

In the Central Administrative Tribunal

Principal Bench: New Delhi

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CCP No.282/92 in

Date of decision:02.12.1992

OA No.429/91

Shri Moti Lal

...Petitioner

Versus

Shri H.P.Rao, Chief

Controller of Accounts,

Ministry of Finance

...Respondent

Coram:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman

The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner

Shri G.D.Bhandari, Counsel.

For the respondents

Shri K.C. Mittal, Counsel.

Judgement(Oral)

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

The complaint in this case is that the judgement of the Tribunal in OA-429/91 has not been fully complied with. The judgement directed that all the 9 applicants in the petition shall be accommodated as casual labourers in the Ministry of Finance till such time they are regularised in regular vacancies in Group 'D' posts in accordance with the relevant instructions. There is a further direction for the purpose of regularisation. The Ministry of Finance and its various departments/offices should be treated as a single unit and in case no vacancies exist in the Ministry of the Finance and the departments/offices

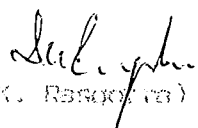
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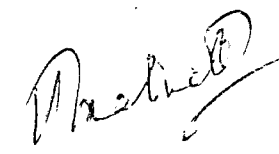
the applicants shall be considered for regularisation in the vacancies of Group 'D' staff in other ministries/departments/attached/subordinate offices. The petitioner's case is that though such regular vacancies did exist, regularisation has not been made in favour of the petitioner. In the reply filed by the respondent, it is stated that out of the 9 applicants in the O.A. five have already been regularised. One applicant Shri Sajjan Singh was offered the post but he declined to accept the same. They, however, state that there are further three vacancies in Delhi in the office of the Chief Controller of Accounts and that out of them one vacancy is reserved for the members of the scheduled tribe (ST) community. Therefore, that vacancy has not been offered. So far as the remaining two vacancies are concerned, it is stated in the reply that two seniormost casual labourers Shri Raj Kumar and Shri Sewa Ram have been regularised as peon w.e.f. 22.10.1992. There is no good reason to disbelieve the statement. The petitioner cannot claim regularisation, in preference to the persons who are seniors to him, as casual labourer.

2. Shri Bhandari, the learned counsel for the petitioner submitted that the petitioner, Shri Moti Lal is a member of the scheduled caste (SC) community. We have not been shown any satisfactory material in this behalf. Even assuming it is so, as the vacancy is reserved for the ST, it is not possible to take the view that the respondents can be regarded

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as having committed contempt because that vacancy has not been made available to the SC candidate or because they have not taken steps to convert the said vacancy into a vacancy for SC on the ground that for a long time ST candidate is not available. There is no specific direction bearing on this aspect of the matter in the judgement of the Tribunal. We are, therefore, satisfied that there is no vacancy in which the petitioner could have been regularised in the Delhi office. So far as the vacancies in other departments are concerned, the respondents were able to locate the same and offer them to the other applicants in the OA, including the present petitioner, Shri Moti Lal. He was offered regularisation in the post available at Pay and Accounts Office, India Security Press, Nasik Road but he has not accepted the said post. It is, therefore, clear that a bonafide attempt has been made to comply with the judgement of the Tribunal and to make available the post that was available for regularisation at Nasik. If the petitioner did not accept the same, we cannot say that the respondents have committed a contempt of Court. Hence we are not satisfied that no action under the Contempt of Courts Act is called for. These proceedings are accordingly dropped and the notice of contempt is discharged. No costs.


(T.K. Ranganathan)
Member(A)


(V.S. Malimath)
Chairman