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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Civil Contempt Petition No.71 of 1995

In

Original Application No. 1732 of 1993

THIS THE 13th DAY OF MARCH 1996

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

HON. MR. S. DAYAL, MEMBER (A)

1. Ghanshyam, s/o Shri Chinti Ram, r/o village Taharpura P.O. Dirbatti District Jalaun (U.P.)
2. Meharban Singh, s/o Shri Gauri Shanker resident of village and P.O. Biguwan Bujurg District Jalaun
3. Lakhan Singh, s/o Shri Ram Singh, r/o village and P.O. Biguwan Bujurg District Jalaun (U.P.)
4. Hari Singh, S/o Shri Parmai, r/o village Taharpura P.O. Dirbatti District Jalaun (U.P.)
5. Ganesh Prasad son of Shri Bindole, r/o village Biguwan Bujurg Distt. Jalaun, at present r/o village Launa P.O. Konch district Jalaun

..... Applicants

BY ADVOCATE SHRI M.P. GUPTA

Versus

1. Shri A.K. Banerji, General Manager, Central Railway, Bombay V.T.
2. Shri R.N. Aga, Divisional Railway Manager Central Railway, Jhansi

..... Respondents

O R D E R (Reserved)

JUSTICE B.C. SAKSENA, V.C.

The five applicants had filed O.A. No. 1732/93 for a direction to the respondents for their re-engagement as casual labourers. The same was disposed of vide an order dated 10.12.93 at the admission stage. It was noted in the order that a

comprehensive scheme has been drawn by the Railway Administration about the re-engagement of the casual labourers. So in the light of the said scheme, the Railway Authority shall consider the case of the applicants and shall give the decision with reasons expeditiously but not beyond the period of three months from the date of communication of the certified copy of this order. It was also provided in the said order that if they decide to reject the case of the applicant, they shall give the reasons in support thereon. The contempt petition was filed on 24.7.95.

2. It appears that being conscious of the fact that in view of the provision of Section 20 of the Contempt of Courts Act no cognizance of the contempt petition can be taken after ^a lapse of one year from the date the alleged act of contempt has been committed. Consequently, the applicants have filed M.P. No. 2709/95 and thereby it has been prayed that contempt petition no. 71/95 may be treated as a petition under Article 227 of the Constitution of India and the respondents may be directed to be implemented the order passed by the Tribunal in QA 1732/93.

3. We have heard the learned counsel~~x~~ for the applicant. The contempt petition was clearly barred by time. The question is whether the contempt petition can be converted into a petition under Article 227 of the Constitution of India. The learned counsel for the applicant in support of the request of conversion of the contempt petition into a petition under Article 227 cited before us a Full Bench decision of the P.B. in Delhi Veterinary Association Vs. M.S. Gill and another reported in 1994(27) ATC 304. From

the facts it appears that the Delhi Veterinary Association had filed OA 720/89. The said OA was finally disposed of on 11.2.94 and a direction was issued to consider the claim of the Veterinary Doctors for the grant of risk allowance and to take final decisions and pass orders on the grant of the said allowance within the period of six months from the date of receipt of the copy of the order. The Association filed the contempt Petition No. 191/93 alleging that ~~the~~ direction had not been complied with within the time specified. During the pendency of the said contempt petition the Union of India filed M.A. 2844/93 praying that the time limit for finalising the ~~sk~~ claim may be extended till 30.1.94. The Delhi Veterinary Association resisted the petition for extension of time both on merit as also on the ground of jurisdiction. It was submitted that the Tribunal having fixed time for compliance had become functus officio and would not have thereafter any jurisdiction to extend of time for further compliance. In support of this contention reliance was placed on two orders passed by the D.Bs. The Division Bench was not inclined to agree hence the question was referred to a Full Bench and the decision aforesaid by the Full Bench is on that question whether the Tribunal after having passed a final order becomes functus officio and cannot grant extension of the time. After analysing the various provisions of the Administrative Tribunals Act it was held that "the superintendence includes the power to direct the authorities to carry out its orders. The Tribunal continues to have judicial as well as administrative superintendence over the authorities amenable to its jurisdiction under Articles 226 and 227 even after a final order has been passed by it in a service matter. The power ~~x~~ under Article 227 can be exercised even suo motu by the

Tribunal in service matters in indication of its position. Thus it is clear that the Tribunal have power under Article 227 for extension of time."

4. We have given our anxious consideration to a Full Bench decision. The question which squarely came up for consideration before the Full Bench was whether the Tribunal once having passed the final order becomes functus officio and cannot pass an order for extending the time granted by it in the final order for compliance. In the present case the situation ~~is~~ is altogether different. No application by the respondents seeking the extension of time for compliance is there. The applicant seeks conversion of the contempt petition filed by him belatedly as a petition under Article 227 of the Constitution of India. ^{upon} ~~the~~ finding that the contempt petition cannot be taken cognizance of since more than one year has lapsed and no action to initiate proceedings can be taken under Section 20 of the Contempt of Courts Act. This position was pointed out when the contempt petition came up for orders on 24.7.95. Thereafter the M.A seeking conversion of the contempt petition into a petition under Article 227 has been filed. The Full Bench decision cited by the learned counsel for the applicant for the reasons indicated hereinabove is wholly inapplicable. Even the Full Bench had laid down that the power of extending the time has to be exercised on judicial considerations. The facts and circumstances of each case will have to be examined and there after the discretionary powers has to be exercised on judicial considerations. In the case before the Full Bench the respondents themselves have filed an application seeking extension of time for compliance but it was resisted by the applicant. In the case before us the applicant has slept over his right, he cannot seek indirect method forp5

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compliance of the order passed in the O.A. The contempt petition is clearly barred.

5. In view of the above, the contempt petition is dismissed

Hand
Member(A)

BoSaksene
Vice Chairman

Dated: 13th March
January, 1996

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