

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

CIVIL CONTEMPT APPLICATION NO.126 OF 2004
IN
ORIGINAL APPLICATION NO.10 OF 1998

ALLAHABAD THIS THE 18TH DAY OF JULY 2006

HON'BLE MR. JUSTICE KHEM KARAN, V.C.
HON'BLE MR. P.K. CHATTERJI, A.M

1. Shyam Narain Shukla son of Shri Ramesh Chandra Shukla, P. No.103921, T. No.2646/T-I. O EFC.
2. Shri Qadir Ali Siddiqui, Son of Sri Sheesh Ali, P. No. 103369, T. No. 210/T-3 OEFC.
3. Raju Ahmad, S/o Sri Basheer Ahmad, P. No.103048, T. NO. 2642/T-1, OEFC.
4. Iqbal Shankar, S/o late Gurdyal, P. No.103922 T. No.2647/T-1 OEFC.
5. Shri Rajesh Kumar Kashyap, S/o lte Sita Ram, P. No. 105105, T. NO.1810/T-1 OEFC.
6. Anil Srivastava s/o late G.L. Srivastava, P. No.105114, T. No. 2312/T-2, OEFC.
7. Ameer Ahmad Ansari, S/o Sri Abdul Majeed Answari, P. No.103914, T. NO.2312/T-2, OEFC.
8. Shri Shatrughan Singh, S/o Sri Vasudev Singh, P. NO. 103378, T. NO.88/T-1, OEFC.
9. Vishwanath, S/o late Lala Ram, P. No.103552, T. NO.555/T-1, OEFC.
10. Pramod Kumar Yadav, S/o Sri Ram Prakash Yadav, P. NO. 105240, T. NO.147/T-1, OEFC.
11. Ravi Shankar S/o Sri Ram Baran, P. NO.103825, T. No.96/Qc. OEFC.
12. Shiv Bahadur Singh S/o late Ganesh Singh, P. NO. 102925, T. NO.197/QCOEFC.
13. Raram jeet Singh, S/o Narinder Singh, P. No. 103824, T. NO. 1884/T-1, Now P. NO. 052255, LDC/ITC, OEFC.

14. Sandeep Kumar S/o late Raja Ram Srivastava, P. NO.103826, T. NO. 33/TCs, OEFC.
15. Manoj Kumar Shukla, S/o Ram Naresh Shukla, P. NO.105811, T. NO.1991/T-2, OEFC.
16. Aman Kumar Saxena, S/o Ramesh Chandra Saxena, P. No.104644, T. NO.2221/T-2, OEFC.
17. Gulam Sadique S/o Mohd. Yaqoob, P. No. 102988, T. NO.44/QC, OEFC.
18. Anil Hasan, S/o Sri Ali Rajjak, P. NO.103823, T. NO.1883/T-1, OEFC.
19. Hemant Kumar Shaskar, S/o late Laxman Singh, P. NO.103557, T. NO.48/QC, OEFC.
20. Amar Singh S/o Sri Park Ram Singh, P. NO.103915, T. NO. 2638/T-1, OEFC.
21. Ram Saran Tripathi, S/o R.K. Tripathi, P. No.103594, T. NO.594/T-1, OEFC.
22. Radha Govind Mishra, S/o Ram Prem Sagar Mishra, P. NO. 103687 T. NO.1329/T-1, OEFC.
23. Ajai Kumar S/o Sri Girdhari Lal, P. NO. 103920, T. NO. 2645/T-1, OEFC.
24. Arun Kumar Mishra, S/o Shiv Kumar Mishra, P. No.105117, T. NO.190/QC, OEFC.
25. Robinson Villiam S/o late Shre Villion, P. No.103827, T. NO.1888/T-1, OEFC.
26. Laxmi Narain, S/o Sri Rati Bhan, P. NO.103086 T. NO.2640/T-1, OEFC.
27. Mohd. Masood Khan, S/o Mohd. Ahmad Khan, P. No.103917, T. NO.2641/T-1, OEFC.
28. Satish Kumar Dixit, son of Sri Surendra Narain Dixit, P. No. 103916, T. NO.2639/T-1, OEFC.
29. Lalji S/o Sri Ram Charan, P. No.103558, T. No.193/QC, OEFC.
30. Dashrath Lal S/o late Chootey Lal, P. No.103919, T. NO.2644/T-1, OEFC.
31. Ved Prakash Agnihotri, S/o Vhiv Kumar Agnihotri, P. No.105810, T. No.960/T-1, OEFC.

