

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

TUESDAY, THIS THE 8TH DAY OF OCTOBER, 2002

CIVIL CONTEMPT PETITION NO. 12 OF 2001.

IN

ORIGINAL APPLICATION NO. 146/96

HON. MR. S. DAYAL, MEMBER-A

HON. MR. A. K. BHATNAGAR, MEMBER-J

Prem Nath Tiwari,
s/o Ram Kishan Tiwari,
r/o 148-A,
Rasoolabad,
Allahabad.

.....Applicant.
(By Advocate:- Sh. Chandra Prakash)

Versus

Colonel

Colonel A.S.Chand,
Commandor Works Engineer,
Military Engineering Services (MES),
Behind High Court Building,
Allahabad.

.....Respondent.

(By Advocate:- Sh. A. Sthalekar)

O R D E R

HON. MR. S. DAYAL, MEMBER-A

This contempt petition has been filed
for proceeding against the respondent for wilful
dis-obedience of directions given in O.A No. 146/96
by order dated 12-9-2000.

2. By the said order, directions were given to
the respondent No. 3 to consider the representation
of the applicant in the light of Government order
mentioned above and to pass an order in accordance
with law within a period of three months from the
date a copy of this order is filed.

3. The respondents have filed a
counter reply in which reply was given to the applicant
after considering his representation dated 18-5-95.
It has been stated that the name of the applicant

had been forwarded for consideration to higher authorities by letter dated 8-6-1994, but the proposal was rejected by Ministry of Defence by letter dated 30-5-94. It has been stated that letter dated 26-11-1993 was issued by Engineer in Chief to initiate the cases of ~~XXXXXX~~ Casual Personnel to Ministry of Defence for considering regularisation. The direction given in the letter was to afford opportunity as vacancy or local recruitment sanction was released. It has been mentioned in the letter that no vacancy of Pipe Fitter had been released since the imposition of ban in 1986. It has also been mentioned that others who were given appointment were in different trades for which vacancies have been released.

4. The learned counsel for the respondents was asked to procure and place before us a copy of the said letter by which the case of the applicant had been forwarded under the said circular of 26.11.93. A supplementary counter reply in which he mentioned that the name of the applicant had actually been sent on 17-6-93 by Head Quarters of Commandar works Engineers, Allahabad to Chief Engineers, Lucknow Zone for regularisation of Casual Services rendered by industrial/non-industrial staff. A copy of this letter contained the name of the applicant in the category of Pipe Fitter at Sl. No. 1. The learned counsel for the respondents explained that another proposal had been sent on 8-6-94 in which names of individuals who had worked for 120 days and above at G.E's level was submitted in quadruplicate.

5. Learned counsel for the applicant states that the name of the applicant was not forwarded in letter dated 8-6-94. We have been shown the letter of Chief Engineer, Lucknow Zone, Lucknow addressed to CWE, Allahabad. This letter states that a copy of Engineer-in-Chief's Branch letter dated 26-11-1993 was enclosed for

necessary action and required the CWE, Allahabad to sent the names of Casual employees who ~~were~~ initially sponsored through employment exchange and had completed more than 240 days or even 120 days, to be afforded opportunity for appointment against existing vacancies as and when released for filling up locally. The CWE is required to offer proposal for obtaining Government sanction for regularisation of all left out casual personnel so as to reach this HQ by 25-11994.

6. We have considered the submissions of the learned counsel for the applicant and the reply given by letter dated 16-8-2001. Since the respondent has mentioned that no vacancy of Pipe Fitter had been released, ¹ ~~through~~ the case of contempt is not made out.

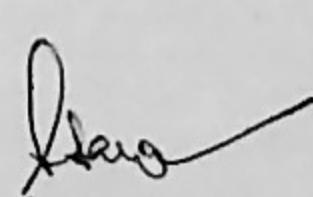
7. In case the vacancy of Pipe Fitter is released subsequently and the applicant is not considered, ~~to~~ the applicant will have the cause of action at that time for proceeding against the respondent in contempt.

8. We therefore, drop the contempt proceedings and discharge the notices issued.

9. The learned counsel for the applicant seeks liberty to challenge the reply dated 16-8-2001 sent his response to representation dated 18-5-1995 he may do so if he is so advised.


Member-J

madhu/


Member-A