

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

26
CP427/2000
in
OA 2225/1995

New Delhi this the 7th day of March, 2001

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

1. Shri Raghbir Singh
S/O Sh. Niranjan Singh,
R/O 47, St. No. Jhujhan Nagar,
Patiala.

2. Neki Ram,
S/O Sh. Kundan Singh,
R/O 47, St. No. Jhujhan Nagar,
Patiala.

(By Advocate Sh. B. S. Maine)

Petitioner:

VERSUS

1. Shri S. P. Mehta,
General Manager, Northern Rly.,
Baroda House, New Delhi.

2. Shri Vijay Kumar,
Divisional Railway Manager,
Northern Railway,
New Delhi.

Respondents

(By Advocate Mrs. Meera Chhibber with
Shri B. S. Jain)

O R D E R (ORAL)

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

We have heard Shri B. S. Maine, learned
counsel for the petitioners and Mrs. Meera
Chhibber, learned counsel for the respondents in
Contempt Petition 427/2000. The submission of the
learned counsel for the petitioners is that the
respondents have wilfully flouted the direction of
the Tribunal dated 5.1.2000 in OA 2225/1996. Part of
that order reads as follows:-

(3)

"In the circumstances the OA is allowed. The respondents are directed to regularise the Ist applicant within a period of two months from the date of receipt of a copy of this order".

2. Within a month of the aforesaid order, admittedly the petitioners have filed MA 232/2000 on 24.1.2000 seeking a clarification. The same Bench which had passed the order dated 5.1.2000 had considered the MA and passed the order dated 21.3.2000, *of which is P*, the relevant portion quoted below:-

"The MA is for clarification seeking a direction to regularise the applicants from the date their juniors were promoted, with all consequential benefits. It is seen from the order that the OA has been allowed as prayed for. In the circumstances, we do not see any grievance for the applicants. The applicants cannot get more than what they have claimed in the OA. Moreover, by way of clarification the applicants cannot seek any further relief. The MA is, therefore, dismissed."

(emphasis added)

3. Shri B.S.Mainee, learned counsel has very vehemently submitted that in terms of the Tribunal's order dated 5.1.2000 read with Order dated 21.3.2000, there is no doubt that the prayers contained in Paragraph 8 of the OA have been allowed by the Tribunal. In the circumstances, he has submitted that even if the MA has been dismissed, the respondents are bound to implement the order in full which they have not done. The main contention of the learned counsel for the petitioners is that they have to be regularised and given benefits in the post they were working on ad hoc basis as Fuel Issuers, from the date they have been continuously working as such on ad hoc basis i.e. 1970 and 1973, respectively and not on 10.8.1988, as given to them by the respondents. He has also submitted that the applicants have filed two

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earlier OAs and in spite of that direction given to the General Manager, Northern Railway, no appropriate decision has been taken by them regarding regularisation of the ad hoc employees who have been continuously working for several years. He has drawn our attention to the letter issued by the Divisional Personnel Officer, Northern Railway, Ambala Cantt. dated 7.12.1989 (copy placed at Annexure CR 1 to the rejoinder). He has further submitted that junior to the applicants, namely, three persons whose names appear at Serial No.s 3-5 of this letter, have been regularised from the dates they were working on adhoc basis in those various posts and given further promotion also with consequential benefits. He further submits that in this letter the Divisional Personnel Officer, Ambala Cantt. has clearly stated that all the above employees are regularly officiating for more than 10 years continuously but they have not appeared in any selection/suitability test on the basis of which they got the benefits in earlier order of the ^{and 182} Tribunal dated 3.3.1992 in OA 2145/1990 ^{and 182} will not apply in the present case.

