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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

C.P. NO.207/95 in O.A.NO.457/94

Hon'ble Shri A.V.Haridasan, Vice-Chairman(J)
Hon'ble Shri R.K.Ahooja, Member(A)

(26)

New Delhi, this 22nd day of February, 1996

1. Shri Sat Narain
Helper
s/o Amar Singh
F&AO, CRRI
CRRI, Mathura Road
New Delhi.
2. Shri Nihender Singh
Helper-A
s/o Shri Girdhari Singh
(C.S.F.P.)
CRRI, Mathura Road
New Delhi.
3. Shri Asif Hussain
Helper-A
s/o Shri Mansoor Hussain
C.O.(Civil)
CRRI, Mathura Road
New Delhi.
4. Shri Satbir Singh
s/o Shri Randhir Singh
Helper-A
C.S.(SSRR)
CRRI, Mathura Road
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5. Shri Amin Ali
Helper-A
S/o Shri Aziz Khan
C.S.(T&T)
CRRI, Mathura Road
New Delhi.
6. Shri Sanjay Kumar
Helper-A
s/o Shri Amar Singh
C.S.(ILT)
CRRI, Mathura Road
New Delhi.
7. Shri Daya Ram
Helper-A
s/o Shri Khedu Ram
C.O.(Civil)
CRRI, Mathura Road
New Delhi.

... Petitioners

(By Shri Vivikanand, Advocate)

Versus

1. Shri Dilip Kumar
Joint Secretary(Admn.)
Council of Scientific & Industrial Research
Rafi Marg
New Delhi.

2. Shri D.V.Singh
Director,
Central Road Research Institute
Mathura Road
New Delhi.

... Respondents

(By Shri V.K.Rao, Advocate)

O R D E R (Oral)

Hon'ble Shri A.V.Haridasan, Vice-Chairman(J)

This Contempt Petition arises out of the final order passed in OA No.457/94 on 31.3.1995. The above OA was disposed of with the following directions:

"However, having regard to the educational and experience qualifications of the applicants, and the fact that the respondents themselves admit that the applicants were working at Group 'C' level (albeit on casual basis) earlier, we direct that if and when suitable vacancies in Group 'C' (Group II Grade I) are, or become available with the respondents which are required to be filled on a regular and long term basis, the respondents for regularisation against those posts along with other candidates who might also be eligible, strictly in their turn, and in accordance with the extant rules and instructions on the subject. In the event, that after such consideration, the respondents reject the applicants' claim for such regularisation they will record their reasons for doing so. Till then the applicants will be entitled to pay protection in the scale of Rs.750-940/- together with arrears, if any, from the date of their regularisation in Group 'D' which should be paid to them, if not already paid, within three months from the date of receipt of a copy of this judgment. This O.A. is disposed of accordingly. No costs."

2. Finding that necessary orders in accordance with the directions contained in the judgment of the Tribunal was not issued and the benefit flowing ^{therefrom} ~~therefrom~~ was not given to the Petitioners, who are the applicants in the OA, they have come up with this Contempt Petition praying that action under the Contempt of Courts Act may be initiated against the respondents since they have disobeyed wilfully the directions contained in the Judgment.

3. Notice has been served on the respondents, a reply affidavit has been filed on behalf of the respondents, along with reply affidavit, the respondents have annexed an affidavit which would show that certain arrears have been paid to the Petitioners. In the reply, the respondents have also stated that the orders regularising the services of the petitioners in Group 'D' posts w.e.f. 27.8.1993 have been issued and that their pay have been fixed on highest limit of the scale of Rs.750-940. The respondents therefore, state that no action under the Contempt of Courts Act may be initiated against the respondents as the directions contained in the order has been duly complied with.

4. When the Petition came up for hearing today, Shri Vivikanand, learned counsel for the Petitioners argued that the respondents are still in contempt since the directions contained in the Judgment have not been fully implemented and also even a part implementation has been done only after the Contempt Petition was filed. Regarding the first point, the learned counsel for the Petitioners states that as the Petitioners were getting a basic pay of Rs.950, in accordance with the directions contained in the order, the respondents should have fixed their pay atleast at that stage, and the action on the part of the respondents in fixing the pay of the Petitioners at Rs.940 is a wilful ^{and} ~~defines~~ of the directions. A careful scrutiny of the directions contained in the judgment in the order makes it clear that the respondents were directed to protect the pay of the Petitioners in the scale of Rs.750-940 together with arrears etc. Fixing of pay beyond Rs.940 may not be permissible in the scale of Rs.750-940. Learned counsel for the Petitioners states that since the Petitioners were already getting basic pay of Rs.950 on the date on which

they have been absorbed in Group 'D' posts, in accordance with the directions/instructions of the Government of India contained in the FR-22, it would have been possible for the respondents to fix the pay of the Petitioners even at Rs.950. The Petitioners, before they were regularised in Group 'D' posts were not holding any post substantively. ²⁹ The Govt's instructions under FR-22 may not apply to their case. However, the respondents interpreted the judgment and they have taken a view consistent with the rules and the pay could be protected in a scale at the most at the maximum of the scale and no further. We do not find that there has been any ^{rule} ~~defines~~ on the part of the respondents in fixing the pay of the Petitioners at Rs.940. We find that the respondents ^{have} ~~are~~ complied with the directions contained in the Judgment. ^{in substance}


5. There is substance in the argument of the learned counsel for the petitioner that the respondents have not implemented the directions contained in the judgment within the time framed and that their action in not doing so amounts to contempt. Learned counsel for the respondents, Shri V.K.Rao states that the process of fixation of pay and calculation etc. involved, taking decision at various level and therefore, it ^{was} ~~would~~ not possible to have the order implemented within the time prescribed in the order, however, he states that non-implementation within the time was not on account of any disrespect of the Tribunal.

6. If there was any difficulty in fully implementing the directions contained in the order within the time stipulated, it was open for the respondents to move an application to the Tribunal within time to get an enlargement/extension of the time for implementation. They

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have failed to do so. The respondents have complied with the directions in the order only when ^{order} ~~an order~~ of Contempt Petition was served on them. The respondents were bound by the directions contained in the judgment are not ^{expected} ~~accepted~~ to choose their own time and they are bound to implement within time. Though, the action on the part of the respondents in neither implementing the order in time nor seeking extension of time is a matter to be deprecated. We are not inclined to ^{take} ~~pass~~ any action against them under the Contempt of Courts Act, however, it would be better if the respondents bear in mind, the orders of the Tribunal are to be implemented within the time framed atleast in future. ^{with} ~~In~~ the above observation finding no need to proceed under the Contempt of Courts Act, the Contempt Petition is dismissed. Notice issued to the respondents shall stand discharged. No costs.


(R.K. AHOOJA)
MEMBER(A)


(A.V. HARIDASAN)
VICE-CHAIRMAN(J)

/RAO/