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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

C.P.No.514 of 2002 with
M.A.No.172 of 2003
IN
O.A. No.2884 of 2001

New Delhi, this the 24th day of October , 2003

HON'BLE SHRI SHANKER RAJU, JUDICIAL MEMBER
HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

1. Neeraj Gautam,
S/o Shri D.P.Singh,
R/O X/693, Street No.7,
Raghuvan Puram,
No.1, Gandhi Nagar,
Delhi-110031
2. Tarvinder Rana,
S/O Shri B.S.Rana,
R/O H.No.560, Pana Begwan,
Village; Bawana,
Bawana,
Delhi-110039.
3. Smt. Shalini Bisht,
W/o Shri B.S.Bisht,
R/O C-7/25, Keshav Puram,
Delhi -110034
4. Y.P. Singh,
S/O Shri Karan Singh,
R/o RZE-II/24,
New Roshan Pura Extension,
Najafgarh,
New Delhi-110033
5. Dharamveer Singh,
S/o Shri Dalvir Singh,
R/o BM-29 (East),
Shalimar Bagh,
Delhi-110033
6. Manish Kumar,
S/o Dr. Rajvir Singh,
R/o 69 A/IB, Street No.4,
South Ganesh Nagar,
New Delhi-110052
7. Ram Vinod Singh,
S/O Shri J.N.Singh,
R/o d-14/83, Sector 3,
Rohini,
Delhi-110001
8. Vatan Prakash Gautam,
S/o Shri A.P.Gautam,
R/o A-11, Arya Nagar, APHS,
I.P.Extension,
Patparganj,
Delhi -110092

...Applicants/Petitioners
(By Advocate : Shri B.B.Raval)

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Versus

1. Shri Narendra Praesad,
Principal Secretary,
Directorate of Training and Technical
Education,
Government of National Capital Territory of
Delhi,
Muni Maya Ram Marg,
Pitampura,
Delhi-110034
2. Shri Devender Singh,
Joint Secretary,
Directorate of Training & Technical Education,
Muni Maya Ram Marg,
Pitampura,
Delhi-110012.
3. Shri V.Narayanan,
Principal,
Pusa Polytechnic,
Pusa,
New Delhi-110012
4. Smt.N.Gupta,
Principal,
Kasturba Polytechnic for Women,
Muni Maya Ram Marg,
Pitampura,
Delhi-110034.
5. Shri S.C.Sikka,
Principal,
Guru Nanak Dev Polytechnic,
Sector 15, Rohini,
Delhi-110085.
6. Shri J.C.Kaushik,
Principal,
Bhai Parmanand Institute of Business Studies,
Shakarpur,
Delhi

...Respondents/Contemnors
(By Advocate : Shri George Paracken)

ORDER

SHRI R.K.UPADHYAYA, ADMINISTRATIVE MEMBER

This CP has been filed by S/Shri Niraj Gautam, Tarvinder Rana, Smt.Shalini Bisht, Y.P.Singh, Dharamveer Singh, Manish Kumar, Ram Vinod Singh and Vatan Prakash Gautam, being eight petitioners jointly for initiating Contempt of Court proceedings against the respondents/contemnors for alleged non-compliance of order dated 20.2.2002 in OA No.2884/2001.

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2. It is stated by the learned counsel that this Tribunal by order dated 20.2.2002 had directed the respondents as follows:-

"4. In this connection, our attention has been invited to a certificate dated 17.5.2001 issued by the Principal, Aryabhat Polytechnic, Delhi (copy taken on record) certifying that some of the applicants in the present OA are shown to have been deputed from 20.5.2001 to 14.7.2001 for physical verification of the library books. Prima facie, this certificate does establish that at least some of the present applicants whose names are mentioned therein, were called for duty at Aryabhat Polytechnic during the period for which they are claiming salary, and we find no good reason why respondents should not accept the aforesaid certificate, and act upon it.

5. Similarly in the case of another applicant Sh.Prakash Chand, it has been certified that he attended the Bhai Permanand Institute of Business Studies during the period 19.5.2001 to 15.7.2001 and herein also we find no good reason why respondents should not accept the aforesaid certificate and make payment to him accordingly.

6. In respect of other applicants regarding whom no such certificates are available, respondents should verify whether they actually did work during the aforesaid period in any of the institutions, and after obtaining necessary clarification should pay them, if it is found that they did work during that period.