32. Vimal Kishore Tiwari, S/o Uma Shankar Tiwari P. No.104969, T. NO. 535/T-3, OEFC.

33. Rajendra Kumar Shukla, S/o Ram Chandra Shukla, P. No.105769, T. NO.194/QC, OEFC.

34. Shukh Lal s/o Sri Ram Autar, P. No. 105767, T. NO. 56/QC, OEFC.

35. Sanjay Srivastava, S/o M.L. Srivastava, P. NO.105765, T. NO.841/T-1, OEFC.

36. Smt. Ganga Arya, D/o Sri Deo Ram Arya, P. No. 103432, T. No.05/T-1, OEFC.

37. Gyan Prakash s/o Sri Kali Deen, P. No. 104967, T. NO.102/QC, OEFC.

38. Shri Munare S/o Ram Charan, P. No.105113, T. No.198/QC, OEFC.

39. Samod Kumar Srivastava S/o K.L. Srivastava, P. No. 104992, T. No.1435/T-2, OEFC.

40. Sudarshan Lal S/o Sri Devi Gulam, P. No. 104892, T. No. 1571/T-2, OEFC.

41. Abrarul Haqe S/o Sri Tolamul Haqe, P. No. 104993, T. NO. 271/T-3, OEFC.

42. Abdul Shahid Beg S/o Sri Abdul Samd Beg, P. No.052270 LDC/& E, OEFC.

43. Arun Kumar Mishra S/o Sri R.D Mishra, P. No.103370 T. No.40/T-OEFC.

44. Rajendra Kumar Srivastava S/o G.L. Srivastava, P. No. 105499, T. No.2279/T-1, OEFC.

45. Anand Kumar Dubey S/o Rama Kant Dubey, P. No.105116, T. No. 191/QC, OEFC.

46. Siddh Nath Tiwari S/o Sri Babu Ram Tiwari, P. No.103555, T. No.559/T-1, OEFC.

.....Applicants

(By Advocate : Sri L.M. Singh)

Versus

M.S. Gopala-Swami,

General Manager, Ordnance Equipment Factory,
Civil Lines, Kanpur.

.....Respondents

(By Advocate : Sri A. Mohiley)

O R D E R

By HON'BLE MR. JUSTICE KHEM KARAN, V.C.

Heard Sri L.M. Singh counsel for the applicant and Sri A. Mohiley counsel for the respondents.

2. The applicants, who are 46 in numbers, filed O.A. No.10/98 claiming the benefit given to the applicants in O.A. No.154/1992 decided on 18.3.1997. This Tribunal disposed of the applicants' O.A. vide order dated 29.4.2004. The relevant portion of this order is as under:

"The fact that the applicants are similarly circumstanced as the applications of O.A No.154/92 is not disputed in the counter. In the circumstances, therefore, we dispose of the O.A. with the direction to the competent authority, respondent No.3 to consider and decide the applicants' representation in respect of their claim for skilled grade of Rs.260-400 on completion of 2 years of training and other benefits after taking into consideration the judgment of the Tribunal rendered in the aforesaid O.A. (154/92) within a period of four months from the date of receipt of a copy of this order. The O.A. is disposed of accordingly with the liberty to the applicants to file a fresh representation alongwith the copy of this order. No order as to costs."

3. It appears that respondents considered the representation of the applicants and rejected it vide order dated 31.7.2004, copy of which is Annexure 6. Respondent No. 3 has rejected the claim of the applicants on the ground inter-alia that they were coming after lapse of several years and also after availing the benefit of 4th and 5th Pay Commissions. It was also stated in this rejection order that applicants were promoted to the Skilled Grade after they were declared successful in the prescribed trade test.

4. The contention of the applicant's counsel is that, in fact, the Authorities concerned, who passed this rejection



order sat over the direction of this Tribunal given in O.A. No.10/98. He says that the claim of the applicants could not have been rejected on the ground of latches or on the ground that limitation had expired. Learned counsel for the applicants submits that it was not for the Authority concerned to enter into the question of limitation once this Tribunal had issued a direction and in compliance of this, they had to pass the order. Learned counsel has also contended that where the Authorities have wilfully disregard positive directions of this Tribunal, there is a *prima facie* case for proceeding against the contemnor. Learned counsel has referred to ***Sudhakar Mahadeorao Kawale Vs. State of Maharashtra and another, 1994 CRI, L.J. 735, Shafi Ahmed Khudabux Kazi and others Vs. Hashmatbi Hajjumiya Mogal, AIR 1997 Bombay 260 and Lalith Mathur Vs. L. Maheswara Rao (2000) 10 Supreme Court Cases 285*** to support his submission that where the Authority has wilfully disregard or disobeyed the positive directions of the Court, the case for contempt is there.

5. On the other hand, learned counsel for the respondents has submitted that direction of this Tribunal was to consider the representation of the applicants in the light of the decision given in the O.A. 154/92 and there were no positive direction to give the benefit so claimed in the representation. He says that in the facts and circumstances appearing in the case, the Authority has come to the conclusion that the benefit claimed by them cannot be given to them. Learned counsel for the respondents has also submitted that in case the applicants were not satisfied with the order on their representation, they were to agitate the matter by filing another O.A. and there was no justification for launching the contempt proceeding. He says that in a case where the Authority concerned has, in compliance of the direction of the Tribunal, considered the matter and has given decision, it cannot be said that he has wilfully disobeyed the directions of the Tribunal.



According to him, contempt proceedings should be dropped and notices ~~issued~~ discharged.

6. We have considered the respective submissions, in the light of the facts and circumstances placed on record, we are of the view that no case for wilful disobedience is *prima facie* made out so as to proceed further against the respondents. The Authority concerned was directed to consider the representation in the light of the directions given in O.A. No.154/92 and it did consider and rejected the same for reasons disclosed in the order. Whether the representation has rightly been rejected or wrongly rejected, can not be the subject matter of these contempt proceedings but could be assailed in some other proceedings. So the contempt proceedings are dropped and notices discharged. If the applicants are aggrieved of that order, they are free to assail the same before the appropriate forum.

Manish/-

Member-A

Om
Vice-Chairman.

Manish/-