

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

CCP 99/1989 in

O.A. No. 858/89 with
TAX NO. MP 890/89

199

DATE OF DECISION 14.09.1990

Shri Chet Bahadur & Others Petitioner

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

Versus

Union of India & Others Respondent

Mrs. Raj Kumari Chopra Advocate for the Respondent(s)

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

The Hon'ble Mr. D.K. CHAKRAVORTY, 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 O.A 858/89 which was disposed of by the Tribunal's judgment dated 9.8.1989. In the said O.A, the applicants, who were appointed as Peons on ad hoc basis, had prayed that the respondents be directed to set aside the impugned orders dated 21.4.1989 regarding termination of their services and that they may be deemed to be in service as if no such orders had been issued. They had also sought for regularisation in the post of Peons as they had been working against regular vacancies which still existed.

2. After hearing the learned counsel of both parties

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and going through the records of the case, the Tribunal disposed of the application with the following observations:-

" In the light of the above, we are of the opinion that the termination of the services of the applicants by the impugned order dated 21.4.1989, cannot be faulted on the ground that the applicants had not been given any show-cause notice before such termination. The reason is that the respondents never intended to act upon a list of candidates purported to have been sent by the Employment Exchange which, in fact, turned out to be a fake one. The applicants have stated in the application that there are vacancies in the posts of Peon in the office of the respondents. They have also stated that their names have been registered with the Employment Exchange. In view of this, we direct that the respondents shall verify the fact of the registration of the applicants with the Employment Exchange and consider them also for appointment as Peons in the existing or future vacancies along with other candidates sponsored by the Employment Exchange and appoint them as Peons if they are otherwise found to be suitable for such appointment and if, on verification, the respondents are satisfied that the applicants were in no way responsible for their initial appointment as Peons on the basis of the fake communication from the Employment Exchange".

3. When the main OA 858/89 came up for hearing on 24.4.1989, the Tribunal had passed an ex-parte interim order to the effect that the impugned order dated 21.4.1989 shall not be given effect to in respect of the applicants provided that there were vacancies in the post of Peon.

4. The petitioners have stated that the interim order passed by the Tribunal was brought to the notice of the respondents but they did not implement the same. The petitioners have, therefore, prayed for initiating contempt proceedings against Shri J.S. Baijal, Secretary, Planning Commission for having committed Contempt of Court.

5. Shri J.S. Baijal has filed a reply-affidavit on 1.8.1989 wherein he has stated that he retired on 30.6.1989 and was no longer concerned with the subject. He had received a copy of the notice of contempt on 4th July, 1989, which was

after his retirement.

6. In MP 890/89 which was filed on 15.11.1989, the petitioners have prayed for a direction to be issued to the respondents to allow them to join their duties as Peons in implementation of the Tribunal's judgment dated 9.3.1989.

7. We have gone through the records of the case carefully and have considered the rival contentions. The interim order passed by the Tribunal on 24.4.1989 has merged with the final order passed on 9.3.1989. The Tribunal has held that the termination of the services of the petitioners by the impugned order dated 21.4.1989 cannot be faulted. In the circumstances, it cannot be said that the respondents can be hauled up for having committed Contempt of Court. It would have been a different matter had the petitioners succeeded in the main application, which is not so in the instant case.

8. As regards the prayer contained in the MP, it is for the respondents to take a decision in the matter as is clear from the directions in para 9 of the judgment, which is as under:-

".....The respondents shall verify the fact of the registration of the applicants with the Employment Exchange and consider them also for appointment as Peons in the existing or future vacancies along with other candidates sponsored by the Employment Exchange and appoint them as Peons if they are otherwise found to be suitable for such appointment and if, on verification, the respondents are satisfied that the applicants were in no way responsible for their initial appointment as Peons on the basis of the fake communication from the Employment Exchange".

9. It will be noticed from the aforesaid observation

~~that the~~ appointment of the petitioners as is

Peons subject to verification and satisfaction by the

respondents of certain conditions mentioned above. In case the petitioners feel aggrieved by their non-appointment as

Reons, the issue cannot be raised in the form of a Misc. Petition after the main application itself has been disposed of by judgment dated 9.8.1989. The petitioners may, if they are so advised, file a fresh application in the Tribunal in accordance with law. In our opinion, MP 890/89 is not maintainable in its present form.

10. Accordingly, CCP 99/89 is dismissed and the notice of contempt is discharged. MP 890/89 is also disposed of with the aforesaid observations.

There will be no order as to costs.


(D.K. CHAKRAVORTY)
MEMBER (A)
14/9/1990


14/9/90
(P.K. KARTHA)
VICE CHAIRMAN (J)