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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Civil Misc. Application No. 2111 of 1994

In

Original Application No. 61 of 1992

THIS THE 16th DAY OF NOVEMBER, 1994

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. S. DAS GUPTA, MEMBER (A)

Tirath and Ors

.... Applicants

Versus

Union of India and Ors

.... Respondents

Misc. Application On behalf of

1. Ram Lekhan s/o Kanhai, r/o village Ekla No.2, Post Ghulzaria Bazar, District Gorakhpur
2. Prahlad s/o Bhagirathi alias Ramdin r/o village Ekla No.2, Post Ghulzaria Bazar, district Gorakhpur
3. Ramanand s/o Dashrath, r/o village Olhanpur, District, Saran (Bihar)
4. Ramgaya s/o Bhagwan Lal, s/o village Saidpur, Post Naraw, District Saran (Bihar) Applicants

BY ADVOCATE SHRI V.N. DHAVALIKAR

Versus

1. The Union of India through the General Manager, North Eastern Railway, Gorakhpur
2. The Town Engineer, North Eastern Railway Gorakhpur.

.... Respondents

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ORDER

JUSTICE B.C. SAKSENA, V.C.

We have heard Shri V.N. Dhavalikar learned counsel for the applicants. This application has been filed purportedly under the provisions of Rule 26 of the Central Administrative Tribunals Rules.

2. The applicants have earlier filed an O.A.61/92 alongwith 53 other applicants seeking direction in a ~~matter~~ nature of mandamus to publish the panel as per screening test to absorb the applicant in regular basis in the establishments they were working. The said O.A.No.61/92

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was decided

by an order passed on 27.8.92. The operative portion of the order of this Tribunal directed the respondents "to subject the applicants to medical fitness test and absorb such of those found medically fit in the existing vacancies, of General, Scheduled Caste or Scheduled Tribes vacancies. Respondents may complete the exercise of medical examination and regularise the services of the applicants found fit in the vacancies indicated as above"

3. The applicants therein have sought the benefit of screening test held on 29.8.88, 30.8.88 and 12.9.88. Through this application it is alleged that the respondents are acting in an arbitrary and fancyful manner and they have made a number of appointments from amongst the applicants of the said O.A by pick and chose policy. The applicants also subsequently filed an affidavit enclosing therewith copy of a notice dated 2.12.92 issued by the Deputy Chief Engineer Gorakhpur Region. Through this notice it was indicated that pursuant to the decision of this Tribunal dated 27.8.92 in O.A 61/92 the applicants therein are being informed that as and when vacancies will occur after completing the necessary formalities according to their seniority position they would be appointed/absorbed. By the said notice also the applicants of the said O.A were required to submit the following papers;

- (i) working certificate
- (ii) Certificate showing that he belonged to SC issued by the Competent Authority
- (iii) Proof of date of birth
- (iv) Identity card alongwith photo certified by the District Magistrate.

In the subsequent affidavit the applicants alleged that they have complied with the directions ^{viz} furnishing the documents

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in question.

4. The applicants have prayed that the Tribunal be pleased to make such order or give such directions expedient to give effect to its order dated 27.8.92 in O.A. No. 61/92. A further prayer is that the respondents be directed to absorb the applicants on regular basis in existing vacancies of General, S.T. and S.C with immediate effect.

5. As noted hereinabove, this misc. application has been filed purportedly under the Provisions of Rule 24 of the Central Administrative Tribunal Procedure Rules 1987.

6. Rule 24 is as under:

Orders and directions in certain cases

The Tribunal may make such orders or give such directions as may be necessary, or expedient to give effect to its orders or to prevent abuse of process of law or to secure the ends of justice.

7. The learned counsel for the applicant was unable to indicate that any abuse of the process of law of the Tribunal has occurred by reason of the notice annexed alongwith the subsequent affidavit. He urges that under Rule 24 the Tribunal can give directions as may be necessary or expedient to give effect to its orders. Undoubtedly, Rule 24 is in the nature of a discretionary power. In every case it has to be seen whether any direction sought for through the application under rule 24 is necessary or expedient to give effect to the orders of the Tribunal.

Section 27 of the Administrative Tribunal's Act 1985

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provides that subject to the other provisions of the act and rules the order of the Tribunal finally disposing of an application or an appeal shall be final and shall not be called in question in any court (including High Court) and such order shall be executed in the same manner in which any final order of the nature referred to in clause (a) of sub-section (2) of Section 20 (whether or not such final order had actually been made in respect to the grievances of the application relates would have been executed). Besides the aforesaid provision, in the event of non compliance and disobedience of the directions of the Tribunal proceedings under the contempt of courts act can also be taken. The order in the O.A was passed on 27.8.92. The application under Rule 24 was filed almost after a lapse of 2 years. There is no knowledge whether any proceedings under the contempt of courts act were initiated. The notice issued by the respondents clearly is in furtherance of the order passed by the Tribunal. The applicants have not indicated that any vacancy has occurred against which they can be regularised. They have also not indicated that chance for regularisation/absorption according to their seniority position has also become available. In the absence of any such pleading we are not inclined to give directions sought for. There is no material before us to satisfy us that it is necessary or expedient that directions be issued to give effect to the order passed by the Tribunal or to prevent abuse of process or to secure the ends of justice. The question of limitation and other circumstances would be relevant in exercise of the discretionary power conferred under Rule 24. Some larger questions will also arise which we leave to be

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decided in some other suitable proceedings. The question is whether after the final disposal of the O.A, through a misc. application in the O.A the Tribunal can be required to enlarge the relief already granted in the O.A. The other question would be whether an application under Rule 24 would at all be maintainable after a final disposal of the O.A. However, in the facts and circumstances as noted hereinabove, there is no merit in the application and the same is rejected summarily.

WR
MEMBER(A)

B. Chakravarthy
VICE CHAIRMAN

Dated: Nov: 16 1994

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