

⑨ 2/10/92
In the Central Administrative Tribunal

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Principal Bench: New Delhi

CCP No.197/92 in Date of decision: 20.10.1992.
OA No.953/91

Suresh and Others ...Petitioner

Versus

Raja Mani, Secretary, Ministry of Environment
and Forest & Anr. ...Respondents

Coram:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman
The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioners Kanwar C.M. Khan, counsel.

For the respondents Shri M.K. Gupta, proxy
counsel for Shri Satish Seth,
counsel.

Judgement(Oral)
(Mr. Justice V.S. Malimath, Chairman)

The complaint in this case is that the directions of this Tribunal in OA-935/91 have been wilfully disobeyed by the respondents. The direction in the judgement is to engage the petitioners as casual labourers as long as there is need for engagement of casual labourers in preference to the persons with lesser length of service and outsiders. Though some complaint was made in regard to the tenders invited the Tribunal did not express any opinion in regard to the validity of the same.

But it has observed that in case any contractual

arrangement is proposed to be entered into, the respondents shall exclude from the scope of the contract, the work which had been handled by the applicants in the National Zoological Park. If these directions are disobeyed, the petitioners would be justified in requiring us to take appropriate action against the respondents under the Contempt of Courts Act.

2. The petitioners have stated that tenders were invited for doing the very same work which they were doing, which act is contrary to the directions of the Tribunal. The reply of the respondents is that the tender was not for securing the service for getting work which the petitioners were doing in the Zoo. It is their case that new buildings were constructed in the Zoological Park premises and it became necessary for getting the sanitation and toilet cleaning work in respect of those buildings. They were constructed after June, 1992 whereas the judgement of the Tribunal was rendered on 21.1.1992. It is, therefore, clear that what is contemplated in the judgement of the Tribunal is the work which was already being done before the judgement was rendered. It obviously had nothing to do with the new work that would come into existence on account of future activities by the Zoological

Authorities. There is no good reason to disbelieve the version of the respondents that the buildings in respect of which sanitation and toilet cleaning work is sought to be done through the contractors were constructed long after the judgement was rendered. If that is so, it is obvious nothing that has been said in the judgement would come in the way of the respondents to getting new type of work done by giving the said work on contract basis in respect of getting that work done by engaging the employees by the Zoological Park authorities. It is, therefore, not possible to hold that the inviting of the tender is an act which can be regarded as wilful disobedience of the directions of the Tribunal.

3. There is another complaint of the petitioners that services of others either junior or outsiders have been regularised in clear violation of the Tribunal. The first reference in this behalf is to the engagement of one Shri Tej Pal. It is necessary to bear in mind that the direction of the Tribunal is not to engage outsiders or juniors of the petitioners as casual labourers. The stand taken by the respondents is that there being no direction for regular appointment of the petitioners there is no injunction, restraining the respondents from resorting to filling up of

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the vacancies on regular basis. The stand taken by the respondents is that Shri Tej Pal was working earlier as Assistant Keeper on ad hoc basis from 1.6.1991 to 11.2.1992 and that on his name being sponsored for regular appointment by the Employment Exchange, a selection committee consisting of the Director of Zoo and three other responsible officers made the selection and appointed him in the regular post of Assistant Keeper for Nocturnal House. The direction of the Tribunal cannot be construed as restraining the respondents from filling up the vacancies on regular basis in accordance with law. What is prevented is of engagement of other casual labourers in preference to outsiders or juniors of the petitioners. The filling up of the regular vacancies in accordance with law is not prohibited. We are satisfied that the appointment of Shri Tej Pal being not as a casual labourer but on a regular basis by a selection committee constituted for that purpose, the conduct of the respondents cannot be regarded as amounting to violation of the orders of the Tribunal.

4. The other contention of the learned counsel for the petitioners is in regard to appointment of Shri Vishnu and Shri Hamid. Petitioners case is that these persons are outsiders and their

engagement is clearly in violation of the direction of the Tribunal. That S/Shri Vishnu and Hamid are outsiders is not disputed. The defence of the respondents, however, is that these two persons were appointed on compassionate grounds, they being the dependent children of the employees of the Zoological Park who died during harness. There are instructions of the Government bearing on the question which has given certain rights to the dependents of the deceased employees who die in harness in the matter of securing employment. The directions in the judgement cannot be regarded as having such sweeping effect of directing the authorities not to make compassionate appointment in accordance with the relevant instructions which are in force. It is necessary to point out that the Supreme Court has upheld the right of the dependents of the deceased Government employees for being employed on compassionate grounds. In some cases the Courts have gone to the extent of directing creation of post for the purpose of making appointment on compassionate grounds. There is nothing in the judgement of the Tribunal from which reasonable inference can be drawn that the respondents were directed not to obey the instructions in the matter of making appointment on compassionate

grounds. That being the position, we would not be justified in holding that appointments of S/Shri Vishnu and Hamid made on compassionate grounds on the ground that they are the dependents of the employees who died in harness are in violation of the direction of the Tribunal.

We, therefore, have no hesitation in holding that no case has been made out for taking action under Contempt of Courts Act. These proceedings are accordingly dropped.

I.K. Rasgotra
(I.K. RASGOTRA)
MEMBER(A)

V.S. Malimath
(V.S. MALIMATH)
CHAIRMAN

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