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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

CP 380/2001  
in  
OA 296/2000

New Delhi this the 28<sup>th</sup> day of August, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).  
Hon'ble Shri G.S. Tampi, Member(A).

Ganesh Sharan Sharma,  
S/o Shri Gopal Saran Sharma,  
R/o House No. 927, Sector-7,  
R.K. Puram,  
New Delhi.

... Petitioner.

(By Advocate Shri Naresh Kaushik)

Versus

1. Shri Krishan Kumar,  
The Director General of Works,  
CPWD, Nirman Bhawan,  
New Delhi.
2. Shri A.K. Goyal,  
The Superintending Engineer (E),  
DCEC VII, CPWD East Block,  
R.K. Puram,  
New Delhi.
3. Shri Rajeev Sharma,  
The Executive Engineer (E), ED IX  
CPWD, East Block,  
R.K. Puram, New Delhi.

... Respondents.

(By Advocate Shri R.N. Singh)

O R D E R

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

CP 380/2001 has been filed by the applicant in OA 296/2000.  
He has submitted that appropriate contempt proceedings should  
be initiated against the respondents/contemners for committing

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contempt of the order of the Tribunal dated 22.12.2000 in the aforesaid O.A.

2. We have heard Shri Naresh Kaushik, learned counsel for the applicant and Shri R.N. Singh, learned counsel for the respondents and have perused the documents on record.

3. The Tribunal by order dated 22.12.2000 has noted, inter alia, that the respondents have stated in their reply that the applicant had been engaged on contract basis in which the Tribunal has no jurisdiction. It is also noted that the applicant had been appointed by way of a work order on contract basis as Enquiry Clerk in 1992. According to the applicant, his services have been continued after his appointment as Enquiry Clerk on ad hoc basis on 10.8.1992 as the respondents had required his services. After noting the submissions of learned counsel for both the parties, the Tribunal has concluded as follows:

"In the above facts and circumstances of the case and after having considered the pleadings and submissions made by both the learned counsel, it is apparent that the respondents have continuously employed the applicant as Enquiry Clerk w.e.f. 10.8.92 without any break. There are no averments made by the respondents that his services are not satisfactory. In the circumstances, therefore, if the respondents need to employ a person as Enquiry Clerk, they shall consider the applicant's case for regularisation in accordance with the relevant rules/instructions, including the eligibility conditions, as prescribed in the rules".

4. According to the respondents, they have considered the claim of the applicant in terms of the aforesaid directions of the Tribunal and thereafter they have issued the letter dated 19.2.2001. They have submitted that there is no post of Enquiry Clerk sanctioned under the Division for Sector-VII. Shri R.N. Singh, learned counsel has reiterated the same stand of the respondents that there is no sanction post of Enquiry

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Clerk and in the circumstances, the respondents are not in a position to regularise his services in terms of the Tribunal's order. The respondents also rely on the Circular dated 12.6.1998 which they have admitted ~~was~~ not brought to the notice of the Tribunal. This circular has been annexed as Annexure AR-III. In this circular, it is seen that the concerned Ministry has expressed serious concern over the irregularities committed by various field officers in contravention of the relevant orders and circulars regarding engaging workers on hand receipt basis and engaging LDCs, Stenographers, etc. in a manner not permissible under the relevant rules and instructions. In the present case, the Tribunal had only directed that if the respondents need to employ a person as Enquiry Clerk, they shall consider the applicant's case for regularisation in accordance with the relevant rules/instructions. Perusing the facts mentioned by the respondents in the additional affidavit filed by them in pursuance of our order dated 18.2.2002 and in the absence of any sanctioned post of Enquiry Clerk in the Department and relevant rules governing the appointment/regularisation of persons in this post, it cannot be held that the respondents have contumaciously and wilfully violated the directions of the Tribunal to warrant further action being taken against them for punishing them under the provisions of the Contempt of Courts Act, <sup>1971</sup> read with Section 17 of the Administrative Tribunals Act, 1985. Having regard to the facts and circumstances of the case, therefore, and the aforesaid directions of the Tribunal, we do not find any justification to take any further action on CP 380/2001 and it is accordingly dismissed. Notices to the alleged contemnors are discharged.

(S.S. Tampi)  
Member (A)

SRD

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan)  
Vice Chairman (J)