

(6)

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

C.P.NO.418/2002 IN O.A.NO.2278/2002

This the 28th day of April, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri Govindan S. Tampi, Member (A)

1. Smt. Sudesh Passi Khandelwal
w/o Sh. N.C.Khandelwal
r/o 99 Vinoba Puri Lajpat Nagar
New Delhi
2. Smt. Rukmini Gautam
w/o Shri A.K.Gautam
r/o E-401 Curzon Road Apptt
Kasturba Gandhi Marg
New Delhi

..Applicants
(By Advocate: Shri K.C.Mittal and Shri Arun Bhardwaj)

Versus

1. Mrs. Sheleja Chandra
Chief Secretary, Govt. of NCT
Players Building, ITO
Delhi
2. Shri Rajender Kumar
Director, Dte of Education
Old Sectt., Delhi
3. Smt. Tuleshwani Tyagi
Dy.Director of Edn. (New Dehi)
Pilot No.5 Jhandewalan
New Delhi
4. Ms. Sudha Arora Acting Principal
Sarvodaya Kanya Vidyalaya
Pandara Road
New Delhi

..Respondents
(By Advocate: Shri Mohit Madan for Smt. Avnish Ahlawat)

O R D E R

Shri Govindan S. Tampi:

CP-418/2002 has been filed alleging deliberate violation of the Tribunal's interim orders dated 29.8.2002 while OA-2278/2002.

2. Heard S/Shri K.C.Mittal along with Arun Bhardwaj learned counsel for the applicants/petitioners and Mohit Madan, learned proxy counsel for the respondents.

b2

-2-

3. OA-2278/2002 was filed by the applicants on 29.8.2002 challenging the action of the respondents transferring and relieving the applicants who were teachers in Sarvodaya Vidyalaya, Pandara Road, New Delhi w.e.f. 28.8.2002. The applicants also prayed for interim relief. When the case came up for admission on 29.8.02 keeping in view the averment of the learned counsel for the applicants, that they had not yet handed over charge and nobody had been posted against the posts occupied by the applicant, Tribunal directed issuance of short notice on internal relief which was to come up for hearing on 11.9.02. In the meanwhile respondents were directed to maintain the status quo as on that date.

4. The applicants served a copy of the interim order on the respondents on 31.8.2002 and marked their attendance and performed duties. They were neither relieved nor did they handed over the charge and they continued in position till 9.9.2002. On 10.9.2002, when the applicants went to the school they were not permitted to enter in the school premises. They were also prevented from marking their attendance on account of this, the interest of the students suffered. When the applicants approached respondent No.2, they were not permitted to air their grievance. Their entreaties to respondents to permit them to perform the duties fell on deaf ears. They had also lodged a complaint with the Police Station Tilak Marg and on 13.9.2002, the police was called. They had not been permitted to continue thereafter. According to the applicants, all this has been done with an intention to pressurise them to withdraw the OA. Shri K.C.Mittal, learned counsel, who

-3-

appeared on behalf of the petitioners forcefully argued that the action of the respondents was illegal and in total disobedience to the directions of the Tribunal. When the Tribunal had passed an order directing the respondents to maintain status quo, there were no reason why they could have prevented the applicants from performing their duties till the disposal of the OA. The fact that ultimately on 28.9.2003, the OA was dismissed by the Tribunal, as being without any merit, does not detract from the fact that the respondents' action in not permitting the applicants to continue to perform the duties in terms of the interim order, was bad. The Tribunal should, therefore, initiate the contempt proceedings against the respondents is what Shri Mittal, learned counsel pleads.

4. In the reply filed on behalf of the respondents, reiterated by Shri Mohit Madan, it is stated that they had ^{the} highest respect and regards for the order passed by the Tribunal and were not guilty of any wilful or contumacious disobedience. The applicants, who had been working as Teachers in Sarvodaya Kanya Vidyalaya, New Delhi for nearly 17 years, had been transferred out on administrative exigencies. One of them was transferred to South District and the another to the North District. They also stood relieved from the present post of posting with immediate effect. The copy of the order was also marked to the concerned Deputy Director of Education. On 28.8.2002, both the applicants stood relieved and therefore ceased to be on the strength of the school. By the time, on 29.8.2002, when the Tribunal passed orders for maintaining status quo, the applicants had already been relieved. In fact Shri Madan

-4-

learned counsel points out that the ex-parte interim order had been obtained by them without disclosing the actual fact and by misleading the Court. Instead of reporting at the new place of posting, they continued to attend the old school and forcibly marked their attendance and thus created mischief. The OA stood dismissed on 28.1.2003. The applicants/petitioners are trying to ventilate their unjustified anger at the respondents by the present CP which was an abuse of the process of law, and the same should not be permitted, pleads Sh. Madan.

