

Central Administrative Tribunal  
Principal Bench

CP 290/96  
in  
O.A. 1991/91

(21)

New Delhi this the 25<sup>th</sup> day of September, 1997

Hon'ble Smt. Lakshmi Swaminathan, Member(J).  
Hon'ble Shri K. Muthukumar, Member(A).

1. Jagdamba Prasad S/o Shri Ram Anant
2. Ramhit S/o Shri Jagdhar
3. Lalta Prasad S/o Motilal
4. Mevalal S/o Vishram
5. Shyamsunder S/o Hublal
6. Bachain S/o Chaterdhari
7. Kailash Ram S/o Dubbarram
8. Gopinath S/o Kalicharan
9. Shyamlal S/o Rajnarayan
10. Ramlal S/o Chignu
11. Chainu S/o Chota
12. Narsingh S/o Raimal
13. Kuwarpal S/o Tugal
14. Bhaani S/o Swarupa
15. Shivkumar S/o Singaru
16. Sukhpal Singh S/o Manphool

(All petitioners C/o PWI (C),  
Northern Railway, Tuglakabad,  
New Delhi).

... Petitioners.

By Advocate Shri D.N. Goverdhan.

Versus

1. Shri Budh Prakash,  
Chief Engineer,  
Northern Railway,  
Kashmere Gate,  
Delhi.
2. Surender Singh,  
Dy. Chief Engineer,  
Northern Railway,  
Patel Nagar,  
New Delhi.
3. Shri Zora Singh,  
PWI (C), Northern Railway,  
Tuglakabad,  
New Delhi.

...Contemners.

By Advocate Shri P.S. Mahendru.

ORDER

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

This contempt petition (CP 290/96) has been filed  
by the petitioners alleging that the respondents have  
committed contempt of the order of this Tribunal dated

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6.1.1992 in O.A. 1991/91. They have also prayed that the petitioners' services be regularised and a direction may be given to the alleged contemnors forthwith, to make them to pay the wages of the petitioners at Tuglakabad, ~~and~~ to restrain them from transferring or sending the petitioners to any other place ~~and~~ to pass further order/orders as ~~be~~ deemed fit.

2. The petitioners had filed an earlier CP 213/95 on 20.3.1995. The Tribunal in its order dated 16.10.1995 had noted that the contempt petition appears to be barred by limitation. The learned counsel for the petitioners had sought to argue the case and to file certain documents. However, on 8.11.1996, CP 213/95 was dismissed for default and non prosecution. M.A. 2414/96 was later filed by the petitioners for restoration. Shri Goverdhan, learned counsel for the petitioners, submits that he is no longer pressing that M.A. in view of the subsequent CP 290/96.

3. The Union of India had filed an SLP in the Supreme Court against the order of the Tribunal dated 6.1.1992 in O.A. 1991/91. The Supreme Court by order dated 8.4.1994 dismissed the SLP filed by the Union of India except for a slight modification with regard to the direction of the Tribunal pertaining to declaration of the Headquarters of the respondent employees/workers. CP 160/94 filed by the petitioners was also dismissed by the Hon'ble Supreme Court by order dated 23.1.1995. In the contempt petition, the petitioners had alleged that the respondents have not at all reassessed the requirements at Jind and they could have been accommodated at Jind itself. They had referred to doubling of the Railway lines,

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plat-forms, etc. and had stated that the respondents had, therefore, committed contempt as no materials have been filed to show as to what steps they have taken as per directions of the Tribunal. They had also alleged that the petitioners could not have been sent to Jodhpur as the order of the Tribunal was only to nearby place if there was no work at Jind. They have also stated that Jind was the place where they were to be regularised and thus pending regularisation they had to be paid TA/DA and wages from Jind. They had, therefore, prayed that the respondents ought to be punished severely and be sent to prison for deliberately disobeying the order. The Apex Court in the order dated 23.1.1995 dismissing CP 160/94 have stated as under:

"Having perused the affidavits that have been filed on behalf of the respondents, we are satisfied that the directions given under the Orders of this Court have been fully complied with. In the circumstances, no further action is called for and the proceedings are dropped.

