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CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

C.P. No.249 of 1997
in

O.A. No. 1834 of 1995

New Delhi, dated the 10th February 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE Mrs. LAKSHMI SWAMINATHAN, MEMBER (J)

1. Kanwarpal
S/o Shri Narender Singh
271-A, Beda Shopia Road,
Railway Colony,
Saharanpur, U.P.
2. Suresh Chand,
S/o Shri Nanak Chand,
160-P, Railway Colony,
Khalasi Line,
Sharanpur, U.P.
3. Phurakan Ahmed,
S/o Shri Agha Khan
4. Krishna Prasad,
S/o Shri Nageshwar Prasad
5. Shri Salik Ram,
S/o Shri Bindhyadeen ... PETITIONERS

VERSUS

1. Shri S.P.Mehta,
General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Shri R.S.Grover,
Divl. Railway Manager,
Northern Railway,
Ambala Cantt. ... RESPONDENTS

Advocates: Shri B.S.Mainee for petitioners
Shri R.L.Dhawan for respondents

ORDER

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

In this C.P. No. 249/97 the
applicants allege contumacious disobedience
by Respondents of Tribunal's ^{common} order dated
4.2.97 in O.A. No.1834/95 and O.A. No.208/95.

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(31)

2. In O.A. No.1854/95 applicants who are also applicants in the present C.P. who were Khalasis in C & W Dept., Northern Railway, Sharanpur and upon their own request had their category changed to Loco Cleaner with consequent loss of seniority as Khalasis, were aggrieved by the DPO, Northern Railway, Ambala Cantt's order dated 28.6.93 by which category of private Respondent No.3 to 13 (applicants in O.A. No.208/95) who were Fitter Khalsis/BN Khalasis, etc. was changed to Loco Cleaner without loss of previous seniority and had been placed senior to the applicants.

3. In reply to both O.As official respondents had stated that the change of category to that of Loco Cleaner with benefit of past seniority allowed to Pvt. Respondents No.3 to 13 in O.A. No.1834/95 (applicants in O.A. No.208/95) was the subject matter of investigation by G.M. (Vig.) Northern Railway.

4. As both O.As stemmed from the change of category to Loco Cleaners allowed to R-3 to 13 in O.A. No.1834/95 (applicants in OA-208/95) with benefit of past seniority and as this very issue was under investigation by

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Vigilance authorities, the bench did not consider it fit and proper to adjudicate in the matter at that stage. Accordingly after hearing both parties in each of the two OAs, the same were disposed of by a common order dated 4.2.97, with direction to Respondents to conclude the investigation as expeditiously as possible and preferably within a period of three months from the date of receipt of a copy of the order, and thereafter pass a detailed, speaking and reasoned order in accordance with law under intimation to the applicants in both OAs, after giving the applicants in both OAs a reasonable opportunity of being heard and if thereafter any grievance still survived it would be open to the aggrieved parties to agitate the same through appropriate original proceedings in accordance with law, if so advised.

5. Pursuant to the aforesaid order dated 4.2.97 the Northern Railway Divisional Authorities in Ambala gave the applicants in both OAs a hearing, considered their submissions and passed orders dated 24.9.97 (Annexure-R2) and dated 26.9.97 (Annexure-R3), Meanwhile the Northern Railway, Divisional Authorities had by their letter dated 26.2.97 (taken on record) separately sought guidance from the GM (Vigilance), Northern Railway in the matter on the basis of the investigation conducted by them. Northern Railway, Divisional Authority, Ambala's letter dated 3.11.97 (Annexure-R4) discloses that their decision contained in letter dated 24.9.97 and 26.9.97 was also communicated to the Vigilance Authorities at

Hq who accepted the same and had decided to close the case. *Prima facie*. We have no reason to disbelieve the contents of this letter.

6. We have heard Shri Mainee for the applicants and Shri Dhawan for respondents in the CP.

7. No doubt the final decision in the matter was not taken by the Vigilance Authorities within the period prescribed in para 7 of impugned judgment dated 4.2.97 but that by itself is not sufficient to hold that respondents behaved contumaciously. Shri Mainee contended that the impugned judgment dated 4.2.97 had directed the vigilance authorities to conduct and conclude the investigation, but it was the Personnel Officers of the Divisional Office, Ambala who had taken the decision in the matter, vide letters dated 24.9.97 and 26.9.97 and it was against these very officers that applicants had the grievance, and hence this amounted to disobedience of the Tribunal's order dated 4.2.97.

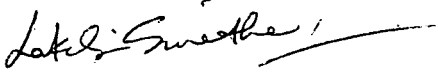
8. We note from the Hq. Vigilance's letter dated 30.5.97 (copy taken on record) that the Vigilance Authorities had themselves asked the Amabala Divisional Authorities to investigate into the matter and send an investigation report to them so that they could take final decision in the matter. Accordingly after giving the applicants

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34

a hearing, taking into account their submissions, and re-examining the matter, the Ambala Div. Authorities took the decision as contained in their orders dated 24.9.97 and 26.9.97, and this decision was communicated to the Vigilance Authorities who accepted the same and decided to close the case. In this connection, it is important to note that operative portion of the impugned order dated 4.2.97 (Para 7) did not specifically direct any particular officer to conclude the investigation, but merely called upon the respondents to conclude the same. It is also important to note that applicants in O.A. No.208/95 had also filed C.P. bearing No.257/97, but by order dated 19.11.97 (copy on record), upon the statements made by both sides ^{that} the directions in the impugned judgment dated 4.2.97 had been fully complied within the extended time prayed for, it was held that nothing survived in the C.P. which ~~was~~ accordingly dismissed.

9. In view of what has been stated above, the present C.P. is also dismissed and notices to the respondents are discharged.


(Mrs. LAKSHMI SWAMINATHAN)

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(S.R. ADIGE)
Member (J) Vice Chairman (A)