

U.R.

Contempt Petition disposed of.