

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

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CP No 9/2003 in  
OA 760/2001

New Delhi this the 21st day of July, 2003

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

1. Nagender Singh,  
S/O Shri Shish Pal Singh
2. Raj Bala,  
W/O Shri Nagender Singh

..Petitioners

(Both residents of 266-G, Mohalla  
Sibban Pura, Meerut Road, Ghaziabad(UP)

(By Advocate Shri S.K.Gupta )

VERSUS

1. Shri D.K.Biswas,  
Secretary,  
Ministry of Agriculture,  
Deptt.of Rural Development,  
Krishi Bhawan, New Delhi.
2. Shri H.P.Singh,  
Joint Marketing Advisor,  
Directorate of M & I  
Branch Head Office, Nagpur.
3. Shri S.Mishra,  
Chief Chemist,  
Agmark Laboratory,  
Directorate of M & I,  
Deptt.of Rural Development,  
Ministry of Agriculture,  
Ghaziabdad (UP)

..Respondents

(By Advocate Shri R.V. Sinha, learned  
counsel through proxy counsel Shri  
R.N.Singh )

O R D E R (ORAL)

(Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J)

We have heard both the learned counsel for the parties  
in CP 9/2003.

2. Shri S.K.Gupta, learned counsel for the

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petitioners has alleged that further action should be taken against the alleged contemnors/respondents for non-compliance of Tribunal's order dated 4.10.2001 in OA 760/2001. Notice on CP has been issued by the Tribunal on 6.1.2003 in which the submission made by the learned counsel for the petitioners has been noted regarding the facts that the respondents have not given effect to the aforesaid order of the Tribunal, including the benefit of Productivity Linked Bonus, (PLB), entitlement of leave and festival advance etc. There was also an allegation that reference to the Ministry of Finance for approval to fill up the posts which are lying vacant for regularisation of the applicants in their turn had not been taken by the alleged contemnors. Learned counsel for the petitioners has submitted that as regards the last averment, the position continues even now because according to him, the respondents have failed to make any reference to the Ministry of Finance for their approval in filling up Group 'D' posts, which are lying vacant with respondent No.1 i.e. the Ministry of Agriculture for regularisation of the applicants in terms of Tribunal's order dated 4.10.2001.

3. On the other hand, Shri R. N.Singh, learned proxy counsel has submitted that this Contempt Petition is firstly barred by limitation. Secondly, he has submitted that the respondents have not committed any contempt to the aforesaid order of the Tribunal. He has further submitted that even before CP was filed on 30.12.2002, the respondents have already complied with the aforesaid directions regarding the

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payment of PLB, festival advance etc which facts were suppressed by the petitioners when they had approached the Tribunal. He has, therefore, submitted that the petitioners are not entitled to any relief whatsoever when they have not approached <sup>the Tribunal</sup> with clean hands. Besides, he has submitted that in terms of the aforesaid order of the Tribunal and keeping in view the Govt. of India, Department of Personnel and Training O.M. dated 16.5.2001, necessary consultation/reference to Ministry of Finance, Department of Expenditure, has been carried out by the respondents with regard to the action to be taken by them in respect of regularisation of Group 'D' posts in question. In the circumstances, Shri R.N. Singh, learned proxy counsel has submitted that the CP may be dismissed on ~~both~~ <sup>the</sup> the above grounds.

4 .. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

5. With regard to the first preliminary objection taken by the learned proxy counsel for the respondents on the ground of limitation, the same is rejected. This is so because admittedly, the certified copy of the Tribunal's order dated 4.10.2001 was received by the petitioner on 9.10.2001 in which the respondents had been granted three months to comply with the directions. As this CP has been filed on 30.12.2002 it cannot be held that the same is barred by limitation having regard to the provisions of Section 20 of the Contempt of Courts Act, 1971.

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6. We have considered the submissions of the learned counsel on merits to the CP. We do find force in the submissions of Shri R.N.Singh, learned proxy counsel that there has been an attempt on the part of the petitioners to mislead the Tribunal while making the submissions which have been recorded in Tribunal's order dated 6.1.2003. It is seen from the annexures to the compliance affidavit filed by the respondents dated 17.3.2003 that the directions with regard to PLB, festival advance etc had already been complied with by the respondents and those facts ought to have been submitted correctly before the Tribunal. At this stage, Shri S.K.Gupta, learned counsel has tendered his apology in case he has misled the Court as he submits that he was informed by the petitioners that nothing has been done by way of implementation of Tribunal's order dated 4.10.2001. He has also during the hearing today submitted that he does not press these payments because the same have already been granted to the petitioners. Therefore, he has stated that he is not making any submissions on these directions.

7. In the above facts and circumstances of the case, the conduct of the petitioners has to be viewed seriously because they ought to have informed and briefed their counsel correctly so that the above misleading submissions are not submitted by the learned counsel before the Tribunal. It is relevant to note that a Contempt petition is a serious matter to see that the Majesty of Law is upheld. From the above facts and circumstances it appears that the petitioners have misled their counsel which in

turn has lead to certain averments being submitted on their behalf which are factually incorrect. In this view of the matter, we find force in the submissions made by Shri R.N Singh, learned proxy counsel that the petitioners should be burdened with some costs.

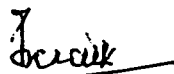
8. With regard to the alleged non-compliance by the respondents of the other directions given in Tribunal's order dated 4.10.2001, regarding sending proposal to M/O Finance for their approval for filling up the vacant posts and regularisation of the applicants against Group'D'posts, in view of what has been stated above, nothing further need be said. The petitioners cannot claim any relief from the Tribunal when they have not come with clean hands. However, having considered the merits of the case and the action taken by the respondents in this matter, we are satisfied that they have complied with the directions of the Tribunal in referring the matter to the Screening Committee in which, inter alia, there was a senior representative each from the Department of Personnel and Training and the Department of Expenditure, apart from the Financial Adviser to the Ministry as Members of that Committee. In the facts and circumstances of the case, it cannot be held that the directions of the Tribunal have not been complied with fully in letter and spirit by the respondents. Therefore, there is no justification to take any further action against them for punishment under Section 17 of the Administrative

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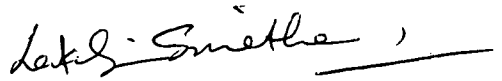
Tribunals Act, 1985 read with the provisions of the Contempt of Courts Act, 1971.

9. In the result, for the reasons above, CP fails and is accordingly dismissed. Notices issued to the alleged contemnors are discharged. File be consigned to the record room.

10. For the reasons given above, cost of Rs. 500/- (Rupees Five hundred only) each is imposed against the petitioners and in favour of the respondents which may be recovered by the respondents.

  
( S.K.Naik )  
Member (A)

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( Smt.Lakshmi Swaminathan )  
Vice Chairman (J)