

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P. (C.) No.163/2010 & CMs No.317-318/2010**

% **Date of Decision: 12.01.2010**

Union of India Petitioner
Through Mr.Rakesh Mittal, Advocate

Versus

Shekhar Sumar Respondent
Through None

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

HON'BLE MR. JUSTICE MOOL CHAND GARG

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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The petitioner, General Manager, Northern Railways, has challenged the order dated 5th August, 2009 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA No.2684 of 2008, Shri Shekhar Suman v. Union of India directing the petitioner to reconsider the claim of the respondent after he qualified the examination the expenses for which were reimbursed by the petitioner despite dis-continuation of vocational course in Railway Commercial Scheme and has directed the petitioner offer him an appointment to the post of Commercial Clerk and to pass a speaking and reasoned order in this regard.

The respondent had spent a year in vocational course in Railway Commercial under its scheme. As the respondent was not offered an appropriate appointment, he had approached the Tribunal in OA No.2431 of 2003, where the Tribunal had directed the petitioner by order dated 6th July, 2004 to make necessary arrangement for completion of vocational course in Railway Commercial under the said scheme for the respondent in any school in any Railway zone.

The petitioner did not challenge the order dated 6th July, 2004 directing them to allow the respondent to complete the vocational course in Railway Commercial in any Railway zone and to give benefit of completion of the railway course and then to give an appointment to the post of commercial clerk. However, later on the petitioner sought review of the order on the ground that since the scheme has been discontinued so the respondent cannot be admitted to a school in any railway zone. The respondent had also filed a contempt petition being C.C.P. No.402 of 2004. The review petition of the petitioner and the contempt petition of the respondent were disposed of by order dated 2nd August, 2005 where considering the facts and circumstances, the petitioner had agreed for admission of the respondent in Class XI in the school of his choice and the petitioner agreed to reimburse the expenses to the respondent.

The petitioner did not challenge the order dated 2nd August, 2005 whereby the respondent was permitted to attend any school of his choice and the petitioner had to reimburse his expenses so that the order dated 6th July, 2004 in OA No.2431 of 2003 could be complied with whereby the petitioner was directed to make arrangements for completion of vocational course in Railway Commercial under the scheme and benefit was to be given to the respondent to appoint him as commercial clerk.

After respondent completed the commercial course, expenses for which were reimbursed by the petitioner, and sought his appointment as the Commercial Clerk which was denied by the petitioner which led to filing of OA No.2684 of 2008, where order dated 5th August, 2009 has been passed directing the petitioner to offer him an appointment to the post of the Commercial Clerk.

Learned counsel for the petitioner has emphasized that the Scheme was closed in 2005 and, therefore, the respondent is not entitled for appointment to the post of Commercial Clerk. Order dated 6th July, 2004 was passed against the petitioner directing them to give an appointment to the respondent as commercial clerk. The said order was not challenged by the petitioner. Though the said order was not challenged by the petitioner, yet they did not comply with the same resulting into filing of contempt petition by the respondent. Despite the

alleged closure of VCRC Scheme in 2005, the order dated 2nd August, 2005 was passed on the review application of the petitioner and the contempt application filed by the respondent whereby the petitioner had agreed for admission of respondent in any school of his choice and they had also agreed for reimbursement of the expenses incurred by the respondent. After agreeing for completion of the course by the respondent in a school, the petitioner cannot deny the benefit of completion of course and of the scheme to him on the ground that that scheme was closed in 2005.

Learned counsel for the petitioner, in the facts and circumstances, is unable to show any illegality or such irregularity in the order of the Tribunal which shall entail interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

The writ petition in the facts and circumstances is, therefore, without any merit and it is dismissed. Applications are also disposed of.

ANIL KUMAR, J.

January 12, 2010
'ag/Dev'

MOOL CHAND GARG, J.