

SUPREME COURT OF INDIA

Bimal Bandyopadhyay

Vs.

Md. Halim Sk

C.A.No.1375 of 2008

(K.G.Balakrishnan,CJI., R.V.Raveendran,J.)

18.02.2008

ORDER

(arising out of Special Leave Petition (Civil)No.20850 of 2005)

1. Leave granted.

2. The respondent was not satisfied with the order passed by the petitioner-appellant (the Superintending Archaeologist, A.S.I., Calcutta Circle) on 1.3.2002 holding that respondent was not eligible for appointment on regular basis and for temporary status. The said order was passed pursuant to the direction of the Central Administrative Tribunal issued on 5.12.2001 in O.A.NO.324/1994 to consider his case for absorption/regularization. He, therefore, filed contempt petition before the Central Administrative Tribunal, Calcutta Bench. The Tribunal passed an order on 10.1.2003 in the said contempt proceeding directing reconsideration of the case of the respondent afresh. That order was challenged by the appellant before the High Court and the High Court has dismissed the same by the impugned order dated 21.4.2005.

3. Though the respondent was served with a notice he has not chosen to enter appearance. If the respondent was not satisfied with the order dated 1.3.2002, he ought to have challenged that order in a separate proceedings. It could not be said that passing of the said order was a disobedience. Further, the Tribunal could not, in a contempt proceedings, direct the employer to reconsider its decision on merits. The order of the Tribunal and the High Court cannot be sustained.

4. This appeal is, therefore, allowed and the said orders by the Central Administrative Tribunal and the High Court are set aside. Liberty is, however, reserved to respondent to challenge the order dated 1.3.2002 in accordance with law.