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Central Administrative Tribunal, Principal Bench

Contempt Petition Nos.105 of 1999 and 114 of 1999 in  
Original Application No.1740 of 1997

New Delhi, this the 27th day of June, 2000

Hon'ble Mr. S. R. Adige, Vice Chairman(A)  
Hon'ble Mr. Kuldip Singh, Member (J)

C.P.105/99

Shri Pradeep Kumar  
S/o Shri Shankar Lal Verma,  
working as Enquiry Clerk in CPWD,  
Enquiry Office,  
V-Division, Sadiq Nagar,  
New Delhi

Resident of D-1/43, Madangir,  
New Delhi

- Petitioner

(By Advocate - Shri K.K. Patel)

Versus

1. Shri B.S. Duggal,  
Director General (Works)  
CPWD, Nirman Bhawan,  
New Delhi

2. Shri R.S. Sagar,  
Superintending Engineer  
Delhi Central Circle  
VIII CPWD  
R.K. Puram,  
New Delhi

3. Shri Gaje Singh,  
Executive Engineer  
V. Division, CPWD,  
Sector III/300  
Sadiq Nagar,  
At present the office has  
been shifted to A-106,  
Sarojini Nagar, New Delhi

- Respondents

(By Advocate - Mrs. P.K. Gupta)

C.P.114/99

Shri Sunil Kumar  
S/o Shri Attar Singh,  
working as Enquiry Clerk in CPWD,  
Enquiry Office, P-II Sub Division  
Sadiq Nagar,  
New Delhi

Resident of 241, Masjid Moth,  
New Delhi-49

- Petitioner

(By Advocate - Shri K.K. Patel)

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Versus

1. Shri B.S.Duggal,  
Director General (Works)  
CPWD, Nirman Bhawan,  
New Delhi

2. Shri R.S.Sagar,  
Superintending Engineer  
Delhi Central Circle  
VIII CPWD  
R.K.Puram,  
New Delhi

3. Shri V.K.Jaiswal,  
Executive Engineer  
P-II Sub Division, CPWD,  
Sector III/299  
Sadiq Nagar,  
New Delhi

- Respondents

(By Advocate - Mrs. P.K.Gupta)

O.R.D.E.R

By Hon'ble Mr.Kuldeep Singh, Member(Judl.)

By this common order, we are deciding two Contempt Petitions bearing nos. 105/99 and 114/99 in O.A. No. 1740/97.

2. The facts in brief are that the applicants Shri Pradeep Kumar and Shri Sunil Kumar had filed an OA bearing No. 1740/97 seeking direction to respondents to regularise their services from the date of their entering into service as Enquiry Clerks. They had also alleged that they were being paid as Beldar whereas they were asked to perform the duties of Enquiry Clerk. On their petition, the following directions were given:-

"Accordingly the present O.A. is also disposed of with the direction to the respondents to consider the case of the applicants for being absorbed as Clerks in CPWD keeping in view of the decision of the Hon'ble Supreme Court in the case of daily rated Casual labour etc. Mazdoor Sangh - vs - Union of India &

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Ors. (1988) 1 SCC 172 and Dhirendra Chamoli 1986 (1) SCC 637 and also Respondents' Circular No. 38/2/85-EC.X dated 4.7.88."

3. Since respondents did not regularise the applicants as Enquiry Clerks, they have come up with the present Contempt Petitions. In both the CPs, it is stated that respondents have disobeyed the directions given by this Tribunal.

4. Respondents have contested the Contempt Petitions and in the reply filed by them, it is stated that applicants could not be absorbed as Enquiry Clerks as recruitment to these posts is made only through Staff Selection Commission (in short 'SSC'). They had also issued an office order to the effect that since the recruitment to the posts of enquiry clerks/LDC is made only through SSC, the applicants who were initially engaged on muster roll as Beldar, could not be absorbed as enquiry clerks in the department as there was no such channel to absorb them on the said post.

5. We have heard learned counsel for the parties and gone through the records.

6. Learned counsel for the petitioners stated that in similar circumstances, another person in some other contempt petition had also been appointed as enquiry clerk but this fact has been denied by the respondents. Respondents have submitted that the directions given to respondents in the main OA were to consider if the applicants could be absorbed as

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clerks. In compliance to these directions, their case has been considered at the highest level, since the mode of recruitment did not permit the respondents to absorb the applicants as enquiry clerks/LDC, they could not be appointed to the said posts.

7. We have given our thoughtful consideration to the matter in question. The respondents were directed only to consider the claims of the applicants for being appointed as enquiry clerks/LDC and after considering their case, they have come to the conclusion that applicants could not be absorbed as the recruitment rules did not permit them to appoint the applicants as clerks.

8. Under these circumstances, we are of the view that there is no wilful disobedience on the part of the respondents. The Tribunal cannot direct them to appoint applicants de hors the rules because if such a direction is given, then the Tribunal would be acting as a rule making body, which is not within its purview. Hence we find that no case is made out for initiating contempt proceedings against the respondents. Both the contempt petitions are, therefore, dismissed. Notices discharged.

*Kuldh*  
(Kuldh Singh)  
Member(J)

*Adige*  
(S.R. Adige)  
Vice Chairman(A)

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