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Central Administrative Tribunal
Principal Bench

CP 117/2001
in
OA 1473/1999

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New Delhi this the 4th day of July, 2001

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

Chok Bahadur Thapa,
S/o Shri Rewan Singh Thapa,
E-444, Hastsal DDA Colony,
Uttam Nagar,
New Delhi-59.

.... Petitioner.

(By Advocate Shri Sant Lal)

Versus

1. Shri B.N. Som,
Secretary,
Ministry of Communications,
Department of Posts,
Dak Bhawan,
New Delhi.
2. Shri S. Chadha,
Chief Postmaster General,
Delhi Circle, Meghdoot Bhawan,
New Delhi. Respondents.

(By Advocate Shri Madhav Panikar)

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

We have heard both the learned counsel for the parties at length.

2. Shri Sant Lal, learned counsel had very vehemently submitted that the respondents have wilfully and contumaciously disobeyed the Tribunal's two directions contained in paragraph 8 of the order dated 21.7.2000 in OA 1473/99. According to him, the respondents had engaged the applicant as "Contractual Labour (Hamal)" whereas there is no such mention of "Contractual Labour" in the

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Tribunal's order in terms of their order dated 25.4.2001.

Shri Madhav Panikar, learned counsel for the respondents has submitted that the expression "Contractual Labour" can be deleted, although he has denied that there is any contumacious action on the part of the respondents in passing this order.

3. Another contention very vehemently submitted by the learned counsel is that the respondents have deliberately misled the Tribunal, for which he has referred to the averments made in paragraph 4.8 of the O.A. read with the Tribunal's earlier order dated 14.5.1996 in OA 2158/95 (Annexure A-5 to O.A.). Both the learned counsel have relied on the Tribunal's order dated 14.5.1996. Shri Sant Lal, learned counsel has contended that it was only in the present O.A. that the respondents had admitted that the applicant had worked for five hours duty from 13.3.1991 to 10.9.1993 and eight hours duty from 13.9.1993 to 14.2.1995 whereas, according to him, the Tribunal had been misled in its conclusions in the order dated 14.5.1996.

4. Having perused the relevant facts and materials relied upon by the learned counsel for the petitioner, we find no merit in this contention. What the Tribunal has stated in the order dated 14.5.1996 in OA 2158/95 is that "the applicant was engaged as Hamal on daily wages from 13.3.1991 to 14.2.1995 for carrying bags from Ground Floor to 2nd/4th Floor of the office building, particularly when the Electric Lift was not working. From

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this, it cannot be concluded that the respondents had submitted to the court that the applicant had only worked for five hours as Hamal during the entire period from 13.3.1991 to 14.2.1995. We, therefore, reject the contention of the learned counsel for the petitioner that the respondents have either misled the court or are guilty of perjury or contempt justifying further action to be taken against them.

5. We note that in pursuance of the order of the Tribunal (Principal Bench) dated 21.7.2000, the respondents have considered the case of the applicant, as directed in Paragraph 8 (ii). This is a reasoned and speaking order in which it has been stated, inter alia, that the applicant was engaged for eight hours daily w.e.f. 15.9.1993 to 15.2.1995 and they have also elaborated the reasons as to why he was not eligible for grant of temporary status, which reasons are assailed by the petitioner based on certain judgements of the Tribunal (Ernakulam Bench and Hyderabad Bench).

6. Learned counsel for the petitioner had referred to the respondents' order dated 24.1.2000 (Annexure P-4 to rejoinder in CP). According to him, this order was brought to the notice of the Tribunal in OA 1473/99. His contention is that the respondents have wilfully flouted the Tribunal's directions in paragraph 8 (i), that is with regard to his re-engagement as and when work is available as they have re-engaged him only by the orders passed by them on 24.4.2001 and 25.4.2001, whereas other persons have been continued as 'Hamal' after his services were terminated on 14.2.1995. Having regard to

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these facts read with directions of the Tribunal in Paragraph 8 (i), the engagement of the applicant in April, 2001 cannot be taken as wilful disobedience of the Tribunal's order as there is no specific direction to re-engage the applicant over any of the other persons who were already in service of the respondents. The respondents have no doubt examined the case of the applicant in terms of the directions given in paragraph 8 (ii) and if the petitioner is aggrieved by those reasons, he cannot agitate the same by way of the contempt petition. (See the observations of the Hon'ble Supreme Court in J.S. Parihar Vs. Ganpat Duggar & Ors. (JT 1996 (9) SC 611) and Indian Airports Employees Union Vs. Ranjan Chatterjee & Anr. (JT 1999 (1) SC 213).

7. In the facts and circumstances of the case, we are, therefore, unable to agree with the contentions of the learned counsel for the petitioner that there has been any wilful or contumacious disobedience of the Tribunal's order. We have also considered the other contentions of Shri Sant Lal, learned counsel for taking further action against the respondents in this contempt petition but do not find any merit in the same.

8. Therefore, for the reasons given above, we are unable to agree with the contentions advanced by Shri Sant Lal, learned counsel, that the respondents have deliberately or intentionally disobeyed the Tribunal's directions to warrant further action being taken against them. Accordingly, CP No. 117/2001 in OA 1473/99 is dismissed. Notices to the alleged contemnors are discharged.

(Govindan S. Tampli)
Member (A)

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