

IN THE SUPREME COURT OF INDIA  
CRIMINAL/CIVIL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.257 OF 2007

B.N. SOM & ANR. . . . APPELLANT (S)

VERSUS

STATE OF ORISSA . . . . RESPONDENT (S)

WITH

CIVIL APPEAL NO. 956 OF 2007

O R D E R

1. We have heard the learned counsels for the parties and perused the relevant materials.

2. The facts in short are as follows :

On 26.06.2003, the Central Administrative Tribunal, Cuttack Bench, Cuttack of which the appellants were the Members, had passed an order of Death-cum-retirement Gratuity to one Smt. Manikmala Maity, whose husband was an erstwhile employee of the South Eastern Railway.

Aggrieved by the said order, the Union of India instituted a Writ Petition bearing W.P. (C)No.4843 of 2004 challenging the said order along with an application for interim relief i.e. Misc. Case No.7154 of 2003. The Union of India had pointed out before the High Court that in the meantime the petitioner before the learned Tribunal, i.e. Smt. Manikmala Maity, had filed a contempt case being Contempt Petition No.102 of 2003 before the learned Tribunal.

While entertaining the writ petition the High Court directed that further proceedings before the learned Tribunal in Contempt Petition No.102 of 2003 shall remain stayed for a period of 12 weeks. As the period of 12 weeks had expired, another Misc. case No.104 of 2005 was filed before the High Court. It appears that no specific order was passed on the said Misc. case by the High Court. Therefore on 22.12.2004, the Tribunal took up the contempt petition and on the basis 12 weeks had expired had directed the alleged

contemnors to appear in-person before it. Thereafter Misc. Case No.104 of 2005 was ordered by the High Court in the following terms as an interim measure :

"As an interim measure, further proceeding in C.P.(C) NO.102 of 2003 pending before the Central Administrative Tribunal, Cuttack bench, Cuttack shall remain stayed until further orders

xxx                    xxx                    xxx  
The Misc. Case is disposed of."

The Tribunal, however, refused to stay the proceedings contending that an application filed under Section 17 of the Administrative Act, 1985 is not amenable to the jurisdiction of the High Court under Article 227 of the Constitution and the order of the High Court staying the contempt proceedings is *non-est* in law. Accordingly, *suo motu* civil as well as criminal contempt were initiated by the High Court and on the basis thereof the two contempt petitions were registered.

4. The facts, recited above, would indicate that there was a gross and open defiance of the High Court order of interim stay or proceedings in C.P.102 of 2003. If at

all there was any reservation of the learned Tribunal with regard to the legality of the order of the High Court, the proper course of action would have been to move the High Court for suitable orders/directions; instead the two appellants as Members of the learned Tribunal proceeded to pass the order treating the order of the High Court as *non-est*. It is in these circumstances that the High Court found both the appellants guilty of commission of contempt and after adjudging them as aforesaid thought it proper to impose a token punishment of fine of Re.1/-.

5. Aggrieved by the order of the High Court the appellants have filed the instant appeals.

6. The detailed narration of facts enumerated above, would leave no scope for taking a second view of the matter. Judicial discipline, leaving aside judicial propriety, required the appellants to follow the prescribed procedure in the event they found it difficult to agree with the High Court

order. If there was any doubt with regard to the jurisdiction of the High Court to pass the order in question, the proper course of action for the appellants would have been to approach the High Court. Instead, in an open act of defiance, the appellants thought it proper to record in the impugned order that the High Court's order had become *non-est*. Such a course of action on the part of the Members of the Tribunal would leave little room for doubt that the High Court was perfectly justified in holding the appellants guilty of commission of contempt.

7. At one point of time, this Court found it difficult to accept as to how and why if the appellants are guilty of commission of contempt, fine of Re.1/- should be imposed. This Court, therefore, by order dated 17.11.2016 issued notice to show cause as to why, if the appellants are to be found guilty of commission of contempt, an appropriate punishment should not be imposed.

8. We have heard Shri R. Basant, learned

senior counsel for the appellants, on the aforesaid aspect of the matter also.

9. One of the appellants, B.N. Som is presently aged about 74 years and the other Manoranjan Mohanty is about 62 years. Shri Mohanty after completing his tenure in the Tribunal is now reported to be in legal practice. The acts in question which have been found to be contemptuous were committed way back in the year 2005. A period of over a decade has elapsed. In such circumstances, we are of the view that a suitable enhancement of the fine amount would meet the ends of justice and it will not be necessary to commit the appellants to a sentence of imprisonment. Accordingly, we enhance the fine amount to Rs.5,000/- (Rupees five thousand only) payable by each of the appellants which will be deposited with the Registry of the High Court within a fortnight from today.

10. The appeals are, accordingly, dismissed with the enhancement of the fine as ordered above.

11. We also make it clear that the order holding the appellants to be guilty of commission of contempt will not be a disability or disqualification in obtaining travel documents in case the appellant - B.N. Som intends to travel abroad, if he is otherwise eligible.

.....,J.  
(RANJAN GOGOI)

.....,J.  
(ASHOK BHUSHAN)

NEW DELHI  
JANUARY 11, 2017

ITEM NO.103

COURT NO.4

SECTIONS IIB, IVB

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 257/2007

B.N. SOM &amp; ANR.

Appellant(s)

VERSUS

STATE OF ORISSA

Respondent(s)

(with appln. (s) for stay and permission to file additional documents and office report)

WITH

C.A. No. 956/2007

(With Office Report)

Date : 11/01/2017 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Appellant(s) Mr. R. Basant, Sr. Adv.  
Mr. G. Ramakrishna Prasad, Adv.  
Mr. Suyodhan Byrapaneni, Adv.  
Mr. Mohd. Wassay Khan, Adv.  
Ms. Filza Moonis, Adv.  
Mr. Bharat J. Joshi, Adv.

For Respondent(s) Mr. Shibashish Misra, Adv.  
Mr. Ashish Kr. Sinha, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The appeals are dismissed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(Neetu Khajuria)

Court Master

(Signed order is placed on the file.)

(Asha Soni)

Court Master