7. These directions shall be implemented within 2 months from the date of receipt of a copy of this order. No costs."

3. Learned counsel of the petitioners invited attention to the averments made in para 3 of the petition wherein it has been stated that S/Shri Y.P.Singh and Jagdish Rai have performed their duties continuously w.e.f. 1.5.2001 to 15.7.2001. Certificate to this effect was issued by Kasturba Polytechnic for Women, Pritampura, Delhi. Similarly a copy of the letter dated 3.9.2001 (Annexure-CP 3) has been filed to show that nine lecturers including some

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of the petitioners had worked during the vacation from 1.5.2001 to 15.7.2001. Similarly certificate in respect of Shri Vatan Prakash Gautam dated 11.10.2001 has been appended as Annexure- CP 4. In view of these facts, the respondents/contemnors should have made the payment as per the Tribunal's directions dated 20.2.2002 in OA No.2884/2001.

4. Learned counsel of the petitioners objected to the defence by Govt.counsel of the alleged contemnors relying on the provisions contained in Govt. of India's OM dated 8.1.59 mentioned in Appendix I of the CCS (Conduct) Rules. Referring to Para 2(c), it is stated that the proceedings instituted by the private party in connection with the Govt. duties against the Govt. officials could not be defended by the Govt. counsel. Referring to another Govt. of India's OM dated 6.10.78, it was stated that the non-compliance of the Tribunal's order cannot be said to be in public interest. Learned counsel also stated that the contempt is quasi-criminal proceeding and State is a prosecutor. In such a position Govt. counsel cannot be allowed to argue the case in respect of contemnors and in this connection, he has placed reliance on the decision of Hon'ble Allahabad High Court in the case of Rohtas Singh & others Vs. Commisioner Agra & Ors. (CMWP Nos.28721 and 21843 of 1995 dated 19.11.96)

5. Learned counsel of the respondents stated that the reliance placed on the judgment of the Allahabad High Court is misplaced in as much as the same has been reversed and modified by the Hon'ble Supreme Court in Commissioner, Agra & Others vs. Rohtas Singh & Others



(1998)1 SCC 349. The Hon'ble Supreme Court has held that State Govt. can authorise any of its law officers to appear and defend the Govt. officials against whom notices for contempt were issued for disobedience of the order of the court. It has been clarified by the Hon'ble Supreme Court that the proceedings for Contempt of Courts are not like proceedings for prosecution of criminals. It was, therefore, urged by the learned counsel that this objection raised by the learned counsel of the petitioners is mis-conceived and he can defend the alleged contemnor.

6. Learned counsel of the respondents also invited attention to the fact that though as many as eight petitioners have been cited in the array of parties but only six have signed and verified the petition. Therefore, this petition deserves to be dismissed even on this preliminary ground of basic illegality in preferring the petition.

7. Even on merits, learned counsel pointed out that there is no wilful disobedience of the order of this Tribunal. As soon as the order of this Tribunal in OA No.2884/2001 were received on 7.5.2002, the complete information from all the Principals of the institutions was called for. The same was available by 19.6.2002 and was put up for compliance before the Lt.Governor for sanction of payment but by order dated 1.7.2002 certain queries were raised, therefore, fresh details were called for from the respective Principals. Ultimately order for payment was issued on 25.9.2002 (Annexure-RI). This order clearly brings out the full

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compliance of the Tribunal's order. On account of some omission, one Shri Neeraj Gautam was inadvertently left out and for him separate orders have been issued on 22.11.2002 (Annexure-R III). It has also been stated by the respondents in their reply that after the receipt of sanction for payment, the respective Principals of the institutions had already made payments to all the petitioners for the days they worked in the vacation except in the case of Neeraj Gautam in whose case payment had been drawn but could not be disbursed as he had left the job in December, 2001 and for that he had been informed at the last known address for receiving the payment. The respondents also tendered unconditional apology for the delay in making payments and compliance of the Tribunal's order.

8. We have heard learned counsel of the parties and have perused the materials available on record.

9. The preliminary objection raised by the learned counsel of the petitioners regarding the defence of the alleged contemnors by Govt. Counsel Shri George Paracken has been rejected in view of the decision of the Hon'ble Supreme Court in Rohtas Singh's case (Supra). The contempt petition has been filed by eight persons but it bears signatures of six persons only. Therefore, on this ground itself the petition deserves to be summarily rejected. However, we find that on merits also, there is no case of wilful disobedience of the Tribunal's order. On the other hand, the respondents have taken steps to comply the order of this Tribunal in OA No.2884/2001. In view of

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the fact that the payments have been made in respect of the work done by the petitioners after due verification of the work performed, there is no basis for continuing this contempt proceeding. In case, the present petitioners or any one of them were not satisfied with the compliance by the respondents that gives fresh cause of action to them which could be pursued in accordance with law. In view of these facts, the contempt petition is dismissed and notices are discharged.



(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER



(SHANKER RAJU)
JUDICIAL MEMBER

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