5. In the rejoinder, it has been pointed out that the applicants were not in fact relieved on 28.8.2002 and that they had reported on 31.8.2002 and discharged the normal functions, like teaching, invigilation, fee collection, attendance of students, checking of home work and class work and the relevant records, and, therefore, it was not proper to make an averment that they had been relieved. In fact, they had even been assigned examination duty on 9.9.2002 which showed that they were continuing to perform duties. On 10.9.2002, one police officer Shri Saini appeared and asked them to leave the premises. The Deputy Director of Education also, who visited the school, on 13.9.2002 refused to permit them to enter in the school. All these facts would show that the applicants had acted correctly on the strength of the interim order passed by the Tribunal on 29.8.02, while the respondents were guilty of wilful disobedience to the Tribunal's directions, a charge stoutly denied by Sh. Madan.

-5-

6. We have carefully considered the matter. The power of contempt is vested in the Courts and Tribunal to ensure that the orders passed by such bodies, which are not set aside, modified or amended by higher forum, are given effect to both in letter and spirit and thus the majesty and dignity of law is upheld. The contempt proceedings are not meant for fulfilling or satisfying any personal ego of any individual or for serving any personal cause. Nor, should it be allowed to be invoked to enable a litigant to wreak personal vengeance against the alleged contemnor. The Hon'ble Supreme Court had repeatedly held in their decisions in the case of Shri Sudhakar Prasad vs. Govt. of Andhra Pradesh (JT 2001 (1) SC 204) and Shri S.C. Poddar vs. Dhani Ram & Ors (SCALE 2001 (8) 452) and Murray & Co Vs Ashok Kumar Newatia & Another [(2000) 2 SCC 367] that the Courts/Tribunal should always tread carefully on matters of contempt. Similarly, the Hon'ble Apex Court has also directed in the case of J.S.Parihar vs. Ganpat Duggar & Ors. (JT 1996 (9) SC 608) that contempt proceedings shall not be permitted to be utilised for extending the scope of reliefs to be claimed. It is meant only to deal with wilful disobedience to any judgment. The above represent the parameters within which we have to deal with the present petition.

7. The applicants/petitioners here alleged deliberate violation of the interim orders passed by the Tribunal on 29.8.02. However, the perusal of the interim order makes it clear that full facts were not placed before the Bench. Learned counsel for the applicant is

-6-

found to have made a specific averment before the Bench that the applicants had not been relieved and no reliever has been posted, whereupon the concerned order has been passed. The fact however, is that the applicant/petitioners had stood relieved on 28.8.02 itself, a fact suppressed by the applicant to obtain the interim order. That being the case, the above interim order cannot be considered to have been issued on proper appreciation of facts and therefore fact that the respondents had not acted therein, as the individuals had already stood relieved on 28.8.02, cannot be treated as being violative of the order. In the circumstances of the case, no wilful or contumacious disobedience of the Tribunal's order has taken place as correctly pointed out by the learned proxy counsel for the respondents. Learned counsel for applicants had indicated that the fact the OA has been since dismissed should not come in the way of dealing with the contempt matter, which was alleged on account of the non-implementation of the Tribunal's interim order. This is of no relevance whatsoever. The interim order of the Tribunal has been obtained on the basis of misrepresentation of facts placed before the Tribunal. In fact, as already noted when the order was issued on 29.8.2002, the applicants had already been relieved. Once the applicants had been relieved, there was no question of their being permitted to continue performing their duties.

-7-

8. In view of the above, we are fully convinced that no wilful or contumacious disobedience of the Tribunal's order dated 28.8.02, had taken place, as alleged by the applicant/petitioners to invite contempt action, and that the petitioners are only seeking to settle personal scores, with the respondents for which contempt action cannot be initiated. What is being attempted is a clear abuse of the process of law and it has to fail. CP is accordingly dismissed and the notices to the alleged contemnors are discharged.

(Govindan S. Tampi)
Member (A)

/sumit

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)