4. On the other hand learned counsel for the respondents has submitted that regularisation of the aforesaid three persons, namely, S/Shri Ashok Kumar, Munna Lal and Sukh Pal have been done in pursuance of the Tribunal's order dated 3.3.1992 in OA 2145/1990, copy placed on record. She has also submitted that the Ambala Cantt. had taken a specific decision in these matters to regularise the ad hoc Fuel Issuers w.e.f. 10.8.1988. She has also submitted that during the pendency of the OA 2225/1995, the second applicant had been so regularised

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w.e.f.10.8.1988.However, the respondents were not able to explain whether during the hearing of OA 2225/1995, the order relating to applicant No.2, Shri Nek Ram, was brought to the notice of the Tribunal. She has submitted that in compliance of the Tribunal's order dated 5.1.2000, the respondents have passed the order dated 5.1.2001 regularising applicant 1 also in similar matter ~~as~~ ^{as} Shri Nek Ram, i.e. w.e.f. 10.8.1988. Learned counsel has also submitted that in the case of three persons who are junior to the petitioners whose names appear in the letter dated 7.12.1989, they have passed the selection test which is also part of the judgement dated 3.3.1992. Her contention is that the petitioners in the present case are not similarly situated for whom the specific decision dated 29.4.1988 has been taken to regularise ~~their~~ officiation w.e.f.10.8.1988. She has also relied on the judgements of the Hon'ble Supreme Court in UOI and Ors Vs. J.R.Dhiman(1999(6)SCC 403 and Indian Airports Employees Union Vs. Ranjan Chaterjee and Another (2000(1)SLJ 265. She has, therefore, submitted that as the petitioners have themselves rushed to file MA 232/2000 to clarify the Tribunal's order dated 5.1.2000, there is no question of any wilful contempt established against the respondents. However, initially learned counsel had submitted that in case the Tribunal ~~came~~ to the conclusion that full compliance of the Tribunal's order has not been made by them, some reasonable time may be granted to them to fully comply with this order.

5. We have carefully considered the submissions made by the learned counsel for the parties in CP. Considering the aforesaid orders of the Tribunal

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dated 5.1.2000 read with order dated 21.3.2000 on the MA filed by the applicants themselves seeking clarification of the order, we are of the view that it cannot be stated that there is any wilful, contumacious disobedience of the Tribunal's order in the present case, although they have indeed implemented the judgement belatedly. However, in the facts and circumstances of the case, we accept their unconditional apology on this account.

6. Having regard to the facts stated above, we find force in the submissions made by the learned counsel for the petitioners. By the aforesaid orders of the Tribunal dated 5.1.2000 read with the order dated 21.3.2000, Tribunal had allowed the OA in terms of the relief prayed for by the petitioners. The relevant portion of Para 8 of the OA reads as follows:-

" 8.1 That this Hon'ble Tribunal may be pleased to direct the respondents to regularise the services of the applicants as Fuel Issuers, from the date, from which they have been continuously working as such on ad hoc basis with all consequential benefits.

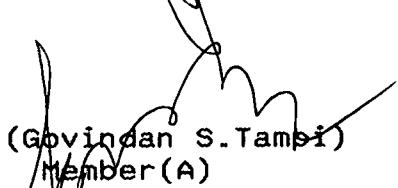
8.2 That the applicants may be considered for promotion to the post of sr.clerks and head clerks from the date from which their juniors have been promoted with consequential benefits of arrears and re-calculations of the retirement benefits in respect of the applicant No.1"

In Paragraph 5 of the order dated 5.1.2000, the Tribunal concluded that the applicants are entitled for regularisation since they have been working as Fuel Issuers for more than 25 years. The first applicant is also entitled for regularisation on the ground that many of his juniors have already been regularised as MCCs. We do not see any good reason

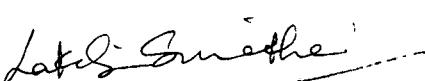
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for discriminating the first applicant. In our view this order does not require any clarification and hence MA 232/2000 has been correctly rejected in which further, it has been clearly stated that OA has been allowed as prayed for.

7. In view of what has been stated above CP 427/2000 is disposed of granting further two months to the respondents to fully comply ^{with 18} ~~of~~ of the Tribunal's order dated 5.1.2000 in OA 2225/1995. However, notices to the alleged contemnors are discharged.

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(Govindan S. Tamai)
Member(A)

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(Smt. Lakshmi Swaminathan)
Vice Chairman(J)