

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH



CP 186/2003
in
OA 1660/2001

New Delhi this the 29th day of July, 2003

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

In the matter of:

- (1) M.W. Ansari,
I.G. Police,
Naxalite Operations,
Dantewara,
Chattisgarh.
- (2) Ramniwas,
I.G. Police, Raipur Range,
Raipur, Chattisgarh.
- (3) D.M. Awasthi,
DIG Police HQ.,
Raipur, Chattisgarh.
- (4) Vivekanand,
ADC to Governor
Raipur, Chattisgarh. ... Petitioners.

(By Advocate Ms. Rekha Agarwal)

Versus

1. Shri N. Gopalaswamy,
Secretary,
Ministry of Home Affairs,
Govt. of India,
New Delhi.
2. Shri S.S. Dawra,
Secretary,
Ministry of Personnel, Public
Grievances and Pension,
Department of Personnel & Trg.,
Govt. of India,
New Delhi. ... Respondents.

(By Advocate Shri Madhav Panikar)

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

This contempt petition has been filed by the
petitioners on 14.5.2003, alleging wilful and

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intentional disobedience of Tribunal's order dated 5.2.2002 in O.A.2421/2001 with OA 1660/2001. They have submitted that Respondent No.1 has not taken a decision with regard to re-allocation of the IPS cadre and, therefore, it is a fit case under the contempt jurisdiction of the Tribunal.

2. The Tribunal in the aforesaid order dated 5.2.2002 had directed the respondents to consider the cases of the applicants for re-allocation of IPS Cadre, in the light of what has been stated earlier and take an appropriate decision within a period of three months from the date of receipt of a copy of this order. Thereafter, the respondents filed MA 1080/2002 which was disposed of by order dated 18.3.2002 as having become infructuous. Ms. Rekha Agarwal, learned counsel submits that till date, the respondents have not followed the above directions of the Tribunal and, therefore, they have committed contempt of the court.

3. Shri Madhav Panikar, learned counsel has, on the other hand, submitted that the above is not the correct position. He has submitted that certain other orders of the Tribunal are relevant which were within the knowledge of the petitioners and their counsel, which they have consciously omitted to bring to the notice of the Tribunal in the contempt petition with a view to mislead the Tribunal. He has submitted that OA 1660/2001 with OA 2421/2001 was disposed of by Tribunal's order dated 5.2.2002, with a direction to the respondents to consider the cases of the applicants for

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re-allocation of the cadre. In order to implement these directions, the respondents issued notice dated 2.4.2002 to all IPS officers of the erstwhile IPS cadre of Madhya Pradesh, who were likely to be affected. Some of them have submitted interim replies to the notice, demanding that copies of various documents be made available to them. That request was rejected by order dated 13.06.2002. In the meantime, Mr. Yashovardhan Azad and other officers filed OA 1766/2002 challenging the decision of the respondents not to supply them the aforesaid documents. By Tribunal's order dated 11.7.2002, an interim relief was granted in that O.A. restraining the respondents from transferring/allocating the applicants to the cadre of Chattisgarh in pursuance of the show cause notice dated 2.4.2002. By Tribunal's order dated 11.10.2002, the respondents were directed to move an appropriate application before the Hon'ble Chairman for taking all cases raising the same issues together before the appropriate Bench. The interim order given on 11.7.2002 in OA 1660/2002 was continued. Thereafter, these cases were listed together in the Tribunal (Principal Bench) on 18.3.2002, as seen from Annexure R-3 and they were disposed of on that date with a direction to the respondents to supply some of the documents asked for by the applicants in those cases and fixing time limit for filing their reply. The respondents were also directed to pass appropriate orders thereon, in accordance with the relevant law, rules and instructions. The respondents have submitted that in compliance with those orders necessary documents have been supplied to the applicants and they

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have also been asked to nominate their representative to inspect interim, final and modified reports of U.C. Aggarwal Committee. In the circumstances, learned counsel has submitted that the petitioners who are senior officers of the Government and their counsel who were fully aware of the aforesaid orders of the Tribunal, including the order 18.3.2003 passed in their case as well as in the connected cases, which were listed together on that date have invoked the contempt jurisdiction which is not to be invoked in this manner, particularly ^{without 13} disclosing the above facts which they were aware of. They have also relied on a number of judgements of the Hon'ble Supreme Court mentioned in the reply.


4. After careful consideration of the facts and the aforesaid orders of the Tribunal, we see force in the submissions made by Shri Madhav Panikar, learned counsel for the respondents that there is no wilful or contumacious disobedience of the Tribunal's orders in the present case, to justify further action being taken against the alleged contemnors. We also see force in his submissions that the order dated 5.2.2002 against which the petitioners in the contempt petition alleged that there is contumacious disobedience by the respondents, has to be seen in the context of the subsequent orders passed by the Tribunal, including the order dated 18.3.2003 in connected O.As i.e. OA 1766/2002 and OA 558/2003, which were listed together with OA 1660/2001. In the facts and circumstances of the case, as the orders in MA 1092/2002 in OA 2424/2001 with MA 1080/2002 in OA 1660/2001, that is the present

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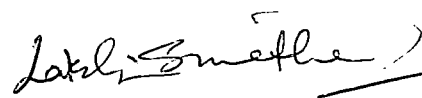
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OA, were also disposed of on the same date, it cannot be held that the petitioners were not aware of the orders of the same date passed in the other two OAs, namely, OA 1766/2002 and OA 558/2003, dealing with the applicants in similar circumstances. In the facts and circumstances of the case, we find no merit in the allegations made by the petitioners in the present contempt petition that Respondent No.1 has wilfully or contumaciously disobeyed the Tribunal's order justifying any further action being taken against him under the contempt jurisdiction.

5. In the result, CP 186/2003 in OA 1660/2001 is dismissed. Accordingly, notice to the alleged contemner is discharged. File be consigned to the record room.


(S.K. Naik)
Member(A)

'SRD'


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)