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25/8/93

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

CCP 7/93 in

OA 356/89

Date of decision: 24.8.1993.

H.J. Irani & Ors. ... Petitioners.  
(CCP by Harish Basnotra)  
Vs.

Shri J.N. Dixit,  
Foreign Secretary,  
Ministry of External Affairs, \*\*\*  
New Delhi. Respondent.

CORAM:

HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.

HON'BLE MR. S.R. ADIGE, MEMBER (A).

For the petitioners .. Shri D.C. Vohra, counsel.

For the respondents .. Shri N.S. Mehta, Sr. Standing  
counsel.

JUDGMENT (ORAL)

(By: Hon'ble Mr. Justice V.S. Malimath, Chairman)

In this Contempt of Courts case, there is a grievance that the judgment of the Tribunal in OA 356/89 has not been fully complied with. The same complaint was examined by us earlier and an order was passed on 5.7.1993 wherein we indicated that the only thing that survives to be done by the respondents is to designate or name the post in which the petitioners have been absorbed in Government service. The respondents have produced a copy of the order dated 3.8.1993 with its annexures. It is clear from the same that each of the ITDC employees who have been absorbed has been given appropriate designation in column No.3 to the annexure. The relevant direction which is one contained in paragraph 17 of the judgment which says that after the applicants have been absorbed formally in regular posts,

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in case they feel aggrieved, they will be at liberty to file a fresh application in the Tribunal in accordance with law, if so advised. The complaint is that the absorption is not in regular posts. It is necessary to advert to what is stated in paragraph 16 of the judgment wherein it is stated that "we also would commend to the respondents to appoint an Expert Committee in which a representative of the ITDC should be included, to take a final decision on the equivalence of posts held by each employee in the ITDC with a Govt. post in which he could be absorbed formally on regular basis." It is in this exercise that was undertaken which has resulted in the order being passed on 3.8.1993. In the order, it is stated that several ex-cadre posts have been created in which the petitioners have been appointed whose designations have been given in the annexure. Shri Vohra, learned counsel for the petitioners, contended that what was required to be done was to fit the petitioners in the existing regular posts in service and what has been done is to create new posts as ex-cadre posts. According to him, it is not permissible. It is very difficult to accede to this contention. If the respondents had not done so, there would have been difficulty in absorbing the petitioners. It is, therefore, that the Govt. was required to examine how best the petitioners could be absorbed in regular posts. That could be done by creating ex-cadre posts. They have passed orders accordingly. Hence, it is very difficult to accede to the contention of the learned counsel for the petitioners that the respondents could not have absorbed the petitioners by creating ex-cadre posts nor is it possible to accede to the contention that the

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respondents were not entitled to choose designations which are not in which the petitioners were absorbed on par with the designations which are existing. Having regard to the nature of the duties required to be performed and the experience of the petitioners, the respondents were entitled to choose the appropriate designations to the work to be assigned on absorption in regular service. The posts created are regular posts. The absorption of the petitioners being in regular service, there is no infringement of the order of the Tribunal.

2. Our attention was drawn to the conditions subject to which the absorptions in the ex-cadre posts have been made, by an order dated 3.8.1993. They are the following:-

- (i) These posts stand abolished as and when natural wastages occur.
- (ii) In case Akbar Bhavan is handed back to ITDC, these employees would be reverted to the ITDC.
- (iii) The designations given to them will be personal to each ex-ITDC employee till he/she is in the service of the Ministry of External Affairs.

It was urged that these conditions would really adversely affect the absorption of the petitioners in regular service. It was, therefore, contended that the order of absorption cannot be regarded as having been made consistent with the judgment of the Tribunal. We must bear in mind that having regard to the human problem involved and the equities consequent upon the closer of the Akbar Hotel, the Court thought it proper to issue directions which it considered just, fair and equitable. It is in this background that we have to under-

the stand the order of the Tribunal and action taken by the respondents.

3. The first condition is that these posts would stand abolished as and when natural wastage occur. We fail to see how this condition harms any of the petitioners in this case. As and when the posts occupied are vacated by retirement, resignation, death or the like cause, the posts held by the petitioners would stand abolished. In other words, the incumbents are not affected by this unequitable condition. This is eminently a just condition particularly when it does not affect the interests of the petitioners in any manner.

4. The second condition says that these employees would be reverted to the ITDC. We must bear in mind that the petitioners were employees of the ITDC and did not have any inherent right to become regular servants under the Government of India. As an equitable measure, an attempt was made to give them alternative employment in government service. They were initially under the Akbar Hotel. If that is revived by handing over the same to the ITDC, the direction that the petitioners will go back to the ITDC is eminently just which cannot be regarded as inconsistent with the direction of the Tribunal.

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5. The third direction is that the designation given to the petitioners will be personal to each ex-ITDC employee till he/she is in the service of the Ministry of External Affairs. This again does not affect the petitioners in any manner as long as they are in the service of the Ministry of External Affairs. Hence, there is nothing unreasonable in this direction either.

6. This petition fails and is, therefore, dismissed without prejudice to the rights of the petitioners to agitate their rights in accordance with law, if necessary, as observed in paragraph 17 of the judgement of the Tribunal.

*Arifolga*  
(S.R. ADIGE)  
MEMBER (A)

*Malimath*  
(V.S. MALIMATH)  
CHAIRMAN

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