

Reserved:

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...

Civil Contempt Petition No. 1208 of 1993

IN

O.A. No. 480 of 1992

S.K. Singh and others Petitioners.

Versus

Om Prakash and another Opp. Parties.

...

Hon. Mr. S. Das Gupta, A.M.

Hon. Mr. T.L. Verma, J.M.

(By Hon. Mr. S. Das Gupta, Member(A))

This contempt petition has been filed for alleged violation of the directions contained in this Tribunal's order dated 15.4.1993 (Annexure-A 4).

2. This contempt petition has a history of repeated litigation behind it. The petitioners who are Assistant Drivers(Electrical) had earlier filed O.A. No. 267 of 1991 which was disposed of by the Tribunal's order dated 25.3.1991 with the directions to the respondents to prepare and finalise a seniority list of Assistant Drivers(Electrical) in the division within a period of 3 months. The respondents did prepare a seniority list but the same was again challenged in O.A. No. 480 of 1992 which was disposed of by the order dated 15.4.1993 with a directions contained therein. The relevant direction is reproduced below;

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"Accordingly we allow this application holding that the present seniority list shall standquashed and the respondents shall prepare a fresh seniority list in accordance with the directions already given by us in ~~on~~ the cases T.A.No.246/87,T.A.No. 249/87, T.A.No. 250/87 and T.A. No. 251/87 referred to above. So far as the seniority is concerned, there is nothing wrong if there is one cadre. Then a combined seniority list is to be published and from the combined seniority list it will be known as to who is senior in the cadre of Assistant Electrical Driver and that cannot create confusion of any difficulty With the above observations, the application stands disposed of finally and a fresh seniority list be prepared within a period of 3 months from the date of communication of this order in accordance with the directions given in the cases referred to above."

3. We have heard the counsel for both the parties at length and also carefully perused the pleadings of the parties which are quite voluminous.

4. The contention of the petitioner is that the direction contained in the order dated 15.4.1993 has not been complied with by the respondents. The respondents, on the other hand, have averred in their counter affidavit that they have implemented the decision of the Tribunal in the light of their own understanding of the same and have even stated that incase there has been any lapse on their part, they tender unconditional apology. The

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point for consideration, therefore, is whether there has been any violation of the direction contained in the Tribunal's order dated 15.4.1993.

5. The said direction indicates that the fresh seniority list is to be prepared in accordance with the direction given in the cases T.A. No.246 of 1987,249/1987,250/1987 and 251 of 1987. A copy of the order of this Tribunal dated 30.7.1992 in the aforesaid transfer applications is annexed to the affidavit sworn by Sri Om Prakash on 10.1.1994.

On a careful perusal of this order, it would appear that the Tribunal was of the view that there was no separate cadre of Assistant Electrical Drivers. The relevant observation is extracted below;

"In view of the fact that there was only one cadre as has been held by us and those who were working in the three lines were a part of the same cadre and their seniority could not be changed taking them as members of different cadre, even then their promotions were made from different lines and their pay scale were changed. This fact has already been observed in T.A. No. 248/1987 (Sant Raj and others Vs. Union of India and others). The date of appointment to the post of Assistant Driver (Electrical) Diesel and not be taken for seniority in the Shunter Grade because the seniority in that grade can only be on the basis of seniority on the grade of Fireman B and C."

6. In compliance of this Tribunal's order dated 15.4.1993, the respondents have issued a seniority list on 7.10.1993, a copy of which is at Annexure- A 2 to the counter affidavit. This seniority list is a combined seniority list of Fireman Grade-I, Diesel Assistant and Assistant Electrical Drivers. Their seniority has been



assigned on the basis of the date of holding of the respective posts. The learned counsel for the petitioner strenuously argued that preparation of the combined seniority list has been in gross violation of the Tribunal's order since according to its direction, there should have been a seniority list only of the Assistant Electrical Drivers. The learned counsel for the respondents, however, argued that there is no such directions contained in the order of the Tribunal.

7. We have already extracted the relevant observations made in the order dated 30.7.1992 in transfer applications. This would tend to indicate that there was no separate cadre of Assistant Electrical Drivers and it is a combined one with the other lines. Since the Tribunal's order dated 15.4.1993 directed that the seniority list shall be prepared in accordance with the directions contained in the order dated 30.7.1992, there does not appear to be any violation of the Tribunal's order by preparing a combined seniority list. There has, no doubt, been some delay in issuance of the seniority list which was directed to be prepared within 3 months from the date of communication of this order dated 15.4.1993 but the respondents have satisfactorily explained the reasons for the delay.

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8. On a careful analysis of the arguments advanced by both the parties and the pleadings contained in the petition and the affidavits, we cannot, but come to the conclusion that there has been no wilful disregard of the Tribunal's order dated 15.4.1993 by the alleged contemnors. Infact, they have gone to the extent of tendering unqualified apology in case, there has been any lapse on their part. We, cannot, therefore, held the respondents guilty of any contempt of court.

9. Having said above, it is necessary to say that the real controversy would appear to be the interse seniority between the petitioners and those who have been brought over to the Electrical Line from the other ^{streams} streets. This is a separate issue which has not been decided in this Tribunal's order dated 15.4.1993. However, the seniority list of 7.10.1993 is a provisional one and it has been stated therein that the persons in the seniority list are free to represent against the seniority position assigned to them. In view of this, it would appear that the best course of action would be that the petitioners, in this case filed a representation if they have any grievance regarding their position in the seniority list and after disposal of the representation, if they still have any

grievance they could approach a proper forum,
on a fresh cause of action.

10. With the above observations, the contempt
petition is dismissed. The notices already
issued are discharged.


Member(J)


Member(A)

Dated: 29 June, 1994
(n.u.)