

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

CONTEMPT PETITION NO.284/2002
IN
O.A. NO. 179/2002

New Delhi, this the ¹⁴₁₅ day of December, 2002

HON'BLE MRS. LAKSHMI SWAMINATH, VICE CHAIRMAN (J)
HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

1. Sh. Chhotelal (Safaiwala)
S/o Sh. Lokman, R/o House No.15,
Pocket-VIII, Durga Park,
Nasirpur Road, New Delhi-110 045
2. Balwant Singh,
S/o Shri Khazan Singh,
R/o 72, MC PWD,
Vasant Vihar, New Delhi
3. Mr. Deepak Kumar,
S/o Shri Mohinder Singh Sharma,
R/o 4-D, Vasant Gaon,
New Delhi - 110 057
4. Mr. Ravinder Kumar,
S/o Shri Raghunath,
R/o D.A Basti,
R.K. Puram, New Delhi
5. Mr. Pawan Kumar Sharma,
S/o Sh. M.S. Sharma,
R/o X-348, Sarojini Nagar,
New Delhi - 110 023

... Petitioners

(By Advocate : Shri S.K. Sinha)

Versus

Mr. A.K. Agnihotri,
The Registrar,
Customs, Excise & Gold Control,
Appellate Tribunal,
West Block-II, R.K. Puram,
New Delhi

... Respondent

(By Advocate : Sh. S.R. Paliwal, proxy counsel for
Ms. V.D. Makhija)

O R D E R

By S.A.T. Rizvi, Member (A) :

Alleged non-compliance of the directions issued
by this Tribunal on 08th March, 2002 in OA No.179/2002
has given rise to this Contempt Petition. By the
aforesaid order, the Tribunal directed the respondents,

inter alia, to consider the claim of the applicants for engagement as casual workers in preference over freshers/juniors. The respondents were further directed by the same order not to insist on sponsorship from the Employment Exchange while engaging the applicants in casual capacities.

2. The learned counsel appearing on behalf of the respondents submitted that the aforesaid directions of the Tribunal have been complied with and in support of his aforesaid contention, filed a copy of the respondents' order dated 18.11.2002 (taken on record). The aforesaid order clearly shows that the applicants have been engaged as daily wagers in CEGAT, Mumbai. The learned counsel appearing on behalf of the petitioners has, on the other hand, attempted to convince us that the respondents have committed contempt of this Tribunal, by raising two issues. Firstly, according to him, the respondents have engaged casual labourers even before the petitioners have been engaged without regard to seniority implying thereby that those junior to the petitioners were engaged as Casual labourers without giving preference to the petitioners. The next ground advanced on behalf of the petitioners is that the respondent has flouted and circumvented the Tribunal's directions by appointing a contractor, who in turn, hired workers on casual basis for doing the work which the petitioners herein used to do. Reliance has been placed by the learned counsel appearing on behalf of the petitioners on the judgement rendered by the Tribunal in a similar contempt case.)

3. In support of the contention that juniors/freshers were engaged as casual labourers in defiance of the orders of the Tribunal, the petitioners have not come out with any facts even in their rejoinder. In para-5 of their rejoinder, the petitioners have simply stated that "the respondent/contemnor has engaged even casual labourers in Mumbai Branch in clear violation of their own undertakings". This, according to us, is not sufficient to bring home the charge of contempt. The respondent has categorically denied having engaged any casual labourers in violation of the directions given by this Tribunal. In the absence of any name and the related seniority position, we cannot conclude that the respondent has engaged casual labourers by ignoring the ~~claim~~ ^{name} of the petitioners. Hence the aforesaid plea fails.

4. In regard to the other plea relating to the appointment of a contractor, after consideration, we find that the same also does not hold good. In the Contempt Petition No.238/2000 in OA No.1335/1999 decided on 24.08.2000 on which reliance has been placed on behalf of the petitioners, the Tribunal had held that the contemnors in that petition persisted in asserting that there was no work for the petitioners and on this basis had proceeded to hold that contempt had been committed. There is no such categorical assertion in the present case. We have already noticed that the respondent in the present Contempt Petition has already engaged the petitioners as daily wagers in CEGAT, Mumbai. Insofar as

the contempt is concerned, the aforesaid case is therefore, distinguished.

5. It appears to us that a policy decision has been taken by the respondent to engage a contractor for maintaining the water coolers and for filling water in them. Nothing has been shown to us successfully to contend that the aforesaid arrangement made after taking a policy decision is illegal. The respondent's case is that for the work relating to the maintenance etc. of the coolers, they have not engaged any daily wager/casual employee. The persons engaged by the contractor work for the contractor and receive wages from him and not from the respondents. It cannot, therefore, be argued that the respondent had engaged any casual employee/daily wager for the aforesaid purpose. We, therefore, find ourselves unable to hold that the respondent has, by engaging the aforesaid contractor, flouted the orders of this Tribunal in any manner. We have already noticed in the previous paragraph that the order passed by this Tribunal in CP No.238/2000 is distinguished. The learned counsel appearing on behalf of the petitioners, even after he has put forward the aforesaid pleas, wanted time to file an affidavit further to contend that additional grounds existed for holding that contempt of this Tribunal has been committed by the respondent. We have considered his plea and do not find it necessary to grant him any time for this purpose. Contempt is a matter between the official respondent and the Tribunal. Thus, if after considering the action taken by the respondent in compliance of the Tribunal's directions, the Tribunal

13

is satisfied that there is no contumacious and willful dis-obedience of its order, the matter need not be pursued further. After a proper and careful consideration of the facts and circumstances surrounding the present Contempt Petition, we conclude that there is no whisper of wilful and contumacious dis-obedience of the order of this Tribunal in question. The Contempt Petition, therefore, fails.

6. In the light of the foregoing, the Contempt Petition is dismissed. Notices issued are discharged. *J*



(S.A.T. RIZVI)
Member (A)



(MRS. LAKSHMI SWAMINATHAN)
Vice Chairman (J)

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