Contempt notices are discharged"

Thereafter, the petitioners have filed CP 290/96 on 5.12.1996. It is seen from a perusal of CP 290/96 and CP 213/95 which has been dismissed, that paragraphs 1-10 of the two petitions are identical. In both the petitions, the petitioners have impugned respondents' order dated 11.2.1995 transferring some of the petitioners to Jodhpur. In CP 290/96, the petitioners have stated that in CP 213/95 they had filed contempt against the orders dated 5.8.1995 and 11.2.1995 and they have stated that when the respondents have realised their mischief, the applicants were transferred back to Jind by order dated 26.9.1996. This, according to them is <sup>not</sup> in compliance with the order

passed by the Tribunal. They have also stated that the office of the Jind Headquarter is now at Tuglakabad where the entire operation is being carried out. They have also stated that while other petitioners have been made permanent and their services have been regularised, the petitioners have still not been regularised. In the affidavit filed by the petitioners dated 5.5.1997, they have alleged that there was an order of the respondents to absorb them in Delhi Division by the superior authorities, yet the alleged contemnors were defying the orders of the superiors, apart from the judgement and order of the Tribunal to absorb them in Delhi Division and by this also they have committed contempt. The petitioners have also stated that the main issue in the contempt is that the petitioners have not been paid after joining their duties at Tuglakabad and have not been allowed to continue there. The learned counsel relies on the judgements of the Supreme Court in **Kedar Nath Vs. UOI** (1995(6) SLR 210), **Surendra Nath Kapoor Vs. Union of India** (1989 (Suppl) (2) 297), **Tapan Kumar Mukerjee Vs. Heromoni Mondal** (1991(1) SCC 397) and **M.L. Sachdev Vs. Union of India** (1991(1) SCC 605).

4. The respondents have filed their reply to the contempt petition in which they have submitted that the CP 290/96 is not maintainable as — they have not committed any contempt, as alleged, against the order of the Tribunal dated 6.1.1992 passed in O.A. 1991/91. They have also submitted that since the doubling project of Rohtak-Jakhal has since been completed, all the staff and labour have been shifted to other places where the work was available. They have also submitted that on reporting at Tuglakabad, the petitioners have been directed to resume duty under the

Deputy Chief Engineer (Northern Railway), Jodhpur but the petitioners have refused to accept the letter and free Railway pass for journey from Tugalakabad to Jodhpur on 25.10.1996. During the hearing, Shri Goverdhan, learned counsel has also stated that ultimately what the petitioners are aggrieved is the order of the respondents transferring them to Jodhpur in September, 1993 which place cannot be considered as near Jind, as ordered by the Tribunal on 6.1.1992 as it was about 1400 Kms. away. (25)

5. We have carefully perused the records and considered the submissions made by the learned counsel.

6. Firstly, we have to note that the contempt petition (160/95) which had been filed by the petitioners has been dismissed by the Hon'ble Supreme Court on 23.1.1995 after perusing the records. CP 213/95 has also been dismissed in default on 8.11.1996. The petitioners have alleged in this contempt petition that the respondents have committed a fresh contempt as it is a fresh cause of action. If so, this application is barred by limitation u/s 20 of the Contempt of Courts Act, 1971 read with Sec. 17 of the Administrative Tribunals Act, 1985. The applicants have also claimed further directions to pay them wages at Tuglakabad while they say they have been transferred and be allowed to continue there.

7. In view of the facts and circumstances of the case, this contempt petition is not maintainable and is an abuse of the process of the court, inasmuch as the previous contempt petitions filed before the Hon'ble Supreme Court and the Tribunal have already been dismissed. In J.S.


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**Parihar Vs. Ganpat Duggar & Ors.** (JT 1996(9) 13)

the Supreme Court has held that afresh direction by the learned single judge cannot be given to redraw the seniority list after reexercising the judicial review in contempt proceedings. In this case, the contention of Shri Goverdhan that the respondents have not assessed the work at Jind before posting the petitioners to other places cannot be accepted at this stage in view of the order of the Supreme Court dated 23.1.1995. It is also relevant to note that some of the petitioners were shifted to Jodhpur in September, 1993, that is, many years before this contempt has been filed and on this ground also the contempt petition is not maintainable. In the facts and circumstances of the case, no further directions can be given as prayed for by the petitioners in the contempt proceedings. The decisions relied upon by the learned counsel for the applicants will also not assist them to issue fresh directions to the respondents now.

6. For the reasons given above, CP 290/96 is dismissed. In the circumstances, no further action is called for, the notices issued to the respondents are discharged and these proceedings are dropped. No order as to costs.

  
(K. Muthukumar)  
Member (A)

  
(Smt. Lakshmi Swaminathan)  
Member (J)

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