

Central Administrative Tribunal  
Principal Bench

CPI32/2002 IN  
OA 1440/2000

22

New Delhi, this the 17th day of July, 2002

Hon'ble Shri M.P.Singh, Member(A)  
Hon'ble Shri Shanker Raju, Member(J)

Dinesh Kumar, Beldar and Others

...Applicants.

(By Advocate: Shri B.N.Bhargava with Shri G.S.Bequirar)

Versus

Shri J.K.Srivastava, Col. Commandant, Remount  
and Training School Depot, Saharanpur.

(By Advocate: Shri D.S.Mahendru) ...Respondent

ORDER (Oral)

By Shanker Raju, Member(J):

Heard both the parties.

2. Applicants allege wilful or contumacious disobedience of the directions of this Tribunal contained in order dated 10.8.2001 in OA 1440/2000, wherein respondents had been directed to dispose of the representation of the applicants by passing a detailed, speaking and reasoned order. It was also directed that while deciding the representation, respondents shall also see whether any junior to the applicants has been regularised and if it is found, that a junior has already been regularised, the cases of the applicants shall also be considered for regularisation in accordance with rules and instructions on the subject.

3. Learned counsel for the petitioners, Shri B.N.Bhargava contended that in compliance of the the aforesaid Tribunal's order, respondents, by an order dated 1.12.2001, have closed the case by recording that the applicants could not be granted temporary temporary status as they had not completed 240 days in

23

a calender year as per DOPT's Scheme dated 10.9.1993 and moreover, as no junior person had been granted temporary status, applicants are not entitled for regularisation. In this background, Shri Bhargava stated that the respondents have not complied with the directions of this Tribunal in as much as it was incumbent upon them to consider whether any junior to the applicants have been considered for regularisation. Therefore, it is stated that in the contempt petition the applicants have furnished the names of the juniors who have been regularised whereas the claim of the applicants has not been considered by the respondents in true letter and spirit. Shri Bhargava also relied upon Government of India's instructions dated 11.1.93 which had been issued earlier to the Scheme of 10.9.93 wherein directions have been issued to release the vacancies for recruitment so that daily rated labourers eligible for regularisation can be adjusted against these vacancies.

4. Shri D.S. Mahendru, learned counsel for the respondents stated that the respondents had considered the case of applicants for regularisation as directed by this court and there is no wilful or contumacious disobedience of the Tribunal's order. As the applicants have not raised the question of instructions of 11.1.93 in the OA, and being a fresh cause of action, the same cannot be gone into in a contempt petition. In support of this contention, he has relied upon the decision of the J.S. Parihar Vs. Ganpat Duggar and Ors. JT 1996 (9) SC 611. Further

drawing our attention to a letter dated 4.4.2002, wherein reasons have been assigned in detail and a copy of the same has also communicated to the applicant it is stated the directions of the Court have been complied with in true letter and spirit. 24

5. We have considered the rival contention of both the parties and perused the material on record. As per the directions of this court, respondents were mandated to pass a detailed and speaking order. While doing so, they have to consider the question whether any junior to the applicants has been regularised or not. As it has been found that the applicants had not completed 240 days, and also not accorded temporary status and no juniors to the applicants have been granted temporary status, the claim of the applicants has been rejected.

6. In our considered view, the order passed by the respondents is in due compliance of the order passed by this Tribunal. Moreover, there is no wilful or contumacious disobedience of the court's order. Accordingly, C.P. is dismissed. Notices issued to the respondents are discharged.

7. However, it is open for the applicants, if so advised, to approach the Tribunal for any surviving grievance in an appropriate proceedings in accordance with law.

S. Raju  
(Shanker Raju)  
Member(J)  
/kd/

M.P. Singh  
( M.P.Singh )  
Member(A)