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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

CP-257/94
OA-778/94

New Delhi this the 28th Day of March, 1995.

Hon'ble Sh. N.V. Krishnan, Vice-Chairman (A)
Hon'ble Dr. A. Vedavalli, Member (J)

Sanjay Kumar
S/o Sh. Sagar Singh,
R/o House No.2636,
Jawahar Colony,
NIT, Faridabad (Haryana) ...Applicant

(By Advocate Sh. K.C. Mittal)

Versus

1. Dr. J.P. Singh,
Secretary, Ministry
of Urban Development,
Nirman Bhawan,
New Delhi.
2. Sh. D.D. Saxena,
General Manager,
Government of India Press
Faridabad (Haryana).

(By Senior Standing Counsel Sh. N.S. Mehta)

3. Sh. Khem Chand
S/o Sh. Gopi Chand
C/o Manager, Govt. of India Press,
Faridabad, Haryana.
4. Sh. Hazari Lal
S/o Sh. Ramji Lal
C/o Manager, Govt. of India Press,
Faridabad, Haryana.

(By Advocate Sh. Ashok Aggarwal) ...Respondents

ORDER(Oral)
(Mr. N.V. Krishnan, Vice-Chairman (A))

This Contempt Petition has been filed in
respect of the interim order issued on 19.4.94, which
reads as follows:-

"Present: Sh. K.C. Mittal, counsel for
the applicant.

Heard. It is stated that in respect of
Annexure A-1 requisition dated 8.2.94 to
the Employment Exchange to sponsor
candidates for the posts of Asstt. Binder
two posts are reserved for scheduled

castes, one of which is for priority. The applicant states that he is a scheduled caste candidate and that he is included in the third priority category at serial No.8 and that there are no persons sponsored belonging to any higher priority. Therefore, that priority should be given to the applicant. In the circumstance, issue notice to the respondents to file reply within 4 weeks. Rejoinder, if any, be filed within 2 weeks thereafter. List before D.R. for completion of the pleadings on 3.6.94.

The applicant has prayed for an interim order. In the circumstances mentioned above the respondents are directed to keep one post vacant till 2.5.94, on which date further direction will be given after hearing the respondents.

Call on 2.5.94. Service by Dasti."

2. On directions, respondents 1 and 2 have filed an affidavit on 31.8.94 along with MP-1635/94 of the OA. The respondents have clearly mentioned therein that the two posts reserved for scheduled castes have been filled up on 18.5.94 by two non-priority scheduled castes candidates viz. Sh. Khem Chand and Hazari Lal. Selections have been made to three other posts from the general category, of which two are also filled by general candidates. A scheduled caste candidate has also been selected as a general category candidate but has not been allowed to join by the respondents, in view of the interim orders. The sixth post has been kept vacant and it is stated that this be filled up by a candidate belonging to OBC.

3. The learned counsel, therefore, points out that the respondents have clearly committed contempt by filling up both the two posts reserved for scheduled castes, whereas one post ought to have been kept vacant in terms of the interim order.

4. The respondents 1 & 2, Govt. for short, have filed a reply stating that no contempt has been committed. They have stated as follows:-

"The Hon'ble Tribunal in their interim order dated 19.04.1994 directed the respondents to keep one post vacant. The answering respondents faithfully complied with the Hon'ble CAT's orders dated 19.04.1994 and kept one post vacant by not allowing the last candidate of the select list (junior most who also happened to be a SC) till the Hon'ble CAT vacated the stay on 19.09.1994."

5. Respondents 3 & 4, i.e., the persons appointed to the two vacancies reserved for scheduled castes, have also filed a separate reply stating that there was no stay of their appointment and hence there is no contempt.

6. We have heard the learned counsel for the parties. Sh. K.C. Mittal, the learned counsel for the applicant urges that, no doubt, the second para of the interim order dated 19.4.94 does not specifically mention that one of the two posts reserved for scheduled castes should be kept vacant but merely directs the respondents "to keep one post vacant". However, his contention is that this direction should not and cannot be read in isolation and it has necessarily to be read with para-1. Thus read, the direction can be construed to only mean that one of the two posts reserved for scheduled caste and no other has to be kept vacant.

7. Sh. N.S. Mehta, the learned counsel for the respondents contends that there is no such direction in the interim order. One post has, admittedly, been kept vacant and hence there is no contempt committed by the respondents.

8. We have carefully considered the matter. The direction is to the effect that one post should be kept vacant. May be, there is force in the contention, that read with para-1 of the order dated 19.4.94 the intention was to keep one of the two posts reserved for scheduled castes vacant. That intention has not been spelt out in the actual direction given in para-2. In contempt proceedings the order has to be strictly construed to find out if there is any violation leading to contempt. If, therefore, the respondents have construed the direction literally that one post should be kept vacant and they have also kept one such post vacant it cannot be held that they have disobeyed the order of the Tribunal and committed contempt.

9. In the circumstances, the contempt has not been established. The C.P. is dismissed and the notices issued to all the respondents are discharged.



(Dr. A. Vedavalli)
Member(J)


28.3.95

(N.V. Krishnan)
Vice-Chairman(A)

'Sanju'