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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**CP No. 870/2011
in
OA No. 1793/2000**

NEW DELHI THIS THE 9TH DAY OF FEBRUARY, 2012

**HON'BLE MR. G. GEORGE PARACKEN, MEMBER (J)
HON'BLE DR. VEENA CHHOTRAY, MEMBER (A)**

1. Ominder Singh,
S/o Sh. Phool Singh,
R/o Village & P.O.
61, Asola Fatehpur Beri,
New Delhi-110074
2. Raj Pal
S/o Shri Gaini Ram,
R/o Village & P.O.
Asola Fatehpur Beri 333,
New Delhi-110074.
3. Bijender
S/o Sh. Phool Singh,
R/o Village & P.O. 61,
Asola Fatehpur Beri,
New Delhi-110074.
4. Basant Kumar Singh,
S/o Sh. M.M.P Singh,
RZA-52 Mahipalpur Extn.
Road, No. 2,
New Delhi. 110037.
5. Inder Pal Singh,
S/o Sh. Gaj Raj Singh,
R/o H.No. 383,
Gali Ashram No. 2
Mandawali, Fazalpur,
New Delhi-110092

Petitioners.

(By Advocate: Mr. Anil Mittal)

Versus

1. Shri P.K. Tripathi,
Chief Secretary,
5th Floor, Delhi Secretariat,
I.P. Estate,
New Delhi. -110002.

.. Respondent.

(By Advocate: Mrs. Avnish Ahlawat)

O R D E R (ORAL)

Shri G. George Paracken:

This Contempt Petition has been filed under Section 17 of the Administrative Tribunals Act, 1985 read with Rule 5 of the Contempt of Courts (CAT) Rules, 1992 for the alleged willful disobedience on the part of the respondents in not implementing the directions of this Tribunal dated 11.01.2002 in OA 1793/2000. The aforesaid OA was disposed of in terms of an earlier order passed in OA 1431/1999 dated 31.05.2000 wherein a direction was given to the respondents to prepare a panel of all the

applicants in the OA and to consider them for appointment against Class-IV vacancies subject to their eligibility as and when such vacancies occur as per rules. Thereafter, the petitioners herein were called for consideration to be appointed as Class IV employees vide respondents' letter dated 04.09.2003 but according to the petitioners they have not been appointed and the respondents have been filling up the posts of Class-IV employees from outside. They have given a specific case of one Shri Mukesh Kumar who was appointed as Peon in Ambedkar Institute of Technology vide the Annexure A-4 letter dated 21.10.2008 without considering the petitioners herein. The petitioners have, therefore, filed Contempt Petition (Civil) No. 753/2010 before this Tribunal. However, the respondents in the reply have submitted that Shri Mukesh Kumar has been wrongly appointed and he has been removed from service. Accordingly, the contempt petition was dismissed vide the Annexure A-5 order dated

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19.04.2011. However, according to the petitioners, they came to know recently that Mukesh Kumar is still working with the Ambedkar Institute of Technology and the respondents have made a wrong statement before this Tribunal on 19.04.2011 so as to get the contempt petition dismissed. The petitioners have, therefore, submitted that the respondents have deliberately, willfully, intentionally and contumaciously disobeyed the orders of this Tribunal dated 11.01.2002 and procured a wrong order in Contempt Petition (Civil) No. 753/2010.

2. The respondents in their reply have submitted that Shri Mukesh Kumar was served the show cause notice dated 03.01.2011 for removing him from service. However, he challenged the same before this Tribunal in OA 162/2011 and this Tribunal vide its order dated 28.04.2011 allowed the OA. The respondents challenged the aforesaid order before the Hon'ble High Court of Delhi vide Writ Petition No.

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7030/2011 but the same was also dismissed and its operative part is as under:

"4. As noted, the petitioner took their own time and only in August, 2008 the respondent was called for interview and after evaluating his performance, he was appointed as a Peon in Ambedkar Institute of Technology with effect from 13th October 2008 and continued to work on the said post for about two years. It is not the allegation of the petitioner that respondent had mislead the authorities about his date of birth or there was any suppression of fact or forgoing of documents. After the respondent had worked for more than two years, a show cause notice was issued that pursuant to an Original Application filed by one Omender Singh, it was noticed that the respondent was over aged. Therefore his services were terminated.

5. The Tribunal after considering the peculiar facts of the present case including the delay in appointment, the order passed by the Supreme Court and thereafter by the Tribunal and the fact that the respondent has worked for two years, the Original Application has been allowed. We may note that in case the respondent had not been appointed, the situation may have been different. The situation may have also been different in case the petitioner had been able to justify delay from 1992 to 2008.

6. In view of aforesaid, we do not find any merit in the present writ petition and the same is accordingly dismissed in limine without any order as to costs."

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3. We have heard the learned counsel for the parties. The only contention of the petitioners is that one Shri Mukesh Kumar was appointed as a Peon in the Ambedkar Institute of Technology without considering them. However, the fact is that when the respondents realized that the appointment of Shri Mukesh Kumar was not in order, they wanted to remove him from service. For that purpose, they have issued the show cause notice but Shri Mukesh Kumar successfully challenged the aforesaid show cause notice before this Tribunal. Even though, the respondents took the matter before the Hon'ble High Court of Delhi, it did not interfere in the orders of this Tribunal.

4. In view of the above facts and circumstances of the case, it cannot be said that the appointment of Shri Mukesh Kumar was a willful, intentional and contumacious disobedience on the part of the respondents. We, therefore, do not find any merit in

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this contempt petition and accordingly the same is dismissed. There shall be no order as to costs.

Chhotray
(Dr. Veena Chhotray)
Member (A)


(George Paracken)
Member (J)

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