

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

DATED: THIS THE 4th DAY OF ^{November}~~OCTOBER~~ 1996

CORAM : Hon'ble Mr. S. Das Gupta AM
Hon'ble Mr. T. L. Verma JM
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Contempt petition no. 220/94

IN

ORIGINAL APPLICATION NO. 1774 of 1993

Rishi Pal -----Applicant

Versus

Col. N. B. Subramanion and

another ----- . Opp.Parties

C/A Sri S. K. Mishra

C/R Sri N.B.Singh

Sri S. D. Sharma

ORDER

By Hon'bel Mr. T. L. Verma JM

This application has been filed for the alleged breach of direction issued by a bench of this Tribunal in O. A. No. 1774/93.

2. The aforesaid O.A. was filed by 36 persons, who were employed as casual labour, for issuing a direction to the respondents to regularise their services. The O. A. was disposed by at the admission stage itself with certain directions. The operative portion of the order is as follows :

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" In these circumstances, we dispose of this Original Application with the direction to the respondents to dispose of the representation within a period of three months from the date of communication of this order as per rules ".

The applicants have stated that the respondents were informed of the direction issued by letter dated 28.12.93. The grievance of the applicant is that the respondents have intentionally and wilfully disobeyed the direction issued in the aforesaid case and have committed contempt of the court. Hence this application.

3. The direction which has given cause of action for filing this contempt application was issued without^{issuing} notice to the respondents. The Apex. Court as well as the Principal Bench of the Administrative Tribunal have held that no positive direction should be issued without issuing notice to the respondents. The Principal bench in Likhi Ram Versus Union of India & others (1993) 25 ATC page 815 had made the following observations:-

" The Tribunal ought not to render any final order without giving the affected party an opportunity of being heard. This is the cardinal principle which the Tribunal should not violate. This mistake has nothing to do with the merits of the direction. If the decision on merits suffered from errors apparent on the face of the record or the party concerned discovered new and important material at a later stage which has a bearing on the decision, we would have left it to the aggrieved party to seek review. In this case the error calling for review does not bear on the decision proper but on the decision making process. The Tribunal which is bound to give

an opportunity of hearing has decided the case without giving such an opportunity of hearing to the party which has been directed to do certain things. The decision is a final one and not an interlocutory direction. The Tribunal whose duty it is to enforce the Principles of natural justice ought not have itself violated that principle while disposing of the Original Application finally. Once this serious mistake committed by the Tribunal came to our notice, we felt that we should retrace the steps and correct the mistake. We would also like to advert to an earlier decision wherein a similar view has been taken in CCP No. 56 of 1993 in OA No. 1991 of 1993 decided on 26.3.1993. This, in our opinion, is a fit case for review. "

4. In view of the decision ^{of} the Principal Bench, we would have, in normal course, reviewed and recalled the order dated 1.12.1993 passed in O.A. No. 1744/93, but because the respondents have already complied with the direction by disposing of the representation filed by the petitioner, we are finally disposing of this contempt application.

5. The respondents were required to dispose of the representation filed by the applicant within three months from the date of communication of the order according to rule. The representation has been disposed of by the respondents by order dated 29.3.1996. The order passed on the representation of the applicant has been annexed as Annexure No. 'B' to M.A.No. 931/96 (SCA). From a perusal of the order passed, it would appear that

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temporary status had been conferred on four and the rest of persons have been found as not entitled for any benefit under the rules. Respondents, it would thus appear, have complied with the directions of the Tribunal. Petitioners, if aggrieved with the aforesaid decision of the respondents may approach the appropriate forum for the redressal of their grievance.

6. In view of the above, we find that no case for action under the contempt of court is made out. Hence contempt proceeding is dropped and notices issued are discharged.

AM
AM

AM
AM

RJ.