

Central Administrative Tribunal
Principal Bench

C.P. No. 408 of 2000
in
O.A. No. 1624 of 2000

53

New Delhi, dated this the 10th November, 2000

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

In the matter of:

Smt. Abha Bhardwaj & Anr. .. Petitioners

(By Advocates: Shri B.B. Raval & K.N.R. Pillai)

Versus

Shri H.M. Cairae .. Respondent

ORDER

MR. S.R. ADIGE, VC (A)

Heard applicants' counsel Shri B.B.Raval on
C.P. No. 408/2000 alleging contumacious
disobedience of the Tribunal's order dated 30.8.2000
in O.A. No. 1624/2000.

2. In the aforesaid O.A. applicants have
impugned Respondents' orders dated 9.8.2000 (Annexure
A-1) transferring them, and had sought an interim
direction to stay the operation of the aforesaid
order dated 9.8.2000 till the decision on the O.A.

3. This O.A. came up before a Single Member
Bench for preliminary hearing on 30.8.2000 and was
argued by applicant's counsel Shri K.N.R. Pillai.

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4. By order dated 30.8.2000 notices were ordered to be issued to respondents on interim relief returnable within two weeks. Meanwhile an ex-parte interim order was issued staying the operation of the impugned order dated 9.8.2000 until further orders. The case was ordered to be listed on 13.9.2000 and it was ordered Dasti.

5. On 13.9.2000 when the case came up, before another Single Member Bench Shri K.N.R.Pillai represented applicants and Shri S.Rajappa represented Respondents. Shri Rajappa pressed M.A. No. 2198/2000 seeking vacation of the stay orders of 30.8.2000. A copy of the M.A. had been served on applicants' counsel Shri Pillai and the matter was ordered to be listed on 18.9.2000 for hearing on the M.A. by which date reply to the same was also to have been filed. The interim orders were ordered to be continued till 18.9.2000.

7. On 18.9.2000 when the case came up, before another Single Member Bench Shri K.N.R.Pillai represented applicants and Shri S.Rajappa represented Respondents. Rejoinder had been filed to the reply to the M.A. and the case was ordered to be listed on 22.9.2000. Interim orders dated 30.8.2000 were ordered to continue till then.

8. On 22.9.2000 the case came up before another Single Member Bench. Shri Pillai represented applicants and Shri Rajappa represented Respondents.

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The case was ordered to be listed on 26.9.2000 before an appropriate Division Bench. There was no direction for further extension of the interim orders, which had been ~~last~~ extended till 22.9.2000.

9. On 26.9.2000 the case came up before a Court IV Division Bench. Proxy counsel for applicant sought a day's adjournment on behalf of Shri Pillai who was stated to be out of station. The case was ordered to be listed positively on 27.9.2000 at 2 P.M.

10. When the case came up on 27.9.2000 Shri Pillai represented applicants, and Shri Rajappa the respondents. At the request of both sides M.A. No. 2198/2000 was ordered to be listed along with O.A. No. 1624/2000 for Possible Final Hearing on 29.9.2000 as Part Heard.

11. On the next date (presumably 29.9.2000) arguments opened ^{in Court IV} and the case was ordered to be listed on 10.10.2000 as P.H. Shri Pillai represented applicants and Shri Rajappa the respondents.

12. On 10.10.2000 Proxy counsel represented Shri Pillai while respondents were represented by Shri Rajappa. At proxy counsel's request the case was ordered to be listed on 12.10.2000.

13. The next order sheet is that of Court II and is dated 16.10.2000. On that date Shri B.B.Raval represented applicants, and Shri Rajappa the respondents. The order sheet dated 16.10.2000

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⁴ records that the case had been ^{ordered to be} listed before another Division Bench by administrative order dated 13.10.2000. It further records that Shri Rajappa had objected to the transfer of the part heard case from Court IV to Court II as part heard cases could be released only by the Court while sitting in judicial side and not in Chambers. The Bench recorded that the reason why it had been transferred to Court II was because cases of Shri B.B. Rawal were not to be listed before a Bench ^{of Court IV} of which Mrs. Lakshmi Swaminathan, Hon'ble Member (J) was a Member. The Bench in its order dated 16.10.2000 ordered that the O.A. be listed before Court IV to get it released from part heard on judicial side.

14. Nothing has been shown to us to establish that the aforesaid directions of Court II dated 16.10.2000 to have the O.A. released from part heard in Court IV on judicial side has been complied with. Meanwhile the O.A. came up before this Bench on 20.10.2000 when both parties appeared. The O.A. was ordered to be listed on 30.10.2000.

15. On 30.10.2000 when the case came up, it was C.P. No. 408/2000 in O.A. No. 1624/2000 which was listed for hearing.

16. As stated above, Shri Rawal pressed C.P. No. 408/2000 alleging contumacious disobedience of the Tribunal's ex-parte interim order dated 30.8.2000 in O.A. No. 16424/2000, staying the operation of the impugned orders dated 9.8.2000 till further

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orders, and calling for the case to be listed on 13.9.200. We ~~have~~ recorded the extracts from the order sheet on all successive dates to satisfy ourselves that the aforesaid interim orders dated 30.8.2000 were not extended beyond 22.9.2000. Shri Rawal contended during arguments on C.P. No. 408/2000 that stay of operation of the impugned orders dated 9.8.2000 till further orders had to be taken to mean till the disposal of the O.A. Nothing in the ex-parte orders dated 30.8.2000 can be deemed to give such a construction to it, and indeed such a construction in respect of an ex-parte interim order would be patently illegal in terms of the proviso to Section 24 A.T. Act.

17. Under the circumstances as the interim orders were last extended by order dated 18.9.2000 till 22.9.2000 but were not extended beyond 22.9.2000 as is clear from Para 7 and 8 above, they automatically expired on 22.9.2000.

18. We are then left with the period 30.8.2000 to 22.9.2000 during which the interim orders were in operation. For contempt proceedings to be initiated against respondents, there should have been some overt act by them to enforce the order dated 9.8.2000 during this period. There is no such averment to that effect in the C.P. In the C.P. it

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58

is asserted that what was required of respondent (Commissioner, Kendriya Vidyalaya Sangathan) was that he should have instructed the Principals of the concerned schools not to implement the transfer and allow the teachers to continue working in the respective schools but there is no such direction given to respondents in the Tribunal's order dated 30.8.2000.

19. Under the circumstances prima facie there are not adequate materials to initiate contempt proceedings against respondent. The C.P. is, therefore, dismissed in limine.

20. Meanwhile in compliance with the order of Court II dated 16.10.2000 which is a judicial order and has not been shown to have been stayed, quashed or set aside, Registry ^{is called upon} to list O.A. No. 1624/2000 before Court IV on 16.11.2000 on judicial side either for conclusion of the hearing of the case, or for release from part heard, so that it can be heard by any other appropriate Bench.

21. Issue copy of this order to both parties, and let a copy of the same be placed in the case record of O.A. No. 1624/2000 also.

A. Vedavalli
(Dr. A. Vedavalli)
Member (J)

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