

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

(33)

NEW DELHI

CCP No.224/89 in
 O.A. No. 37/88 with
 TAXXN6. MP Nos. 689/90, 199
 897/90 and 1575/90

DATE OF DECISION 22 - 8 - 90

Shri Premod Kumar & Others Petitioner

Shri K.L. Bhatia Advocate for the Petitioner(s)

Versus

Union of India & Others Respondent

Shri M.L. Verma Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. M. M. MATHUR, 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
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
 Vice Chairman(J))

The petitioners are the original applicants in OA 37/1988, which was disposed of by this Tribunal by judgment dated 10.8.1989. Their grievance was that they had not been allowed to work by verbal orders issued by the respondents. They had prayed that they should be allowed to work as Mates and be regularised in the Delhi Milk Scheme and that they should be paid the same salary and allowances and given the same conditions of service as in the case of regular Class IV Mates.

2. After hearing the learned counsel of both parties, this Tribunal had held that the applicants shall be deemed to have been transferred to the regular establishment from 1st November,

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1987. In the circumstances of the case, the Tribunal did not pass any order regarding payment of back wages. The intervening period was directed to be treated as leave with or without pay as due or dies non, as the case may be. It was further directed that supernumerary posts in the regular establishment may be created, if necessary. The respondents were given time to comply with the above directions within a period of three months from the date of receipt of the order.

3. The petitioners have stated that the copy of the Tribunal's order was given to the respondents on 23.8.1989. The period stipulated in the Tribunal's order expired on 23.11.1989 but the requisite relief had not been granted to the petitioners.

4. The respondents have stated in their reply affidavit that they had filed SLP in the Supreme Court against the judgment of the Tribunal on 7.11.1989.

5. The Tribunal granted extension of time to the respondents to comply with the judgment upto 15.2.1990. By order dated 16.1.1990 in MP 2574/89, the Tribunal made it clear that the petitioners would be entitled to their wages from 30.11.1989 irrespective of whether they had come on duty or not.

6. The CCP was listed for hearing on 20.8.1990 when we heard the learned counsel of both parties. We have also gone through the records of the case carefully. The Supreme Court dismissed the SLP on 5.2.1990. Thereafter, the respondents have taken steps to implement the Tribunal's

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judgment. Shri M.L. Verma, the learned counsel for the respondents produced before us copy of an office order dated 16th July, 1990 whereby 16 applicants have been appointed to the supernumerary posts of Mates in the establishment of Delhi Milk Scheme with effect from 1.11.1987.

7. Shri K.L. Bhatia appearing for the petitioners stated that in the original application No.37/88, there were 18 applicants, but the order issued by the respondents pertained only to 16 of them. The persons who have been left out are Vinod Kumar and Raghunath Prasad Shah. While the judgment covers the case of Vinod Kumar, the name of Raghunath Prasad Shah does not find place therein.

8. Shri Verma stated that a vigilance case is pending against Shri Vinod Kumar and on that ground, he has not been appointed to the post of Mate. As regards Shri Raghunath Prasad Shah, he contended that though the petitioners had filed MP 809/88 to implead him as one of the petitioners and though the Tribunal had allowed MP 809/88, the petitioners did not amend the application and the cause title thereof.

9. In our opinion, the respondents have substantially complied with the directions contained in our judgment dated 10.6.1989. We, however, observe that Shri Vinod Kumar has not been appointed as a Mate due to the pendency of a vigilance case against him. The respondents should have appointed him as Mate notwithstanding the pendency of the vigilance case against him. Thereafter, it would have been open to them to take appropriate steps

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in accordance with law against him for any act of misconduct in accordance with the relevant rules. We, therefore, direct that the respondents shall issue a separate order appointing Shri Vinod Kumar to the post of Mate in the same manner as the other persons have been appointed by office order dated 16th July, 1990. The respondents shall comply with this direction within a period of one month from the date of receipt of this order.

10. As regards Shri Raghunath Prasad Shah, we have gone through the records of the case and it is noticed that the petitioners had not cared to amend the memo of parties so as to include him as one of the petitioners in the original application. The judgment refers to only 17 persons excluding Shri Raghunath Prasad Shah. The proper course for the petitioners would have been to file a review petition seeking a review of the judgment on the ground that the name of Shri Raghunath Prasad Shah had been omitted from the judgment. Shri Bhatia mentioned that he had filed a review petition in the Registry sometime in January, 1990. The petition filed by him is not traceable in the Registry. It has also not been circulated among the members who delivered the judgment. We, however, direct the respondents to consider the case of Shri Raghunath Prasad Shah also in the light of the observations contained in our judgment dated 10.8.1989 and in case he is found eligible, he should also be given the same treatment as the petitioners in OA 37/88. The respondents should

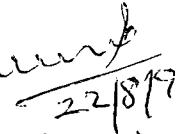
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conduct this exercise within a period of one month from the date of receipt of this order.

11. CCP No.224/89 is dismissed and the notice of contempt discharged with the aforesaid observations. All the MPs filed by the petitioners regarding the non-implementation of our judgment dated 10.8.1989, are also disposed of accordingly.


(M.M. MATHUR) 22/8/90

MEMBER (J)


(P.K. KARTHA)
VICE CHAIRMAN (J)
22/8/90