

(12)

Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. RA-138/88 in
OA-435/88

Date: 10.3.1989.

Union of India & Ors. Applicants

Versus

Shri Ved Pal & Ors. Respondents

For the Applicants Smt. Raj Kumari Chopra,
Advocate

For the Respondents Shri Jog Singh, Advocate.

CORAM: Hon'ble Shri P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Shri K.J. Raman, Administrative Member.

1. Whether reporters of local papers may be allowed to see the judgement? *yes*
2. To be referred to the Reporter or not? *No*

(Judgement of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice-Chairman)

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The Union of India, who have filed the present review application, are the respondents in OA-435/88 filed by Shri Ved Pal and ten others who are working as Lower Division Clerks in the Directorate General of All India Radio under the Ministry of Information & Broadcasting. The prayer contained in the present application is that an interim order dated 31.10.1988 passed by us be reviewed in the light of the earlier order dated 29th June, 1988.

2. We have gone through the records of the case and have heard the learned counsel for both the parties. OA-435/88 was admitted on 18.3.1988 and notice in regard to the interim relief was issued to the respondents returnable on 24.3.1988. On 25.5.1988, another Bench of this Tribunal passed an interim order in the presence of the counsel for both the parties as follows:-

"The applicants state that their term has been extended upto 30.6.88 or till such

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time as qualified candidates become available to replace them. So they apprehend that they may be reverted after 30.6.1988. The applicants have been continuing in a similar manner for six years by now. So the question of any interim relief being granted on the basis of the hypothetical apprehension does not arise.

It shall, however, be open to the applicants to approach this Tribunal as and when any adverse order is passed against them for proper relief.

Counter within four weeks. Rejoinder, if any, within two weeks thereafter. Be listed before the Dy. Registrar on 27.7.1988."

3. Subsequently, on 23rd June, 1986 the applicants filed MP-1236/88 praying for the grant of an interim order to the effect that they may not be reverted after 30.6.1988. Another Bench of this Tribunal passed an order on the said M.P. on 29.6.1988 in the presence of the learned counsel for the applicant and the departmental representative of the respondents. In the said order it was stated as follows:-

".....The Departmental Representative Shri I.B. Karn has explained that the services of the Applicants shall be continued so long as regular Departmental candidates are not available on the recommendation of the Staff Selection Commission. We think the clarification given by the Departmental Representative is quite fair and just. We, therefore, direct that the Applicants shall not be reverted from the present post which they are holding until regularly selected candidates are available for posting and in that eventuality the Respondents shall follow the principle of 'First come last go' while effecting the reversions of ad hoc employees. This Application stands disposed of accordingly."

4. On 27th September, 1988, the applicants filed MP-2020/88 praying that an interim order may be passed for maintaining the status quo till the finalisation of the case. The said MP was listed before a Bench of which one of us (P.K. Kartha) was a Member. The said M.P. came up for hearing on 31.10.1988 in the presence of the

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learned counsel for both the parties, when the following order was passed:-

"In the order dated 25.5.88 passed in OA 435/88 it has been directed that it shall be open to the petitioners to approach this Tribunal as and when any adverse order is passed against them. It is directed that no order reverting the petitioners to Class IV posts shall be made without seeking the leave of the Tribunal. Misc. Petition stands disposed of with the above directions."

5. The learned counsel for the applicants did not bring to our notice the correct position when he filed an M.P. 2020/88. In the said M.P., he did not make any reference to the earlier interim orders passed by us on 29.6.1988. According to the review applicant, this was done with mala fide intention and with a view to misleading the Tribunal.

6. We have gone through the MP-2020/88 and find that the said M.P. does not make a reference to our earlier orders dated 25.5.1988 and 29.6.1988. The applicants ought to have drawn the Tribunal's attention when the said M.P. was filed.

7. In the facts and circumstances of the case, we are of the opinion that an error has crept in our order dated 31.10.1988 inasmuch as our attention was not drawn to the earlier order passed by another Bench of the Tribunal on 29.6.1988 containing directions as regards interim relief. Therefore, in the interest of justice, we have reviewed the order dated 31.10.1988 and pass the following order in supersession of the earlier order:-

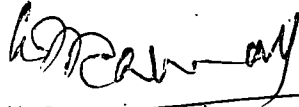
"The respondents are directed not to revert the applicants from the posts which they are holding until regularly selected candidates are available for posting and in that eventuality, the respondents shall follow the principle of "first come last go" while effecting the reversions of ad hoc

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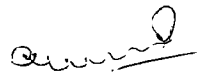
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employees. The review application is disposed of accordingly."

8. The parties will bear their own costs.



(K.J. Raman)
Administrative Member



(P.K. Kartha)
Vice-Chairman(Judl.)